PC-AAA-443 ISN=89192

103d Congress
2d Session

JOINT COMMITTEE PRINT

COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1993

REPORT

SUBMITTED TO THE

COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES

AND THE

COMMITTEE ON FOREIGN RELATIONS
U.S. SENATE

BY THE

DEPARTMENT OF STATE

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

FEBRUARY 1994

Printed for the use of the Committees on Foreign Affairs and Foreign Relations of the House of Representatives and U.S. Senate respectively

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U.S. GOVERNMENT PRINTING OFFICE
75-469 WASHINGTON : 1994

For sale by the U.S. Government Printing Office
Superintendent of Documents, Mail Stop: SSOP, Washington, DC 20402-9328
ISBN 0-16-043627-3

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FOREWORD

The country reports on human rights practices contained herein were prepared by the Department of State in accordance with sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961, as amended. They also fulfill the legislative requirements of section 505(c) of the Trade Act of 1974, as amended.

The reports cover the human rights practices of all nations that are members of the United Nations and a few that are not. They are printed to assist Members of Congress in the consideration of legislation, particularly foreign assistance legislation.

LEE H. HAMILTON,
Chairman, Committee on Foreign Affairs.

CLAIBORNE PELL,
Chairman, Committee on Foreign Relations.

LETTER OF TRANSMITTAL

DEPARTMENT OF STATE,
Washington, DC, January 31, 1994.

Hon. LEE H. HAMILTON,
Chairman, Committee on Foreign Affairs.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives.

DEAR SIRS: I have the distinct honor to present the report prepared in compliance with sections 116(d)(1) and 502B(b) of the Foreign Assistance Act of 1961, as amended, and section 505(c) of the Trade Act of 1974, as amended.

With best wishes,

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary, Legislative Affairs.

Enclosure.

OVERVIEW

1993 HUMAN RIGHTS REPORTS

WHY THE REPORTS ARE PREPARED

This report is submitted to the Congress by the Department of State in compliance with sections 116(d)(1) and 502B(b) of the Foreign Assistance Act of 1961 (FAA), as amended, and Section 505(c) of the Trade Act of 1974, as amended. As stated in Section 116(d)(1) of the FAA: "The Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, by January 31 of each year, a full and complete report regarding the status of internationally recognized human rights, within the meaning of subsection (A) in countries that received assistance under this part, and (B) in all other foreign countries which are members of the United Nations and which are not otherwise the subject of a human rights report under this Act." We have also included reports on the few countries which do not fall into the categories established by these statutes and which thus are not covered by the Congressional requirement.

The idea that the United States has a responsibility to speak out on behalf of internationally recognized human rights standards was formalized in the 1970's. In 1976 Congress enacted legislation creating a Coordinator of Human Rights in the U.S. Department of State, a position later upgraded to Assistant Secretary. Congress also wrote into law formal requirements that U.S. foreign and trade policy take into account countries' human rights and worker rights performance and that country reports be submitted to Congress annually. When the reports were first produced in 1977, which at the time covered only countries receiving U.S. aid, 82 were compiled and published; this year, there are 193 reports.

HOW THE REPORTS ARE PREPARED

The human rights reports reflect a year of dedicated effort by hundreds of State Department and other U.S. Government employees. In August 1993, the Secretary of State issued a directive which further strengthened the human rights structure in our embassies. All sections in each embassy were asked to contribute information and to corroborate reports of violations. New efforts were made to link mission programming to the advancement of human rights and democracy.

Our embassies, which prepared the initial drafts of the reports, gathered information throughout the year from a variety of sources, including contacts across the political spectrum, government officials, jurists, military sources, journalists, human rights

monitors, academics, and labor union members. Gathering information can be hazardous. Foreign Service Officers often go to great lengths, under trying and sometimes dangerous conditions, to investigate reported human rights violations, stand up for individuals, and monitor elections.

The draft reports were then sent from each embassy to Washington, where they were carefully reviewed by the Bureau of Human Rights and Humanitarian Affairs, in cooperation with other relevant offices in the State Department. As they corroborated, analyzed, and edited the reports, Department officers drew on their own additional sources of information. These included reports by and consultations with U.S. and other human rights groups, foreign government officials, representatives from the United Nations and other international and regional organizations and institutions, and experts from academia and the media. Officers also consulted with experts on worker rights issues, refugee issues, military and police issues, exile issues, women's rights issues, and legal matters. The goal was to ensure that all relevant information was included and that assessments were as objective, thorough, and fair as possible. The report will be used as a resource in making decisions on U.S. foreign policy, training, and aid allocations. It also will serve as a basis for valuable dialog and program planning on ways in which the United States can work with foreign governments and private groups to improve human rights observance worldwide.

The Country Reports on Human Rights cover internationally recognized individual, political, civil, and worker rights, as set forth in the Universal Declaration of Human Rights. These rights include freedom from torture or other cruel, inhuman, or degrading treatment or punishment; from prolonged detention without charges; from disappearance due to abduction or clandestine detention; and from other flagrant violations concerning life, liberty, and the security of the person. Individuals have the inalienable right to change their government by peaceful means and to enjoy such civil liberties as freedom of expression, assembly, religion, and movement, without discrimination based on race, national origin, or sex. Free societies also require free trade unions. The reports assess key internationally recognized worker rights, including the right of association; the right to organize and bargain collectively; prohibition of forced or compulsory labor; mimimum age for employment of children; and acceptable conditions of work.

THE 1993 REPORTS

The 1993 Report describes a world far short of the vision we and other countries hold for it. Around the globe, people who by right are born free and with dignity too often suffer the cruelties of authorities who deprive them of their rights in order to perpetuate their own power. Yet again in 1993, children too often were denied their birthright in countries ruled by dictators or rent by armed conflict, where bullets, torture, arbitrary detention, rape, disappearances, and other abuses were used to silence those who struggle for political freedom; to crush those whose ethnicity, gender, race or religion mark them for discrimination; or to frighten and mistreat those who have no defenses. The United Nations' Charter affirms the "dignity and worth of the human person." In

too many places in 1993, however, human dignity was assaulted; violence was perpetuated with impunity; those responsible for massive violations of human rights went unpunished; and political repression went unchecked.

This year, we draw particular attention to several trends evident from the 1993 reports. Armed conflict posed the most significant risk to human rights. In contrast, the historic handshake between Prime Minister Yitzhak Rabin of Israel and Palestine Liberation Organization (PLO) Chairman Yassir Arafat, the Nobel Prize-winning efforts of African Nationalist Congress (ANC) leader Nelson Mandela and President F.W. de Klerk in South Africa to enfranchise all citizens, and the peace process in El Salvador exemplify movement toward reconciliation in places where it once seemed impossible.

This polarity between violence and reconciliation was typical of a year in which democracy and human rights were marked both by progress and backsliding. The process of democracy moved forward in Cambodia, where successful elections were held, but backwards in Haiti, where the military continued to obstruct the return of President Aristide. At the same time, human rights abuses continued around the world. Of particular concern to us in 1993 were torture, arbitrary detention, impunity for perpetrators of abuse, and the trampling on the rights of women, children, indigenous people, and workers in many parts of the world.

Yet, in 1993, we also witnessed positive trends. Countries working together in the United Nations, the Conference on Security and Cooperation in Europe (CSCE), the Organization of American States (OAS), and the Organization of African Unity (OAU) supported new democracies, mediated conflicts, and took steps to hold each other accountable for human rights abuses. Around the world, grassroots movements to promote human rights and democracy spread, as people claimed their inalienable rights and demanded accountability from their governments.

I. ARMED CONFLICT

In Bosnia, Sudan, Burundi, Somalia, Angola, Iraq, Azerbaijan, Georgia, and elsewhere, armed conflict led to massive numbers of civilian deaths, refugee flows, and human rights abuses. Many of the conflicts were stimulated by irresponsible political leaders who played on people's fears.

In many parts of the former Yugoslavia, the carnage continues. In 1993 as in 1992, all nationalities were victimized, and there were numerous violations of the Geneva Conventions. Bosnian Serb armed forces, supported by Belgrade and by Serbian paramilitary counterparts, persisted in their program of "ethnic cleansing," including laying siege to cities, indiscriminately shelling civilian inhabitants, raping and executing noncombatants, and interfering with humanitarian aid deliveries. The warfare continued relentlessly through 1993, with Bosnian government and Croat forces also committing egregious abuses.

In Sudan, both the Government and the Sudanese People's Liberation Army (SPLA) engaged in widespread human rights abuses, including torture, forced displacement, and massacres of civilians.

In Somalia, although massive starvation was averted by international humanitarian efforts, most Somalis remained beyond the rule and protection of recognized law and social order.

In Iraq, Saddam Hussein's regime continued its flagrant abuses of human rights by conducting military operations against civilians, including burning and razing villages, and forcing people to abandon their homes, particularly Shi'a Arabs living in the wetlands of southern Iraq.

In Azerbaijan, the continuing conflict over Nagorno-Karabakh gave rise to human rights abuses by all sides.

In the Georgian province of Abkhazia, Abkhaz separatists launched a reign of terror after a successful offensive gave them control of the province. Many Georgian civilians and troops were subjected to torture and summary execution.

II. RECONCILIATION

In the face of such bloodshed, 1993 was also a year in which some countries, against all odds, moved toward reconciliation. In 1964, Nelson Mandela of South Africa wrote:

> "I have fought against white domination, and I have fought against black domination. I have cherished the ideal of a democratic and free society in which all persons will live together in harmony and with equal opportunities. It is an ideal which I hope to live for and achieve."

Thirty years later, Nelson Mandela and F.W. de Klerk have led their country toward that ideal.

In the Middle East, there was also progress toward peace. On a warm September day in Washington, the world witnessed an historic handshake between Prime Minister Yitzhak Rabin and PLO leader Yassir Arafat that stretched across years of conflict. In that moment, two men joined together their peoples' hopes for peace.

In El Salvador, once racked by civil war, the U.N. Truth Commission completed its investigations of human rights violations of the past decade and recommended specific actions to further the reconciliation process.

In Mozambique, while there have been many setbacks in the process of political reconciliation, implementation of the 1992 peace accords continued, giving Mozambicans increasingly greater protection from human rights abuses and opportunities for greater enjoyment of civil and political rights.

Although human rights violations continued in these countries, progress is being made.

III. DEMOCRACY

In 1993, democracy continued to capture the imagination of people around the globe. There were both advances and setbacks.

In Cambodia, following the largest United Nations peacekeeping effort ever undertaken, 90 percent of voters participated in free and fair elections in May—the first in decades—thus providing the opportunity for long-term democratic evolution. The remainder of the 370,000 Cambodian refugees who had been living mostly along the Thai-Cambodian border were voluntarily repatriated under the direction of the U.N. High Commissioner for Refugees (UNHCR).

By contrast, in Haiti the military continued to obstruct the return of democratically elected President Aristide. Right-wing thugs closely allied with the military assassinated the legitimately appointed Justice Minister and conducted many other killings targeted against specific individuals.

In Guatemala, President Jorge Serrano was peacefully and constitutionally dismissed after he had suspended several sections of the Constitution and dissolved Congress and the Supreme and Constitutional Courts. When Congress reconvened, it elected as President Ramiro de Leon Carpio, the former Human Rights Ombudsman.

In Russia, democratic parliamentary elections were held for the second time in the country's history. Despite this, and continuing progress in the areas of civil and political rights, there were setbacks, most notably during the violent constitutional crisis in October.

In Burma, military authorities continued to refuse to implement the results of the May 1990 elections that rejected their rule.

In Nigeria, the military overturned the results of an election, dissolved all democratic institutions, and now rules the country by decree.

In Burundi, the nation's first democratically elected president was assassinated, and a bloody conflict followed.

The starting point of democratic government is the right of citizens, through free and fair elections, to choose their government. Elections are not the sum total of democracy, of course, but they are a foundation. Democracy also requires establishing civil societies, where people can participate fully in the democratic process. The rule of law, civilian control of the military, an independent judiciary, free media, and the rights of people to free speech, association, and assembly are essential elements of democratic societies.

IV. TORTURE, ARBITRARY DETENTION, AND THE IMPUNITY OF ABUSERS

Major violations of human rights occurred not only in war-torn countries. Human rights abuses also remained widespread in countries in which violators were not held accountable. When violators can commit human rights abuses with impunity, abuses multiply.

In Iran, the Government continued to torture and execute people summarily and to restrict the freedoms of speech, press, assembly, and association. Minority religious groups, including the Baha'is, faced systematic repression.

North Korea remains one of the most repressive countries of the world. The Government treats individual rights as potentially subversive of the goals of the State and the party.

In Burma, the autocratic military regime reinforces its power with a pervasive security apparatus. People are arrested arbitrarily and prisoners are abused. Citizens are denied basic political rights and the rights of free speech and assembly.

Zaire is undergoing its worst human rights crisis since the end of the civil war in the 1960's. The Mobutu regime was responsible for massive human rights violations, including extrajudicial killings, unlawful detentions, ethnic violence, torture, and disappearances.

In China, fundamental human rights provided for in the Chinese Constitution frequently are ignored in practice, and challenges to the Communist Party's political authority are often dealt with harshly and arbitrarily. China took some positive but limited steps in human rights areas, including releasing prominent political prisoners. Hundreds, perhaps thousands, of political prisoners, however, remained under detention or in prison. Reports of physical abuse persisted, including torture by police and prison officials. This was especially the case in politically restive and minority-populated regions such as Tibet. In November, China announced that it would give positive consideration to a request from the International Committee of the Red Cross to visit China.

In Peru, the terrorist activities of the Shining Path declined following the capture of its leader in 1992. The number of extrajudicial killings and disappearances instigated or condoned by the Government also fell. Nonetheless, human rights violations continued and serious due process questions arose concerning the military trials of civilians.

In Cuba, the Government does not permit domestic or international human rights groups to function legally. Human rights activists and political dissidents are systematically harassed, beaten, and otherwise abused by police and security officials.

In Turkey, both the Government and the Kurdistan Workers Party (PKK) terrorist forces committed human rights violations, including torture.

In Egypt, torture and other human rights violations continued. In a positive development, the country's Supreme Court acquitted 25 defendants in cases in which confessions were extracted under torture.

In Indonesia, extrajudicial arrests and detentions, as well as torture of those in custody, continued. In East Timor, no significant progress was noted in the accounting for those missing from the November 1991 shooting incident in Dili.

V. THE RIGHTS OF WOMEN

We have paid special attention in 1993 to the problem of rampant discrimination against women. Physical abuse is the most obvious example. In many African countries, the practice of female genital mutilation continued. In Pakistan, many women in police custody are subjected to sexual or physical violence. On several continents, women and girls are sold into prostitution. In many Gulf countries, domestic servants from Southeast Asia are forced to work excessively long hours and are sometimes physically and sexually abused. In Bangladesh and India, dowry deaths continue. Marital rape in many countries is not recognized as a crime, and women raped or beaten at home often have no recourse. That female life is not valued as much as male life is apparent in countries such as China where it is reported that more female fetuses than male are aborted.

In addition to physical abuse, the political, civil and legal rights of women are often denied. In 1993 women throughout the world were subjected to onerous and discriminatory restrictions of such fundamental freedoms as voting, marriage, travel, testifying in court, inheriting and owning property, and obtaining custody of

children. All too often, women and girls find that their access to education, employment, health care, and even food is limited because of their gender.

VI. WORKER RIGHTS

In far too many countries, the freedom of workers to associate, which is the paramount right on which trade unions base their ability to bargain collectively, defend their members' grievances, and protect them from unfair and unsafe working conditions, falls well short of the standards elaborated by the International Labor Organization (ILO). Restrictions on freedom of association abound. They range from outright and total government control of all forms of worker organizations to webs of legislation so complicated that full compliance is virtually impossible, giving authorities excuses to intervene at will.

In 1993, the practice of forced labor continued, as did the abuse of expatriate workers, particularly domestics. Slavery still exists in some countries, particularly in Mauritania and Sudan. Given the rising concern about the impact of international trade on worker rights standards, this year's reports focus more sharply on the presence of child labor in export industries and on minimum wage and occupational safety standards. Our reports document a number of serious bonded and child labor problems, particularly in South Asia and North Africa.

VII. ACCOUNTABILITY

In the face of widespread human rights violations, the impunity of violators and absence of the rule of law, some progress was made at the international level in 1993 to develop new global institutions to promote human rights accountability.

In February the United Nations created a War Crimes Tribunal to prosecute those responsible for gross violations of human rights in much of the former Yugoslavia. By year's end, all judges had been sworn in.

In December, following the recommendation of the World Conference on Human Rights in Vienna in June, the U.N. General Assembly established the office of High Commissioner for Human Rights with a mandate to remove obstacles to citizens' full enjoyment of basic human rights.

The World Conference also recommended establishing a Special Rapporteur on Violence Against Women. The Human Rights Commission will take up this project in 1994.

Meanwhile, the U.N. Human Rights Center had rapporteurs assess conditions in countries such as Burma, Iraq and Cuba, where human rights are largely disregarded. Other bodies, such as the Committee Against Torture, monitored compliance with U.N. treaties and conventions.

The Conference on Security and Cooperation in Europe (CSCE) has been a significant force in holding countries accountable for adherence to human rights standards. In September the CSCE held a review conference to assess each participating state's progress in implementing its "human dimension" commitments, including to human rights, fundamental freedoms, and the rule of law. The CSCE has also been active in mediating disputes, particularly

through the work of its High Commissioner for National Minorities. In Latvia and Estonia, CSCE and other international factfinding missions looked into allegations of human rights abuses. While finding no systematic violations, they urged these governments to adopt an inclusive approach to citizenship and alien rights and assure the equitable and nondiscriminatory treatment of ethnic Russians living in their countries. Both Latvia and Estonia have accepted the establishment of CSCE missions to help improve intercommunal relations.

The Organization of African Unity (OAU) assisted in mediation efforts in Burundi that have helped move that country toward a resolution of its constitutional and humanitarian crisis.

The Organization of American States (OAS) played an important role in defending human rights and due process, notably in Nicaragua.

VIII. GRASSROOTS MOVEMENT FOR HUMAN RIGHTS AND DEMOCRACY

The willingness of nations to begin to hold each other accountable for human rights abuses is a reflection of the work of individuals to hold their own governments accountable. Around the world in 1993, grassroots movements supported the spread of human rights, freedom, and democracy. This commitment of people, acting through nongovernmental organizations, is reflected in the final Declaration of the World Conference on Human Rights held in June in Vienna, that the individual—and not the state—is at the center of development. Moreover, underdevelopment can never justify human rights abuses. There is indeed an important linkage among human rights, democracy, and development: the protection of human rights and the full participation of individuals in their own political system create the necessary context for development to take place.

Human rights will not be protected without the constant vigilance of courageous individuals who promote human rights, document abuses, and hold their governments to account. These sentinels for human rights engender hope. Amidst the abuse of 1993, there is another story, that of countless men and women who stood up and said "No!" No to injustice, no to tyranny, no to torture, and no to censorship. We salute those who are working against great odds to advance human rights and democracy:

Monique Mujawamariya who works in Rwanda and Burundi, and those like her whose bodies bear the scars of thugs as the price of documenting human rights violations;

Mansour Kikhiya of Libya, and all the "disappeared" who have been abducted because of their human rights work;

Liu Gang who sits in jail in China, and all who are imprisoned for peaceful expression of their views;

Sebastian Arcos of Cuba, and all who refuse to be silent when others are being abused;

Aung San Suu Kyi, in her fifth year of house arrest in Burma, and all who work for freedom at the price of their own liberty.

The staff of the Sarajevo daily newspaper, Oslobodjenje, and all who work for a free press and who demonstrate that Serb

and Croat, Muslim and Jew, can work and live side by side in peace.

We salute these people, and the tens of thousands of courageous human rights workers around the world.

The year 1993 was a difficult one for human rights, a year in which setbacks outweighed advances in some parts of the world. Paradoxically, it was also a year in which the daily struggle for human rights at global, national, and local levels received more attention than ever before, a year in which the worldwide grassroots movement for human rights and democratic change gathered momentum. The year saw the community of nations reaffirm its commitment to the protection and promotion of human rights at the World Conference on Human Rights in Vienna on the 45th anniversary of the Universal Declaration of Human Rights. The force of this movement was captured by Eleanor Roosevelt in an address to the United Nations in 1958:

> "Where, after all, do universal human rights begin? In small places, close to home—so close and so small that they cannot be seen on any maps of the world. Yet, they are the world of the individual person; the neighborhood he lives in; the school or college he attends; the factory, farm or office where he works. Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerned citizen action to uphold them close to home, we shall look in vain for progress in the larger world."

JOHN SHATTUCK,
Assistant Secretary of State for
Human Rights and Humanitarian Affairs.

AFRICA

ANGOLA

Throughout 1993 the Government of the Republic of Angola and the National Union for the Total Independence of Angola (UNITA) remained embroiled in a brutal civil war. A partial cease-fire took hold during October, permitting the delivery of food and medical supplies to some interior towns. Twice during the year the Government and UNITA initiated negotiations under the auspices of the United Nations (U.N.); at year's end these negotiations were continuing. UNITA, led by Jonas Savimbi, claimed that the governing party, the Popular Movement for the Liberation of Angola (MPLA), led by President Jose Eduardo dos Santos, engaged in massive fraud during the multiparty presidential elections in September 1992, with the result that the UNITA candidate, Savimbi, was deprived of victory. The United Nations did not accept the UNITA allegation and declared the elections generally free and fair.

Setting the stage for the renewed fighting in 1993 was the failure to complete, prior to the September 1992 elections, the demobilization process and the formation of the new national army called for in the 1991 Bicesse Peace Accords. While government military forces demobilized quickly in the expectation of a lasting peace, UNITA elements remained prepared for rapid mobilization and had access to arms never surrendered during the demobilization process. As a result, UNITA forces were able to occupy large parts of the country with little effective opposition by the Government. Attempts to counter UNITA advances required the Government virtually to recreate and rearm its military organization. In the interim the Government relied heavily on its antiriot police and arming the urban populace for combat roles. The result has been a bloody and inconclusive war. Through most of 1993, UNITA controlled most of the national territory, including the diamond mines of Lunda Norte province, which it used to finance its operations.

The majority of the population lived in or migrated to the parts of the country that remained in government hands.

Angola has great economic potential with extensive petroleum and diamond reserves, rich agricultural land, and hydroelectric potential, but faces severe macroeconomic distortions resulting from the war and misguided economic policy. Territory under government control suffered from hyperinflation, scarcity of consumer goods, massive unemployment and underemployment, and continuing pervasive corruption in 1993. Subsistence agriculture, traditionally the main source of income for the majority of Angola's approximately 10 million citizens, was severely affected by war-related damage, including heavy use of land mines by both the Government and UNITA.

Human rights in Angola deteriorated in 1993 in the face of heightened civil war brutalities and the absence of government and UNITA actions to curb egregious violations of humanitarian law. Media, eyewitness, and international community reports indicated that UNITA forces, government military, and internal security forces flagrantly disregarded fundamental humanitarian values in their treatment of prisoners of war, their extrajudicial killings of unarmed civilians, including women, children and the elderly, and their impediments to delivery of humanitarian assistance to civilians in dire need.

The Government detained prisoners accused of political and other crimes for indeterminate periods of time under inhumane conditions and without due process of law, according to a persuasive report published by the Human Rights Subcommittee of the National Assembly. UNITA held foreign hostages in Jamba, Huambo, and other areas under its control. The media published credible allegations of UNITA "ethnic cleansing" in Uige Province bordering Zaire. There were substantiated reports of government reprisals against Zairians resident in Luanda suburbs, as well as "cleansing" during military operations.

Despite the overall deterioriation in the human rights situation, there were a few isolated improvements. Throughout the year the Government continued to release political prisoners. The Government permitted the International Committee of the Red Cross (ICRC) to visit UNITA prisoners in all but one facility. The electronic and print media were increasingly free to criticize human rights infractions.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and other Extrajudicial Killing.*—Journalists credibly reported that government forces brutally interrogated and killed suspected UNITA sympathizers in Benguela Province. Eyewitnesses reported that police in Huila Province killed unarmed civilians indiscriminately. In a wave of violence in January, police and armed civilians targeted suspected UNITA supporters who "disappeared" or were killed. As the war continued, common criminal violence became indistinguishable from political violence. Fighting between members of the military and police and among military, police, and bandits in a large open air market on the outskirts of Luanda regularly resulted in fatalities.

Media and eyewitness reports noted that UNITA forces ambushed a civilian train in Huila Province in May, resulting in a large number of casualties. The first 140 victims, mainly women and young children, were buried in a mass grave at the site of the attack. Many more died en route to or at the hospital in Lubango. In August UNITA soldiers attacked three trucks that had left a World Food Program humanitarian relief convoy and killed three truckers. Subsequently, a policeman was killed as he examined the booby-trapped corpse of one of the truckers. The following month eyewitnesses reported that UNITA forces killed and disemboweled unarmed civilians in Bengo Province.

b. *Disappearance.*—Both government and UNITA officials reported incidents of abduction and disappearance. The Government accused UNITA of abducting and killing civilians.

A considerable number of UNITA adherents remained missing from January conflicts in Huila and Namibe Provinces. The ICRC indicated that despite government cooperation, efforts to trace the missing failed because UNITA discouraged family members from revealing information to the ICRC. The bodies of some of the missing were reportedly burned.

In 1993 the Government allowed the ICRC to visit all UNITA prisoners throughout the country with the exception of the 19 people held in the "Laboratorio" in Luanda from mid-March to mid-May. The Laboratorio was known as the Ministry of Interior's high-security interrogation facility where torture was allegedly used.

The Government, with financial support from international nongovernmental organizations, employed the mass media and provincial government resources to search for family members of orphans and abandoned children.

c. *Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Government and the National Assembly Subcommittee on Human Rights acknowledged that conditions in Angola's prisons were inhuman. Many prisons, lacking financial support from the Government, are unable to supply prisoners with food and medicine, and prisoners are thus forced to depend on international relief organizations and their families and friends. The Government allowed subcommittee personnel, as well as the ICRC, access to all prisons except the Laboratorio in Luanda.

According to credible reports government personnel tortured detainees at the Laboratorio, holding them incommunicado for months with a daily ration of two spoons of rice and one half liter of dirty water. If interrogators were not satisfied with the information they were being given, detainees were taken unclothed to a cement cell, approximately the size of a large telephone booth with no windows, and for 10 minutes at a time subjected to electric shocks. Reportedly, at the end of these sessions they could not see, stand, or walk unassisted for several hours. There were credible eyewitness reports of the debilitated physical and mental condition of UNITA members upon their release from that facility.

In January there were credible reports that UNITA forces in Uige mutilated unarmed civilians.

In March accounts emerged, reinforced by a video tape, of an incident at Huambo where government forces were accused of using a shield of women and children hostages to cover their retreat. Government sources claim that the women and children accompanying the government forces had sought their protection.

In September first-hand media accounts reported that government forces in Benguela Province beat and shot UNITA prisoners in the legs and feet so that they would not run away.

Also, in September Portuguese television alleged that armed elements of a faction of the Enclave of Cabinda Liberation Front (FLEC), a separatist group in Cabinda Province, had cut off ears, noses, and lips of unarmed civilians.

d. *Arbitrary Arrest, Detention, or Exile.*—In 1993 the Government mandated the transfer of the judicial process and prison system portfolios from the Interior Ministry to the Justice Ministry, but the law was not scheduled to be implemented until 1994. During 1993 the Interior Ministry systematically, arbitrarily, and secretly detained individuals for all categories of crime, without trial, for indeterminate periods of time. Detainees had no rights. Persons detained in the Laboratorio were held incommunicado.

In January the ICRC reported that there were 1,100 known UNITA sympathizers under government detention in Luanda. They had all been released by the end of the year and reintegrated into Angolan society.

At mid-year UNITA held 287 known prisoners in the north; no statistics were available for late in the year. Throughout the first half of 1993, UNITA prevented the evacuation from Huambo and other UNITA-held areas of more than 400 foreigners trapped by renewed fighting. These hostages had all been released by year's end.

e. *Denial of Fair Public Trial.*—In October 1991, the Code for Penal Process was amended to bring Angola's judicial system in line with international norms; it guarantees a public trial, establishes a system of bail, and recognizes the accused's right to counsel and to testify.

The court system is comprised of municipal and provincial courts (the latter under the authority of the Ministry of Justice) of original jurisdiction and a Supreme Court at the appellate level. Although the 1992 Law on Constitutional Revision speaks of an independent judiciary, as does the 1991 amended Constitution, the President of the Republic appoints the Supreme Court judges (for life terms), and no National Assembly confirmation is required. Despite legal safeguards provided by law, significant shortcomings in the administration of justice persisted in 1993 and the Interior Ministry frequently did not respect due process of law in its arrest and detention procedures.

Municipal courts normally deal with summary cases on a daily basis. Judges are normally respected laymen, not licensed lawyers. Provincial courts, under the authority of the Ministry of Justice, are located in the 18 provincial capitals. Judges are nominated by the Supreme Court and attorneys general by the Attorney General of the Republic. Cases are divided into four categories: criminal, civil and administrative, family, and labor.

The judge and two laymen selected by the court are to act as jury. Normally cases are dispatched by a court within 3 months. The verdict is to be pronounced the day following the conclusion of the trial, in the presence of the defendant.

The Supreme Court has a total of 16 judges, all of whom are appointed by the President of the Republic upon recommendation by the Association of Magistrates. In 1993 only 9 of the 16 positions were filled. Cases are divided into two categories: criminal, and civil and administrative.

A person caught in the act of a crime can be arrested and detained immediately. Otherwise, arrests are supposed to be made openly, with a warrant signed by a judge or a provincial attorney general. Following arrest, the attorney general is supposed to release to the public the grounds for arrest before forwarding a case for trail. The prosecuting attorney and defense attorney have a maximum of 90 days to prepare a case. Detainees are to be allowed prompt access to family members and a lawyer.

In 1993 the Interior Ministry failed to respect due process of law in its arrest and detention procedures. Although the 1992 Law on Constitutional Revision calls for an independent judiciary and a constitutional tribunal, this tribunal has not yet been established. Both the Ministry of Justice and the National Assembly called for modernizing laws and enshrining basic legal rights, but practice has not yet caught up with these intentions.

There is no evidence that UNITA has set up a judicial system responsive to international judicial norms.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—There were no known specific complaints about arbitrary interference with privacy, family, home, or correspondence. However, it was widely thought that the Government continued surveillance of certain categories of people, such as the UNITA National Assembly deputies.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—UNITA forces continued to attack and capture municipalities throughout the country in 1993, destroying infrastructure, including dams, bridges, electrical pylons, orphanages, schools, hospitals, and medical facilities.

In January the oil town of Soyo changed hands several times but ultimately fell under UNITA's control. In March UNITA, after 55 days of siege, expelled government forces from Huambo, Angola's second largest city. The death toll in this battle was estimated at 15,000, mostly civilians. Government forces were able to retake much of Benguela, Huila, and Bengo Provinces in August.

There were credible allegations that both the Government and UNITA engaged in indiscriminate killing of civilians and summary executions of prisoners of war. Both sides impeded provision of emergency relief supplies and assistance by the ICRC, nongovernmental voluntary organizations, and United Nations agencies. In UNITA-held Huambo, CARE International officials, visiting in June, described looting of supplies and confiscation of equipment by UNITA officials. In March UNITA sacked an orphanage outside Luanda. In August UNITA attacked a World Food Program convoy. As many as 30,000 people died during UNITA's siege of the city of Cuito, including 30 to 40 children each day who died of malnutrition. UNITA allowed only Portuguese and other foreigners to leave Cuito in September, and continued to prevent local residents from fleeing.

More than 20,000 Angolans have suffered amputation due to land mines. Credible sources including eyewitnesses reported that both sides conscripted young teenagers into military service (see also Section 1.c.).

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Angola's 1991 Constitution provides for freedom of expression, which was largely respected in 1993. Although the Government continues to own the press, there were editorials, articles, and cartoons critical of the Government's prosecution of the war and its failure to respond to Angola's worsening economic and social crises. Opinions of political opposition leaders, businesspeople, and National Assembly deputies critical of the Government on issues such as human rights also routinely appeared on national radio and television.

Foreign journalists register with the Government Press Center for access to officials and are permitted travel within Angola, although at times the conflict made this difficult. Both the Government and UNITA invited journalists to planned press events and to visit areas under their control.

The Angolan Journalists Union (SJA) alleged in 1993 that the Government continued to restrict press freedom, including access to controversial public figures. The SJA also accused the Government of blocking its attempts to gain information on the murder of two Angolan journalists in Lobito in May. The results of the police investigation had not been made public at year's end.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution guarantees the right of peaceful assembly and association, provided a 3-day notice is given to the authorities. In 1993, however, the war, increased violent crime, and a precarious security situation in urban areas discouraged normal civic assembly and association activities. There were no known violations of the right of assembly by the authorities.

Regulations allow the Government to deny required registration to private associations on security grounds. There were no known instances of such denials in 1993.

UNITA did not tolerate traditional assembly and association in areas under its control.

c. *Freedom of Religion.*—Religion plays an important role in Angolan society; some 85 percent of the population is either Roman Catholic or Protestant; the rest is animist. There is separation of church and state. Freedom of religion is provided for in the Constitution and is accorded in practice. All religious sects are welcome in Angola, and links may be maintained with coreligionists in other countries.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The civil war inhibited freedom of movement within the country. However, according to U.N. statistics, over a million people escaped to government-controlled territory from the interior just ahead of UNITA's advancing troops. At the end of 1993, there were reportedly 2 million displaced persons who had fled from warfare in the countryside. However, wartime conditions prevented physical access to many areas of the country by humanitarian organizations and a precise number of persons severely affected by the war remained unavailable.

Citizens have the right to change residence and workplace, but the scarcity of habitable dwellings as well as the massive unemployment and underemployment effectively impeded most voluntary changes.

The Government denied permission to travel abroad to UNITA National Assembly deputies following the defection of the first two well-known UNITA personalities who were authorized to depart Angola. The Government made it difficult for other opposition party members to travel abroad during legislative recess by limiting their

access to requisite foreign exchange. MPLA deputies had access to foreign exchange at favorable rates.

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

The Angolan people for the first time exercised their constitutional right to change their government through peaceful means in the October 1992 presidential elections. The 17-year civil war resumed in late October 1992 when UNITA rejected the election results. A second round of presidential elections was postponed indefinitely. The resumption of the war slowed the democratization process significantly. Consequently, and despite the elections, governmental power remained in the hands of a small MPLA elite.

Guidelines for local government elections, scheduled to take place 2 years after democratic presidential and legislative elections, were elaborated and placed before the Council of Ministers. However, the Council did not act on the guidelines because of the war.

The National Assembly consists of 130 deputies elected on a national basis and 90 elected to represent the provinces. The MPLA-dominated Assembly was active during 1993, convoking members of the Government publicly to explain policies on a wide range of issues, including human rights and the economy. The Assembly passed, and the President promulgated, laws on human rights, the judicial system, military service, ethics and conduct of Assembly deputies, and national defense.

Women occupied 32 of the 220 National Assembly seats. One of the nine Supreme Court judges is a woman.

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

Because UNITA controlled most of Angola's national territory, the Government had little influence on investigations of human rights abuses in most of the country.

There were no functioning Angolan nongovernmental human rights associations or groups. The two national human rights groups, the Angolan Human Rights Nucleus and the Angolan Human Rights Association, were inactive in 1993 due to inexperienced leadership and financial difficulties.

A newly established Human Rights Subcommittee in the MPLA-dominated Parliament was active. Representatives from 11 opposition parties participated in National Assembly debate. The Attorney General and Justice Minister were called to testify before the National Assembly eight times on human rights issues.

The Government allowed the ICRC and members of the Human Rights Subcommittee of the National Assembly to visit all political prisoners and prisons with the exception of those held in the Laboratorio in Luanda. At the conclusion of the Assembly's first session, the Subcommittee published a report critical of the Government, noting that there were laws to protect human rights but no mechanisms to enforce the laws. It also noted the abysmal condition of the prisons and the lack of due process.

UNITA did not allow international organizations access to most of the territory under its control. Among the few exceptions were Lutheran World Federation activities in Cazombo (Moxico province) and the Lundas; UNHCR activities in Uige; and Medecins Sans Frontieres in Uige and Huambo. UNITA cooperated with the ICRC regarding visitation of prisoners and hostages in Huambo and in the evacuation of 415 foreigners from UNITA-held territory. However, UNITA's confrontational relationship with international organizations was further tarnished by shooting incidents at M'Banza Congo, Uige, and Luena, when UNITA fired on clearly marked, unarmed humanitarian assistance aircraft. The incident in Luena resulted in one death.

The Government permitted relatively unrestricted access to UNITA-besieged cities, spent considerable sums on airdrops of food to the city of Cuito, and subsidized the international humanitarian assistance effort throughout Angola by providing extremely cheap fuel. However, the Government steadfastly blocked attempts by international organizations to provide humanitarian assistance to Huambo.

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

Angolan law stipulates that all citizens are equal regardless of race, ethnic origin, sex, religion or, social status. The International Labor Organization's (ILO) Committee of Experts has noted that this law omits reference to political opinion. Angola is a multiracial society, and in practice there was little evidence of official discrimination.

Women.—Women held senior positions in the military (primarily in the medical field), civil service, and political parties. The media occasionally addressed women's

issues. The law proclaims equal pay for equal work, but in practice women were not compensated equally. Adult women can open a bank account, accept employment, and own property without interference from their spouse.

Little information was available on the extent of violence against women, but it is believed to be widespread. The number of assault cases brought by women to courts appeared to be increasing. In many besieged cities, women swelled the ranks of the handicapped because when they foraged in the fields in search for food to feed their family, they often set off land mines. Due to dire economic circumstances, increasing numbers of women engage in prostitution. The clergy reports that marriages are breaking down at an alarming rate.

Children.—The growing presence of street children in Luanda and other cities indicates a breakdown in Angola's family institutions caused by the war and the deteriorating economy. Young females were accepted into private homes to become domestics while young males roamed the market places and streets. The living conditions in government youth hostels were so inhuman the dispossessed chose to sleep on city streets. There were no active private children's rights advocacy groups. The government-sponsored National Institute for Children was viewed as an MPLA organ and was inadequate to address the magnitude of the problem.

The extent to which female genital mutilation is practiced cannot be verified. However, medical authorities say that it may have occurred in limited fashion in remote areas of Moxico province, bordering Zaire and Zambia.

Indigenous People.—Angola's population includes 1 to 2 percent of pre-Bantu stock indigenous peoples. Mostly hunters and gatherers, these Khoisan and other linguistic groups are scattered throughout the southern provinces of Namibe, Cunene, and Cuando Cubango. There was no evidence that they suffered from official discrimination or harassment, but they do not participate actively in the political or economic life of the country and their ability to influence government decisions concerning their interests is marginal at best.

National/Racial/Ethnic Minorities.—The long civil conflict has deep ethnic and urban versus rural roots. The MPLA is heavily supported by the Mbundu ethnic group, which makes up an estimated 25 percent of the population, and by many city dwellers, notably in Luanda. It also has strong backing among the small number of white and mixed-race Angolans who occupy technical and governmental positions. Election results indicated a high level of support among other ethnic groups apart from the Ovimbundu. UNITA has its principal backing among the country's largest single ethnic group, the Ovimbundu, who make up an estimated 37 percent of the population and are concentrated in the central and southern parts of Angola. The Government continued to claim that inflammatory UNITA rhetoric exacerbated ethnic tensions by dwelling on the perceived colonial ties of white and mixed-race Angolans.

Foreigners resident in Angola were not immune to deadly violence. In January mobs in Luanda, angered by allegations that Zaire was helping UNITA, went on a rampage of rape, lynching, and arson against Zaireans and others thought to be Zairians. As many as 60 persons perished.

People with Disabilities.—There are many physically disabled individuals throughout Angola, the majority of whom are casualties of land mines and other war-related injuries. While there was no obvious discrimination against them, the Government did little to ameliorate their physical, financial, or social distress. Physical access for the disabled to public buildings is not mandated.

Section 6. Worker Rights

a. *The Right of Association.*—The 1991 Constitution recognizes the right of Angolans to form trade unions and to bargain collectively. However, the law governing unions has yet to be passed.

Organized labor is concentrated in the cities. There is no organized labor in agriculture, traditionally the main source of income for the majority of Angolans.

The National Union of Angolan Workers (UNTA), the official labor union of the ruling MPLA, remained the principal workers' organization. Two other groups without affiliation to a political party, the National Confederation of Free Trade Unions of Angola and the Democratic Confederation of Angolan Workers, waited in the wings for peace and the new labor union law. The war, the Government's mismanagement of the economy, and the lack of necessary legislation effectively stifled these two organizations. The Union of Angolan Journalists, formed in 1992, was active, respected, and was not harassed by the Government.

The Constitution provides for the right to strike. Legislation passed in 1991 provides the legal framework to strike. The law prohibits lockouts and worker occupation of places of employment, and provides protection for nonstriking workers.

Strikes by military and police personnel, prison workers, and firemen are prohibited.

There were strikes against the Government in 1993 by private fishermen obliged to register at the Ministry of Fisheries, and by employees of the state-owned cement factory. Settlements of strikes were negotiated expeditiously.

Laws which allow free labor organizations to affiliate with international labor bodies have not been enacted. UNTA, the MPLA labor union, is affiliated with the Organization of African Trade Union Unity and the formerly Soviet-controlled World Federation of Trade Unions. The new Angolan free trade union federations expect to apply for membership in the International Confederation of Free Trade Unions as soon as relevant domestic legislation is enacted.

b. *The Right to Organize and Bargain Collectively.*—Angolan workers have the constitutional right to organize and bargain collectively; discrimination against union members is prohibited.

However, in 1993 the Ministry of Labor and Social Security continued to set wages and benefits on an annual basis. Salaries for public servants were set at the Minister's discretion; salaries of employees of state-owned enterprises were based on profits of the previous year and available loans from the National Bank. Loans were predicated on profit margins and on the percentage of government ownership. In Angola's small private sector, wages are based on multiples of the minimum salary set by the Government.

Angola has no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Government indicated that in mid-1994 it would introduce legislation to prohibit forced labor, reversing laws and provisions which had been cited by the ILO for violations of its Convention No. 105. The outdated legislation authorizes forced labor for breaches of worker discipline and participation in strikes.

d. *Minimum Age for Employment of Children.*—The legal minimum age for employment is 14. The Inspector General of the Ministry of Labor is responsible for enforcing labor laws. The Labor Ministry maintains employment centers where prospective employees register. These centers screen out applicants under the age of 14. However, children at a much younger age work on family farms and in the informal economy.

e. *Acceptable Conditions of Work.*—In 1993 the Council of Ministers approved a minimum salary for laborers equivalent to $7 per month (by the end of the year reduced to $2 by hyperinflation) and for civil servants a minimum salary equivalent to $137 per month (reduced to $40).

The minimum salary was insufficient to support a worker and family. Accordingly, most workers depended on the thriving informal sector, second jobs at night, subsistence farming where security permits, theft, corruption, or remittances from abroad to maintain an acceptable standard of living. The normal workweek, established by a 1982 government decree, is 44 hours. No information was available on adequacy of work conditions or health standards, but it was assumed they were generally low, given the extreme underdevelopment of the Angolan economy, lack of enforcement mechanisms, and the war.

BENIN

The Republic of Benin has a constitutional government headed by President Nicephore Soglo, who was elected in free and fair elections in 1991. There are a large number of political parties represented in the National Assembly. A working coalition of approximately 34 parties referred to as the Presidential majority dissolved in late 1993, and no party or grouping commands a majority of seats. There were tensions between the executive and the legislature over the installation of the new Constitutional Court which took place in June.

The security forces are under civilian control: the 4,000 personnel of the armed forces are under the direction of the Minister of Defense, while the 1,500-person police force comes under the Minister of the Interior. The 2,500-strong gendarmerie reports to both the Minister of Defense and the Minister of the Interior; it fills police functions in rural areas. The questionable commitment of the military establishment to democratic change remains a cause of concern, especially as voluntary departures have left the officer ranks ethnically unbalanced in favor of the otherwise underprivileged north. The Government has implemented a voluntary departure program to reduce the size of the armed forces and seeks to keep the armed forces professional and depoliticized.

The underdeveloped economy is based largely on subsistence agriculture, cotton production, regional trade, and small-scale offshore oil production. In accordance with World Bank and International Monetary Fund agreements, the Government is pursuing an austerity program for the purpose, among others, of privatizing state-owned enterprises, reducing fiscal expenditures, and deregulating trade. Benin suffers from a bloated and inefficient bureaucracy, high debt-servicing costs, and widespread unemployment.

The human rights situation continued to improve. Positive developments included the establishment of the Constitutional Court as a potentially important judicial counterweight to the executive and legislative branches. The Government continued to respect the fundamental rights provided for in the 1990 Constitution, and, in a conciliatory move, President Soglo commuted the sentences of those persons, all northerners, convicted and still imprisoned for involvement in electoral violence in 1991. There were no reports of political prisoners or detainees. However, the Government continued to detain without trial a number of persons charged with torture under the old regime and did not address the serious administrative delays in processing criminal cases, resulting in the denial of timely fair trial.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture and cruel, inhuman, and degrading treatment. There were no reports of torture.

A rising crime rate and a lack of police responsiveness to reports of crime sometimes led mobs to take justice into their own hands, resulting in severe injuries to suspected criminals, particularly thieves caught in the act. While a number of such incidents took place in urban areas, there were no reported cases of such vigilantism being prosecuted.

Prison conditions remained harsh and characterized by extensive overcrowding as well as lack of proper sanitation and medical facilities. The prison diet is grossly inadequate, and malnutrition and disease are common among prisoners.

d. *Arbitrary Arrest, Detention, or Exile.*—Since 1990 arbitrary arrest and detention has ceased to be routinely practiced by the Government. Procedural safeguards against arbitrary arrest include a constitutional provision forbidding detention of more than 48 hours without a hearing by a magistrate, whose order is required for continued detention.

However, there were credible reports that this 48-hour limit was exceeded in many cases, mainly due to the accepted practice of holding a person without specified time limit "at the disposition of" the public prosecutor's office before presenting the case to a magistrate. According to a local human rights group, when such cases come to its attention and it lodges a protest, such detained individuals are promptly released, but there are cases in which persons have been held in this manner for periods of up to a year or more. There were no reports of incommunicado detention.

There were no reports of political detainees held by the Government at year's end. However, the Government continued to hold the former head of Benin intelligence, who allegedly carried out acts of torture under the old regime, and a deputy in detention pending trial at year's end. The pair are being held on charges of torture, one since late 1991, the other since late 1992. The delay has been due to the complexity of the case, the large number of victims involved, and the reluctance of many victims to give evidence out of fear of retaliation.

The Government has also held a group of military officers involved in a May 1992 coup attempt in detention for over a year. International human rights groups expressed concern to the Government about the officers' extended detention without charge or trial. A number of the accused officers escaped from prison in March, but the remaining officers are expected to be brought to trial in early 1994.

The Constitution contains a provision prohibiting the Government from exiling any citizen, and many exiles have returned to Benin since the change in government and a 1990 Presidential amnesty.

e. *Denial of Fair Public Trial.*—The legal system is based on French civil law and on local customary law. A civilian court system operates on the national and provincial levels. Military disciplinary councils deal with minor offenses by military members but have no jurisdiction over civilians. Judges in civil courts are career magistrates, appointed by the President, and administratively they come under the Min-

istry of Justice. However, under the Constitution, officials are answerable only to the law in carrying out their duties and may not be transferred.

Serious crimes are first presented to an investigating magistrate who decides whether there is sufficient evidence to warrant trial. A defendant has the right to be present at his or her trial and to be represented by an attorney, at public expense, if necessary. In practice, indigent clients are provided with court-appointed counsel upon request.

Under the Constitution, the highest courts are the Supreme Court, which is the court of last resort in all administrative and judicial matters, and the new Constitutional Court, charged with passing on the constitutionality of Beninese laws, including those that may violate fundamental human rights. The Constitutional Court was first seated in June. Whether it will develop as the main judicial counterweight to the legislative and executive branches of government remained to be seen, but it was the subject of much political debate between the Presidency and the National Assembly (see Section 3). The Constitution also provides for a High Court of Justice to be convened when necessary to preside over crimes against the nation committed by the President or by ministers in the Government.

There were no political or security trials, and there were no reports of political prisoners being held at year's end. In a conciliatory gesture, President Soglo commuted the sentences of the last persons, all of them northerners, in prison for acts of violence in connection with the 1991 elections.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of private property and the home and for the privacy of personal correspondence and communications. Police are required to obtain a judicial warrant before entering a private home, a requirement observed in practice.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of expression and of the press and other media, and these rights were generally respected. Beninese freely discussed politics, both in public and private forums, including in the National Assembly. A large and active private press was represented through more than 15 private newspapers, mostly weeklies and monthlies.

The Government continued to own and operate the media most influential in reaching the public, the local radio and television stations, and the one daily newspaper. However, official journalists continued to cover sensitive matters and to criticize the Government, including perceived indiscretions on the part of the President's spouse, as well as strong criticism of the President's delay in the seating of the Constitutional Court.

Benin experienced a large number of libel cases brought against journalists in 1993. In one notable case, brought by President Soglo, a journalist who had been convicted in open court in a criminal libel case, which observers described as fair, failed to appear at his sentencing hearing or appeal his conviction. His failure to appear led to his receiving the maximum sentence, 1 year's imprisonment. Several months later, he was apprehended and sent to prison to serve his sentence. There were complaints that the journalist went to prison subsequent to (and because of) the publication of another article critical of the President, a claim the President denied. Most journalists deny the incident had any chilling effect on their reporting, other than to make them careful to check the accuracy of their reports.

There was no censorship of foreign books or artistic works. Foreign periodicals were widely available on newsstands, and much of the population has ready access to foreign broadcasts on short wave radio.

In general, academic freedom is enjoyed in schools and in the sole university. University professors are permitted to lecture freely in their subject areas, conduct research, and draw independent conclusions.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution recognizes the rights of peaceful assembly and association. These rights were generally respected. Permits are required for use of public places for demonstrations, and associations are required to register. Both permits and registrations are routinely granted, as in the case of the long-clandestine Communist Party of Benin, which registered as a political party for the first time.

Multiple political parties as well as numerous religious and cultural associations exist. The Government did not take any actions against nonregistered organizations for failure or refusal to register.

c. *Freedom of Religion.*—Christianity, Islam, and traditional religions coexist in Benin with occasional friction. Adherence to a particular faith does not confer special status or benefit. Religious ceremonies and shrines of all faiths are protected

by law. There are no restrictions on religious ceremonies, teachings, foreign clergy, or conversion to any religion.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Domestic movement is impeded somewhat by the presence of police, gendarmerie, and customs roadblocks. Ostensibly present for the purpose of enforcing automotive safety and customs regulations, many of these checkpoints serve as a means for officials to exact bribes from travelers. Travel outside of Benin is not restricted for political reasons; those who travel abroad may return without hindrance.

Benin respects the right of first asylum and welcomes refugees, notably 150,000 refugees from Togo in 1993. The majority of these refugees were accommodated by family and friends in Benin. Refugees who marry Beninese may apply for citizenship; other refugees are permitted to remain indefinitely but do not have the option of naturalization, though the Government helps integrate them into Beninese society if they chose to remain. There were no reports of involuntary repatriation during 1993.

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

Citizens have this right, and the Government continued the process of creating and consolidating its democratic institutions, notably in the installation of the Constitutional Court, an event which finally took place in June.

The conflict between President Soglo and the National Assembly over the seating of the Constitutional Court centered on the qualifications of the designated members, the infrastructure of the Court, and the timing of the installation ceremony.

The President and an informal coalition of parties commanded a majority in the National Assembly for much of 1993 and used it effectively to gain passage of the controversial 1993 budget. The Constitution provides for a 5-year term of office for the President (who is limited to 2 terms) and a 4-year term for National Assembly members (who may serve an unlimited number of terms).

Women are poorly represented in the political process. There are 2 women in the 19-member Cabinet and only 4 female deputies in the 64-member National Assembly.

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

Several nongovernmental organizations monitor human rights; they include the Human Rights Commission, the Study and Research Group on Democracy and Economic and Social Development, the Association of Christians Against Torture, and the League for the Defense of Human Rights in Benin. The groups' activities in 1993 included drawing attention to poor prison conditions, calling upon the President to stop delaying installation of the Constitutional Court, drawing attention to corruption, and emphasizing the unacceptability of procedural delays in the court system.

In contrast to the attitude of the former authoritarian regime, which considered outside investigation into human rights unwarranted interference in internal affairs, the current Government has welcomed nongovernmental and international scrutiny of human rights.

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

Discrimination based on the these factors is prohibited in the Constitution and by law, and in practice the Government generally respected these prohibitions.

Women.—The Constitution specifically states that women are the equal of men in the political, economic, and social spheres, but they face extensive societal discrimination, especially in rural areas, where they occupy a subordinate role and are responsible for much of the hard labor on subsistence farms. Women in all parts of the country are the equals of men in inheritance and property rights in the courts, though local custom in some areas does not permit women to inherit real property. As a consequence, women increasingly approached the courts to resolve inheritance and property issues. Women do not enjoy the same educational opportunities as men, and in some parts of the country, families are reluctant to have their daughters educated at all. Overall, the literacy rate for women is only 16 percent compared to 32 percent for men.

While no statistics are available, violence against women, including wife beating, occurs, although it is prohibited by law. Incidents are sometimes reported in the private press and, when they are brought to the attention of judicial or police authorities, they are treated as criminal cases. However, some judges and police are reluctant to intervene seriously, considering such affairs to be family matters. Among

women's groups, the Association of Women Jurists has taken an active role in educating women about their legal rights.

Children.—The Government recognizes its responsibilities for the protection and welfare of children as outlined in both the Constitution and the African Charter of Human Rights and People's Rights, to which Benin subscribes. The Ministry of Labor and Social Affairs is charged generally with the protection of children's rights. The Government's commitment to children has been particularly focused on the education and health sectors, and especially its constitutional obligation to provide universal education for children. Education and public health remain priority sectors even in the face of a difficult economic austerity program. Most notable are the advances in primary education and the highly successful vaccination program conducted throughout the country.

Some infants born with deformities are deemed to be sorcerers and reportedly killed at birth in some rural areas. The Government deals with such matters as criminal offenses and regularly prosecutes offenders. There were also credible reports that a number of children were sent, often by their families and for a fee, through unscrupulous traders to work as domestic servants and farm laborers in other countries in the region, often in deplorable conditions (see also Section 6).

Female genital mutilation (circumcision), which is condemned by international health experts as damaging to physical and mental health, is practiced on females at a young age. Conventional wisdom had been that the practice existed primarily in the north, but it has become evident that the practice is more widespread in the south than formerly believed, although statistical evidence is not available. Infibulation does not appear to be widely practiced, if at all, in Benin. Recent research by a small Beninese nongovernmental organization found that those who perform such circumcisions, themselves often elderly women, have a strong profit motive in the continued practice. The Government has cooperated with an inter-African committee working against the practice of female genital mutilation by allowing locally produced posters and pamphlets about the practice to be made available at government health clinics.

National/Ethnic/Racial Minorities.—Benin has a long history of regional rivalry. This led to violence during the 1991 elections, when northerners supporting ex-President Kerekou's candidacy clashed with southerners and at least one death ensued. In a move to reduce regional tensions, President Soglo commuted the sentences of the last persons serving prison sentences for acts of violence at that time, all of them northerners. However, relatively few northerners have been appointed to senior governmental positions and this, as well as the general lack of economic development in the north, leads to regional dissatisfaction with the Government. The southern third of the country, which was favored during the colonial period, has about two-thirds of the population and is itself divided among various ethnic and religious groups.

Religious Minorities.—No one religion can accurately claim a majority of the population as its followers. Christians and followers of the Vodun traditional religion are concentrated in the south, and Muslims and followers of other traditional religions are concentrated in the north.

Government action in the face of interfaith conflicts was the subject of criticism from nearly all religious groups in 1993. Action to quell tensions between Muslims and followers of traditional religion in Porto-Novo in April was tardy, and two people died in rioting before the Government intervened. In the same month, in response to protests from followers of traditional religions about disrespect to their practices, government officials in Atlantique province told Christians not to work their fields on traditional market days, causing the Christians to make countercharges of religious discrimination. In a case in which two opposing groups from a small Christian sect repeatedly brawled in the streets, the Minister of the Interior suspended the registration, and thus the legal existence, of the church for several months, only restoring registration upon receiving assurances the violence would cease.

People with Disabilities.—The Constitution contains a clause mandating that the State "look after the handicapped." However, there are no legislatively or otherwise mandated provisions of accessibility for disabled persons. The Government runs a number of social centers for disabled persons and conducts seminars, including one in 1993 attended by government officials and members of associations of persons with disabilities, to encourage the handicapped to become better organized and to recommend methods for improved social integration. Nonetheless, disabled persons are subject to societal discrimination. For example, they are sometimes popularly believed to be cursed and are treated as outcasts and forced into beggary.

Section 6. Worker Rights

a. *The Right of Association.*—The December 1990 Constitution gives workers the freedom to organize, join unions, meet, and strike, and those rights are respected in practice. Benin's labor force of about 2 million is primarily engaged in subsistence agriculture (80 percent), with less than 2 percent of the population engaged in the modern (wage) sector. Approximately 75 percent of the wage earners belong to labor unions. There were efforts to organize certain workers in the informal sector, notably motorcycle taxi drivers and automotive mechanics.

In 1974 all preexisting unions were absorbed into a single trade union confederation, the National Workers' Union of Benin (UNSTB), which for 17 years was the designated mass organization of a single-party Marxist regime. The UNSTB declared its independence from the former ruling party in 1990 and now claims 26 nationwide affiliated unions. It represents workers at the International Labor Organization (ILO). The Confederation of Autonomous Unions (CSA), a separate and larger confederation formed in 1991, represents an additional 26 unions, mostly in the public sector. In February the National Association of Public Administration Trade Unions (FENSAP), organized in 1992, changed its name to the General Confederation of Workers of Benin (CGTB). A fourth confederation, the Union Center of Workers of Benin (CSTB), formed in late 1993.

There were a number of labor actions, including strikes of railway workers, airline workers, and civil servants. The Government took no action to impede any of these strikes or other labor union demonstrations. The right to strike was respected, even when it proved highly disruptive as in airport workers' and railroad workers' strikes. There were no known efforts to retaliate against strikers.

Confederations and individual unions have the right to affiliate with international labor movements. The Government designated the head of the CSA to represent the workers at the International Labor Organization conference in Geneva, with the head of UNSTB serving as adviser. In 1990 the UNSTB disaffiliated from the formerly Soviet-controlled World Federation of Trade Unions, and in 1992 it affiliated with the International Confederation of Free Trade Unions.

b. *The Right to Organize and Bargain Collectively.*—The Labor Code provides for collective bargaining, which took place on such issues as assistance to laid-off workers. The Code is basically copied from the French colonial Labor Code. Revisions to the Labor Code were under consideration by the National Assembly in late 1993. Individual labor unions are authorized to negotiate with employers on labor matters and represent workers' grievances to both employers and the Government, with the latter often acting voluntarily as arbitrator. Wages in the public sector are set by law and regulation via a schedule that is periodically reviewed. The schedule has not been changed since 1984 due to the economic collapse of the previous government and the subsequent austerity program required by international financial institutions. Private sector wages in one of the larger industrial enterprises, i.e., a brewery, were set by the employer in 1992 after informal consultations with labor unions and the Government.

The Labor Code prohibits employers from taking union membership or activity into account when making decisions on hiring, work distribution, professional or vocational training, or dismissal. The Labor Code sets out extensive procedural mechanisms to enforce all of its provisions including the use of inspectors from the Ministry of Labor and labor tribunals with rights of appeal into the regular court system.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited by the Labor Code and is not practiced.

d. *Minimum Age for Employment of Children.*—The Labor Code prohibits the employment or apprenticeship of children under the age of 18 in any enterprise. However, enforcement by inspectors from the Ministry of Labor is limited, and child labor does occur, particularly in rural areas, where children under the age of 14 often work on family farms. Some child labor occurs in urban areas, primarily in the informal sector. For example, street vendors of newspapers and foodstuffs are frequently under the age of 16.

e. *Acceptable Conditions of Work.*—The Government administratively sets minimum wage scales for a number of occupations. Most of those actually employed in the wage sector earn much more than the lowest minimum wage, which was last set in 1984 and is sufficient only to provide rudimentary food and housing for a family. It must be supplemented by subsistence farming or small trade in the informal sector if a worker and his family are to enjoy a decent living. The lowest minimum wage rate was approximately $49 per month (CFA Francs 13,500).

For the wage sector, the Labor Code establishes a workweek varying between 40 hours (nonagricultural employees) and 56 hours (security guards), depending on the type of work. The law provides for at least one 24-hour rest period per week.

The Government supports policies designed to improve the conditions of workers in both the agricultural and industrial sectors. The Labor Code establishes health and safety standards, but enforcement by inspectors from the Ministry of Labor is weak. The Labor Code is silent on whether workers have the right to remove themselves from dangerous work situations without jeopardy to continued employment. However, there are extensive provisions concerning the right of the Ministry of Labor to take note of dangerous work conditions and require employers to remedy them.

BOTSWANA

Botswana is a multiparty democracy. The Constitution vests legislative power in the 38-seat National Assembly (Parliament), elected every 5 years, and executive power in the President, currently Sir Ketumile Masire, who was reelected in 1989 for a second 5-year term. The President selects his Cabinet from members of the National Assembly. While Botswana has several active political parties, the country's politics are dominated by the governing Botswana Democratic Party (BDP). The courts operate independently of both the legislative and executive branches. All citizens, regardless of race, are free to participate fully in the economic and political life of the country.

Botswana's military, the Botswana Defense Force (BDF), numbers about 8,000 soldiers, and the Botswana National Police (BNP) has about 3,000 members. Both the BDF and the BNP are subordinate to civilian authority.

The economy is market oriented with strong encouragement for private enterprise. Spurred by diamond revenues, the country's economy expanded rapidly in the 1980's, although the growth rate slowed in 1992–93. Since independence in 1966, per capita gross domestic product (GDP) has increased from $69 to a current figure of about $2,590. However, more than 50 percent of the population lives outside the formal sector, gaining its livelihood from subsistence farming and animal husbandry. Furthermore, income distribution is heavily skewed, with the top 20 percent of the population probably earning more than 60 percent of total income and the bottom 40 percent earning as little as 10 percent of the total.

Botswana's laws and legal system provide for a broad range of individual rights and freedoms, which are widely observed in practice. However, women face significant legal and practical discrimination, and violence against them is a growing problem. Dwellers in remote areas and groups not numbered among the eight "principal tribes" identified in the Constitution do not enjoy full political rights or full access to social services. One man died while in police custody in November 1992 after allegedly being tortured; five police detectives were convicted of manslaughter and sentenced to 5 years in prison (of which 3 years were suspended) for causing the man's death. There were credible reports that occasional mistreatment of suspects continued in 1993. Labor has the right to organize freely, although trade unions continue to face certain legal restrictions. The press, human rights groups, and others sharply criticized the Government's use of its power to expel foreigners without giving reasons.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—The death of the suspect in the November 1992 case was the only confirmed killing by police resulting from beatings or shootings which were not strictly in self-defense.

b. *Disappearance.*—No instances of politically motivated disappearances were reported.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although not authorized or routine, torture of suspects appears to be more common practice than was previously known. Officers found to have abused suspects have been subjected to internal disciplinary procedures and criminal prosecution. A suspected robber died in police custody in November 1992 after reported suffocation by a plastic bag. Five police detectives were convicted of manslaughter and sentenced to 5 years in prison (of which 3 were suspended) for causing the man's death. The murder charge was downgraded to manslaughter because the police were acting in the line of duty at the time. The judge explained the relatively light sentence by pointing out that the officers had no prior records of misconduct and that he did

not want to "demoralize" the rest of the force. Several credible accounts of such suffocation torture to extract confessions or leads in serious crimes surfaced after the 1992 death. Game scouts (wardens) accused of mistreating suspects in 1992 were suspended and prosecuted during 1993 but were acquitted of assault due to lack of evidence. A former policeman alleged that torture of suspects in murder cases is "common" and not reported or stopped by higher authorities. Annually, a handful of game scouts and police found to have abused suspects have been been subject to disciplinary actions (transfer, suspension pending investigation, and reprimands), but police are reluctant to punish abuse of authority in their ranks and even more reluctant to have it publicized; so many abusers have not been disciplined. Prior to 1992 there were succesful civil suits against police for mistreatment, and another well-documented civil suit for damages stemming from a 1991 case—but significantly against the chief suspect in the 1992 death case—is currently in court. Such punishments do not appear to have been an adequate deterrent, for credible allegations of mistreatment continue.

The Government makes efforts to protect women in custody from rape and other abuse. Arrested women are placed in the charge of female police officers, reducing the potential for mistreatment by male police officers. Prison conditions are generally acceptable. Basic nutritional and hygenic requirements are met. Inmates, including some illegal immigrants later found to be elgible for refugee status, complained of mistreatment (pushing, rude treatment, denial of meals or privileges for relatively minor infractions). Such abuse does not appear to be widespread or condoned. Prisoners' complaints were not rigorously investigated; no prison officer was punished in 1993 for mistreatment of inmates.

Caning is allowed for certain offenses for men below age 40. Strict conditions regulate the size of the cane, require medical examinations of the prisoner before and after punishment, and prescribe strokes only across the buttocks. A recent High Court opinion forbids corporal punishment for children under 14. Parents and village headmen, however, may beat children under rules of "traditional punishment."

d. *Arbitrary Arrest, Detention, or Exile.*—Citizens are protected from arbitrary arrest under the Constitution. An arresting officer must explain the crime an arrestee is accused of and advise that the arrestee has the right to remain silent. In most cases, a suspect may contact anyone of his or her choosing and must be charged before a magistrate within 48 hours of arrest. Bail is allowed and detainees have the right to hire attorneys of their choice. Poor police training and poor communications in rural villages, however, make it difficult for detainees to obtain legal assistance, and procedures are not strictly followed. An automatic public defender service for those unable to afford a lawyer is lacking.

Once a suspect has appeared before a magistrate, he or she may be detained only if the magistrate issues a writ of detention, valid for 14 days and renewable every 14 days thereafter. Observance of these procedures has been uneven, but police officers exceeding their detention authority have been administratively punished or sued successfully in civil actions.

These restrictions on detention do not apply to illegal immigrants (mostly Zimbabweans or Zambians). Hundreds of such illegal immigrants are found in periodic sweeps by the police and deported, although many are detained for periods ranging from a few hours to over a year, pending deportation.

The Constitution allows the President to declare a foreigner a "prohibited immigrant" (PI) and order deportation. This provision was used in 20 or more cases in 1993. The law does not require any explanation for declarations of PI status, nor is any normally given. The order is not subject to judicial review, although one controversial 1993 order expelling a prominent businessman was rescinded by the President after public protests. Further, no explanation or judicial review of cancellation of residence permits for foreigners is required. This method of expulsion also came under public fire in 1993, resulting in presidential reversal of one such residence permit revocation.

Persons charged under the National Security Act (NSA) must be arraigned before a magistrate within 96 hours, and suspects may be held indefinitely. However, this act has rarely been invoked and was not used in 1993. Security cases are tried under ordinary criminal procedures after an initial hearing.

e. *Denial of Fair Public Trial.*—The judiciary is independent of the executive and legislative branches of government in both law and practice. This was reaffirmed in 1993 with the bribery conviction and sentencing to jail of a prominent ruling party member of the National Assembly. No instances of the courts being used to intimidate or silence political dissent were reported.

In late 1993 no political prisoners were held in Botswana, although migrants claiming refugee status were routinely detained and deported without due process. In some cases, refuge-seekers have been held without charge for over a year even

after the United Nations High Commission for Refugees (UNHCR) determined that they met the legal criteria for refugee status.

Botswana has two court systems, the civil courts and the customary (traditional) courts. In the civil courts, a defendant's right to due process is provided for by law and largely honored in practice, although many defendants are not informed of their rights in pretrial or trial proceedings.

Most trials are held in public and court records are public. However, trials under the National Security Act may be held in secret. As a rule, courts appoint public defenders only for those charged with capital crimes (murder and treason); lawyers in these cases serve on a pro bono basis. Thus, those charged with noncapital crimes are often tried without legal representation if they cannot afford an attorney. However, defendants may in any case confront witnesses and present evidence and are presumed innocent until proven guilty. There are clearly defined appeal procedures, which are often employed.

Customary courts handle land, marital, and property disputes as well as minor crimes but are open only to members of the given tribe. No rules of evidence apply in these courts, and there are no attorneys for either side. Tribal chiefs who preside over the court do not have judicial training and have been known to taunt defendants for confessions. Maximum punishment is limited, and appeals are permitted.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Privacy in family matters and correspondence is respected, and there is no evidence of arbitrary surveillance of persons or their communications.

Court-issued search warrants are required, but police officers of the rank of sergeant and above may enter, search, and seize property provided they believe "on reasonable grounds" that criminal activity is involved and that evidence would be lost or compromised by waiting for a warrant, and provided that the evidence is later brought before a magistrate. In practice, this means that seizures of property are frequently made without resort to search warrants. Evidence gained without a warrant is admissible in court. Judges may and do disqualify such evidence if it can be shown that it would not likely have been compromised by taking the time to obtain a proper warrant.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and press are provided for in the Constitution and respected in practice. Opposition viewpoints and criticism of the Government are freely expressed in Parliament and elsewhere.

The Botswana Press Agency (BOPA), Radio Botswana, and the Daily News are all part of the Department of Information and Broadcasting. Each is independent of the other two, although Radio Botswana and the Daily News get the majority of their news stories from BOPA. Both the Daily News and Radio Botswana are run with a modest degree of autonomy. The Daily News, made available free of charge, consists largely of reports of speeches of ministers and other high officials and international wire service stories. In addition, there are four independent weeklies which frequently disagree with or criticize senior officials. These papers have reported incidents of fraud and misconduct, which led to resignations and prosecutions of prominent political figures. While opposition parties' activities receive press coverage, the Government media gives more space to ruling party viewpoints. The independent press is more evenhanded and publishes a wide variety of opinions and features.

In the past, the Government clashed with the independent press over the proper reporting of national security issues. In 1993 the Government prevented the media from fully covering National Police Day celebrations, claiming that the restriction was required for logistical reasons.

Individual ministers and members of Parliament have brought suits against critical independent media, and in late 1993 a case was still pending against one paper for publishing allegedly secret documents regarding internal government deliberations in worker grievance cases. Books and publications are not censored. Academic freedom is fully respected. Although a law was passed in 1990 authorizing restrictions on certain kinds of student protests, such restrictions have never been imposed.

b. *Freedom of Peaceful Assembly and Association.*—Botswana has a long history of peaceful assembly which is integral to traditional village life and is exemplified in the village meeting, the Kgotla. During Kgotla meetings, men freely question leaders and voice opinions on local and national politics. Traditionally, women do not speak out at Kgotlas and are discouraged from expressing their opinions. Permits are required for public meetings and demonstrations and are usually granted if the police believe public order will not be threatened.

c. *Freedom of Religion.*—Freedom of religion is guaranteed by law. There is no state religion, and while the majority of the population is Christian, many other

faiths are practiced freely. No restrictions are put on places of worship, the training of members of the clergy, religious publishing, religious education, conversion, or participation in charitable activity. Restrictions were not placed on missionaries or foreign clergy during 1993.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Botswana has no restrictions on movement within the country, foreign travel, emigration, or the right to return. Passports are easily obtained by citizens and are valid for 10 years.

Refugees documented by the UNHCR are readily accepted into Botswana but are normally required to live in the refugee settlement at Dukwe in the northeast, although the Government may authorize them to live elsewhere. Refugees currently in Botswana number about 700. South Africans continued to be processed as refugees in 1993, but displaced persons arriving from more distant east and central African countries were frequently detained as illegal immigrants and not referred to the UNHCR for possible determination of refugee status.

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

Botswana citizens have the right to change their government peacefully through democratic means, although in practice one party, the BDP, has dominated Parliament since independence 27 years ago. Members of Parliament are elected by secret ballot and universal suffrage of citizens 21 years of age and older; the President is elected by the Parliament. In the National Assembly, 34 of the 38 members are elected every 5 years; the remaining 4 are appointed by the President. In the 1989 elections, the BDP won 31 of the 34 elected seats. Parliamentary debate is vigorous, and government policies are freely criticized as each proposed bill goes through three readings. Members of Parliament frequently demand that ministers define and defend their departments' policies and performance. New parties are freely formed. Of the eight active political parties, only two, the BDP and Botswana National Front (BNF), are represented in Parliament.

The leading opposition party, the BNF, threatened to boycott the 1994 elections if the BDP did not agree to certain electoral reforms to reduce what they saw as built-in advantages of incumbency. Although the opposition received more than 25 percent of the national vote in 1989, it won only 3 seats in Parliament. Opposition parties complain that election administration is partisan and that the BDP uses appointed seats to district and town councils to undo hard-won opposition victories in local elections.

The political rights of women and minorities are not restricted by law, but traditional patriarchal society has discouraged women from taking part in politics. Yet, women vote in greater numbers than men, and the number of positions, including senior posts, held by women in various institutions is increasing. Women hold seats in local and district councils, and two women are in Parliament; one of them is the Minister of Foreign Affairs. Groups living a nomadic life style in remote areas have difficulty participating in the political process and are poorly represented in politics (see Section 5).

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

Local human rights groups operate openly and independently. The Botswana Association for Human Rights aims to focus national attention on needed legal reforms, to make recommendations to the National Law Reform Committee, to heighten public awareness about human rights, and to pressure the Government to ratify more of the international human rights instruments. Independent organizations dealing with the rights of women, the handicapped, and rural dwellers are also active.

The Government also permits international organizations involved in human rights and humanitarian affairs, including the International Committee of the Red Cross, the United Nations High Commission for Refugees, and the International Labor Organization, to operate in Botswana. Amnesty International (AI) reported in 1993 on mistreatment of indigenous hunters apprehended for poaching in 1992 and earlier years. The Government disputed AI's assertions and its conclusion but did not obstruct the investigation.

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

Women.—The Constitution and Penal Code forbid discrimination based on color, race, nationality, or creed but do not mention discrimination based on sex. Moreover, a number of laws and customs have the effect of restricting social and economic opportunities for women. For example, women married "in common property"

become legal minors and, without their husbands' consent, may not purchase or sell property, gain access to credit, or make other legally binding agreements. While a woman may enter a binding transaction as a public trader, she may become a trader only with her husband's consent. Marriage license applications are increasingly accompanied by explanations of marriage "out of common property" under which a woman retains the property she brings to a marriage as well as full adult legal standing after marriage. Although frowned upon by more traditional families, these marriages are increasingly common. Under customary law a husband may have additional wives after consulting with his first wife and the families, although this practice is dying out.

A woman is required to obtain her husband's permission for operations to prevent conception. Abortion is allowed in cases of rape or incest and when the physical or mental health of a mother is threatened, or when a child will suffer grave physical or mental abnormalities. Two physicians must agree that the health of the mother is threatened, or that the child will have severe abnormalities. If the health of a married couple's child is at risk, or the mother is an unwed minor, abortion is a family decision. A married woman must get her husband's consent to abort a child if he is the father and the unborn child's health, not the mother's, is in question. An unmarried minor seeking an abortion requires the parents' concurrence.

The Attorney General maintains that women have no legal recourse in sex discrimination cases. However, a recent case attracting international attention (Dow vs. State) sucessfully challenged the Citizenship Act, arguing that the law discriminated by preventing a woman from transmitting Botswana citizenship to her children. The ruling, upheld by the High Court in 1992, means the Citizenship Law must be rewritten. At year's end the reform of Botswana's citizenship transmission laws was still under discussion within the Government. No decision had been made to hold a referendum on the issue or attempt to amend the Constitution. Inheritance laws and customs call for each child, regardless of sex, to receive a share of an estate. The oldest male child receives a larger share but is responsible for his widowed mother and minor siblings.

Violence against women, including rape, is a growing problem. Police statistics indicate that 172 women died between 1990 and 1992 as a result of domestic violence. In 1989 and 1990 alone, 1,000 women reported being victims of battery. Men have traditionally had the right to "chastise" their wives, and wife beating involving bruising to face and body is still accepted. No support groups or shelters for battered women exist. However, a legal center in Mochudi provides legal services and counseling to victims of violence. Most women are reluctant to report cases of assault because they fear their husbands will be publicly reprimanded. The parents of a couple are expected to help reconcile any differences, with the consequence that police are unwilling to intervene. In serious cases, however, a woman must file a police report before being admitted to a hospital for treatment of injuries resulting from assault and battery. The maximum penalty for a convicted rapist is life imprisonment with mandatory corporal punishment; the average sentence is 4 years with corporal punishment. A few traditional doctors still perform a type of female circumcision on rare occasions.

Agricultural labor is shared, with men generally responsible for plowing, planting, and assisting with the harvest. Women traditionally weed farm plots and protect them from birds, cattle, and other animals. Cattle herding, the most important pastoral activity in Botswana society, is a male responsibility. Women are responsible for household management, including child rearing, budgeting, and allocating tasks to other female relatives. Urban women with modern skills and education appear to have entry-level opportunities nearly equal to men, but women's access dwindles sharply in the higher echelons of business and public service. Urban women without such skills are generally relegated to low-paying service jobs. Concerted government action to improve the status of women has been limited, but there is no evidence of particular jobs being reserved for men. Women are increasingly visible in the professions and commerce and as laborers. The number of women's organizations is growing. The most active group is Emang Basadi, which seeks to educate women about their rights, argues for the enforcement of fathers' obligations to support their children, and advocates day-care in institutions like the National University and banks which employ large numbers of women. In addition, numerous local women's groups are organized for self-help.

Children.—Children's rights are addressed in the 1981 Children's Act, which mandates a separate judicial process for juveniles, compulsory schooling until age 13, and the legal obligation of both parents to care for their children (including those born out of wedlock). The employment section of the act prohibits children from heavy lifting and any participation in industrial labor or nighttime employment.

National/Racial/Ethnic Minorities.—The Tswana majority, made up of eight principal tribes, has a tradition of peacefully coexisting with "minor" tribes, chief among which are the Kalanga, who constitute 25 percent of the population. Each of the Tswana tribes is represented in the House of Chiefs while other groups are only allowed a subchief, who is not a member of the House. Although ethnic rivalries are not entirely absent, no ethnic groups suffer from direct discrimination. The most prominent complaint concerns the Government's refusal to allow school instruction in minority languages, especially Ikalanga.

Groups living in remote areas, including the Kgalagadi and the San (also called Basarwa or Bushmen), do not have full access to government services and legal redress, partly because of their distance from settled areas and their nomadic lifestyle. They are poorly represented in politics and have few opportunities for power, even at the local level. The Government is revising controversial policies that limit remote area dwellers' access to land and the ability of foreign nongovernmental organizations (NGO's) to work with the San.

People with Disabilities.—The Government does not discriminate on the basis of physical handicaps, and, working with the NGO community, promotes special education and training. A growing number of job opportunities exist for the disabled in both the private and public sectors, but opportunities do not match the number of those in need. Public buildings and vehicles can rarely accomodate wheelchairs, although a handful of newer buildings in the Gaborone area offer ramps and elevators. Those features are not, however, the result of legislation.

Section 6. Worker Rights

a. *The Right of Association.*—Workers, except for civil servants, have the legal right to establish or join trade unions. These government workers may form associations that function as quasi-unions but lack the right to negotiate wages. Unions are well developed in the mining, railways, and banking sectors, as well as among government blue-collar workers. There is one major confederation of trade unions, the Botswana Federation of Trade Unions (BFTU). Trade unions are independent of government control or party affiliation and actively seek to represent their members' interests. Unions may employ administrative staff, but the law requires elected union officials to work full time in the industry the union represents. This severely limits union leaders' effectiveness and has been criticized by the International Confederation of Free Trade Unions (ICFTU), with which the BFTU is affiliated.

In addition, the law severely restricts the right to strike. Legal strikes are theoretically possible after an exhaustive arbitration process, but, in practice, none of the country's strikes has been legal. No significant strikes took place in 1993.

Unions may join international organizations, and labor representatives regularly attend international conferences. The Minister of Labor must approve any affiliation with an outside labor movement, but unions may now appeal to the courts if an application to join or form an amalgamation is refused. Union officials and members may receive foreign scholarships and travel expenses without government permission.

b. *The Right to Organize and Bargain Collectively.*—Although employers are required under the Trade Union Act to bargain with any trade union that organizes at least 25 percent of the work force in a given industry, in practice, a union's ability to bring employers to the bargaining table depends on its overall strength. Collective bargaining is common in the mining sector, where trade unions are strong, but is virtually nonexistent in most other sectors.

Public sector salary levels set under the Government's incomes policy used to serve as a benchmark for private sector wages, but that policy was voided by Parliament in 1990. Since then, private sector pay raises and inflation indexing must be negotiated directly with employers.

Dismissals may be appealed to labor officers or civil courts, but labor officers rarely do more than order 2 months' severance pay.

Workers cannot be fired or suspended for legal union-related activities, and any person who has been dismissed would have the right to demand reinstatment. The Government itself fired a handful of union activists in 1992 but did so on other legal grounds.

Labor law and practice in Botswana's only export processing zone, in Selebi-Phikwe, are the same as in the rest of the country.

c. *Prohibition of Forced or Compulsory Labor.*—Neither forced nor compulsory labor is practiced, and both are specifically forbidden by the Constitution.

d. *Minimum Age for Employment of Children.*—Although education is not compulsory, it is almost universally available, and most children attend school at least through the seventh grade. The Government is rapidly making 9 years of free public education universally available. The employment of children under age 13 by any-

one except members of the child's immediate family is strictly prohibited. No juvenile under the age of 15 may be employed in any industry, and only persons over 16 may be employed in night work. No person 16 or younger is permitted to work in hazardous jobs, including mining. In addition, young people may not be recruited for jobs outside the country. The hours and working conditions of children in the informal sector, particularly in rural areas, are difficult to assess. Such employment is almost always in family enterprises or on family farms, in which case juvenile labor laws do not apply. There were no reported cases of formal sector employers violating these statutes in 1993. The Department of Labor is insufficiently staffed to enforce compliance by small enterprises.

e. *Acceptable Conditions of Work.*—As of April 1993, the minimum monthly wage was $100 (pula 237). The Central Statistics Office calculated a minimum monthly wage of $210 (pula 500) was required to provide food, clothing, and transport for a family of five. The minimum wage generally varies by industry, but in most cases, workers must supplement it with a second job or subsistence farming. Most families have more than one wage earner. An average salary for a better paid worker would be between $400 and $700.

The minimum wage is legislated by the Government and is enforced and observed in urban areas for citizens of Botswana. Adherence is more sketchy in the pastoral sector, especially where housing and food are part of the employer-employee agreement. Citizens of neighboring states, notably Zimbabwe, are frequently employed in the domestic service sector, where many work for low wages and in substandard living conditions. Such illegal migrants would be subject to arbitrary deportation if they attempted to take their cases to the police, making them particularly vulnerable to exploitation.

The law mandates a maximum 48-hour workweek with provisions for overtime pay (time and a half) for more than 48 hours. Most major employers use the standard workweek, but some smaller firms do not pay overtime, and action is seldom taken against them.

The Government establishes basic health and safety standards to which most industries adhere, although compliance by construction firms is sometimes lax. Nevertheless, industrial accident rates are not high on the whole. Though the Government employs a corps of safety and health inspectors, enforcement of safety standards, a shared responsibility of the Ministries of Labor, Mines, and Health, is hampered by inadequate staffing. Workers who complain about hazardous conditions are legally protected from dismissal, but enforcement of this protection has been uneven.

BURKINA FASO

President Blaise Compaore continued to dominate the Burkina Faso Government, assisted by members of his party, the Organization for Popular Democracy/Labor Movement (ODP/MT), and to guide the process of establishing new institutions in accordance with the 1991 Constitution. After the highly controversial presidential (1991) and legislative (1992) elections, the President and the ODP/MT benefited by a period of relative political calm, highlighted by much of the political opposition's accepting, albeit reluctantly, the legitimacy of the new Government, known as the Fourth Republic. The ODP/MT Government includes representatives from the country's three major opposition parties, and it controls the National Assembly (78 out of 107 seats) in which other opposition parties are represented. The National Assembly approved the Government's proposals for defining the constitutionally mandated Second Chamber of the National Assembly (which will play a purely consultative role), and setting in motion a decentralization program involving the election of local governing councils by the end of 1995.

Burkina Faso's security apparatus consists of the armed forces and the paramilitary gendarmerie (controlled by the Ministry of Defense) and the police (controlled by the Ministry of Territorial Administration). There were recurrent instances in which police and security forces used excessive force.

Over 85 percent of the 9.5-million population is engaged in subsistence agriculture which is highly vulnerable to rainfall variations. Frequent drought, a limited communications and transportation infrastructure, and a low literacy rate are longstanding problems. Per capita income is only about $300 per year. In 1993 the Government obtained approval from the International Monetary Fund (IMF) for an enhanced structural adjustment facility (ESAF) to reinforce reforms implemented over the past 3 years. The ESAF program seeks to limit government spending, especially on salaries and transfers, open the economy to free market forces, promote the private sector, and encourage foreign investment.

Despite the constitutional changes since 1991, human rights violations continued to occur. The Government did not hesitate to employ its powers to control the political evolution, notably in 1993 by using the 1990 Information Code and the court system to intimidate the increasingly vocal independent press. There were also new instances of the security forces' committing extrajudicial killings, abusing detainees, and resorting to excessive force in controlling demonstrations (generally committed with impunity). At the same time, the Government held no political detainees or prisoners at the end of 1993 and abolished during the year the unfair Popular Revolutionary Tribunals system. On December 30, the National Assembly also amended the Information Code in favor of greater press freedom. Despite governmental efforts to counter the practice, violence against women continued to be a problem.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There continued to be reports of extrajudicial killings by security forces of suspected criminals. During disturbances at the University of Ouagadougou in February, police arrested a passer-by, who subsequently died in police custody. Credible reports indicated that he had been tortured by the security services. The Government made no apparent effort to investigate the incident or the violence at the University or the violence that occurred at a local high school in the capital the next day, despite calls by the Burkinabe human rights movement to do so (see Section 2.b.).

There were also reports that at least one detainee, who was seeking refugee status, died as a result of mistreatment while in the custody of the gendarmerie.

Despite pressures from international and local human rights groups, the Government again failed to complete the official investigation into the 1991 assassination of Clement Ouedraogo, a prominent opposition leader, or to account for the 1989 and 1990 "disappearances" of Professor Guillaume Sessouma, detained for allegedly participating in a coup plot, and medical student Dabo Boukary, detained following student demonstrations in May 1990. Credible reports indicated that elements of the security forces tortured and killed both men.

b. *Disappearance.*—There were no reported new disappearances.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—While legally prohibited, torture and mistreatment of detainees, often to extract confessions, have been documented for a number of years in Burkina Faso. No known disciplinary action has been taken against those responsible. In 1993, for example, police detained a Burkinabe youth, Doin Yedan, on a civil matter, near Bobo-Dioulasso. The next day he was found by the roadside in a coma and later died without regaining consciousness.

Prison conditions are harsh and characterized by overcrowding. For instance, the institution in Bobo-Dioulasso, built in 1947, housed in 1993 about 1,000 prisoners, although it was designed to hold less than half that number. Given the poor prison diet and the prevalence of malaria and other diseases, prison conditions can be life threatening. Inmates must often rely on supplemental food from relatives.

d. *Arbitrary Arrest, Detention, or Exile.*—Since the June 1991 adoption of the Constitution, which provides for the right to expeditious arraignment and access to legal counsel, there have been no known cases of prolonged arbitrary arrest or detention. The law permits detention for investigative purposes without charge for a maximum of 72 hours, renewable for a single 72-hour period. In practice, these provisions are rarely observed, particularly in sensitive cases. The Military Code takes precedence over the Civil Code in national security cases.

Prior to adoption of the Constitution, the earlier Popular Front government held a large number of its opponents in custody, but there were no known political detainees or prisoners in Burkina Faso at the end of 1993.

Although some intellectuals, military officers, and former government officials remained in self-imposed exile abroad, a number repatriated themselves since 1991. Among those returning in 1993 was Antoine Dakoure, a former minister and prominent leader of an overseas Burkinabe opposition group.

e. *Denial of Fair Public Trial.*—The Constitution provides the right to public trial, access to counsel, and appeal. While these rights are generally respected, the ability of citizens to obtain a fair trial remains conditioned by weaknesses in the judicial system, including a serious shortage of trained magistrates to process a growing caseload. The 1991 Constitution reestablished the Supreme Court at the apex of the formal judicial system.

Under the Constitution, the judiciary is independent of the executive, but the President has extensive appointment and other powers over judicial officials, and the executive branch has strong influence on the judiciary.

The military court system is even more susceptible to executive manipulation. Military courts exercise jurisdiction in security cases and are convened on an ad hoc basis. They have no set form, rarely have appeal procedures, and instead use flexible procedures rendering them susceptible to executive influence. However, such courts were apparently not active in 1993.

The Government finally abolished in 1993 the parallel court system of Popular Revolutionary Tribunals (TPRS), which lacked many constitutional safeguards. The politicized tribunals had been created by the ruling National Revolutionary Council in 1983 to try former government officials on corruption and other charges. In mid-1993, Burkina's courts began hearing appeals of verdicts handed down by the tribunals and set aside most convictions on procedural grounds.

In addition to the formal judiciary, customary or traditional courts, presided over by village chiefs, handle many neighborhood and village-level problems, such as divorce and inheritance disputes. These court decisions are generally respected by the population, but citizens may also take the case to a formal court.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Government authorities generally do not interfere in the daily lives of ordinary citizens, but monitoring of private correspondence or telephones does occur in suspected national security cases. By law, homes may be searched only under the authority of a warrant issued by the Minister of Justice. In national security cases, however, a special law permits surveillance, searches, and monitoring of telephones and correspondence without a warrant.

Some observers expressed concern that local committees, proposed by President Compaore's ODP/MT, would ultimately replicate the functions of the old Popular Front's revolutionary committees in intimidating villagers. While authorized by the party's April Congress, the ODP/MT committees did not form in 1993 due to interparty differences regarding their viability.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and press are provided for in the 1990 Information Code but are still limited in practice. The President and his Government are highly sensitive to criticism. The Code established the right of private publication, but it also gave the Government strong legal powers to intimidate the press through a broad interpretation of defamation: ". . . any allegation, or imputation of a fact, which injures the reputation or the consideration of the person or body to which the fact is imputed."

The Government used this power in 1993. Most notably it targeted a regional paper in Bobo-Dioulasso that alleged corruption in the Ministry of Justice and the prosecutor's office in Bobo-Dioulasso. The Government immediately prosecuted the newspaper's publisher and editor on defamation charges in June, and the court sentenced both to 6 months' imprisonment. These sentences were suspended by an August 4 (Revolution Day) amnesty, and both journalists have since resumed their positions at the newspaper. However, the verdicts, the first time journalists had been sentenced for Code offenses (under the previous government, treason was the usual charge) served as a warning and all newspapers practiced some degree of self-censorship.

The Burkinabe Movement for Human Rights and Peoples (MBDHP) led public criticism of the Information Code during the year, especially a section which prevented journalists from providing evidence in court. In response, the the ODP/MT-led National Assembly on December 30 finally passed amendments to the Code, allowing journalists to introduce evidence to defend themselves in a court of law when charged with slander by a government official and also stipulating that "offenses in words (threats) or action against journalists in the exercise of their profession are punishable under the law."

Notwithstanding the controversy over the Code, the independent press continued to expand rapidly in 1993. In addition to two dailies, Burkina boasted nearly a dozen weekly newspapers, and a weekly newsmagazine by year's end. Although official media outlets, including the daily newspaper Sidwaya and National Radio, displayed a lingering progovernment bias, the presence of independent competition led the official media to give more coverage to the political opposition.

Academic freedom is recognized.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association. The Government lifted a 2-year-old ban on political marches, imposed following violent demonstrations in 1991. Since early 1990, political parties have been permitted to organize and hold meetings and rallies without seeking government permission. While some parties organized press conferences and congresses, most of Burkina Faso's 60 political parties were inactive.

The authorities used excessive force at Ouagadougou University in mid-February when police attempted to break up a student sit-in demonstration protesting cuts in student scholarships. In the ensuing melee, the police wounded several students. While the Government initially insisted that gendarmes and police had only fired in the air to break up the demonstration, it ultimately admitted that several students had in fact been fired upon. The Government promised a commission of inquiry, but none was formed.

There are nonpolitical associations for business, religious, cultural, and other purposes. They experience no difficulty in obtaining permission to meet or associate with international associations in their fields.

c. *Freedom of Religion.*—Burkina Faso is a secular State. Islam, Christianity, and traditional religions operate freely without government interference. Neither social mobility nor access to modern sector jobs are linked to, or restricted by, religious affiliation.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Travelers within Burkina Faso are routinely stopped for identity and customs checks at police and military checkpoints. There is no restriction on foreign travel for business or tourism. Exit permits are no longer required. Refugees are accepted freely in Burkina Faso, and the Government attempts to provide for their care in cooperation with the United Nations High Commissioner for Refugees. There are over 6,000 refugees and displaced persons, mostly Tuareg refugees from Mali, in Burkina Faso.

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

Despite the greater political freedoms allowed by the Fourth Republic, the first multiparty elections in 1992 left in doubt whether Burkinabe citizens have the right and ability to transfer power peacefully to a democratically elected opposition, if they so desired. Power remained in the hands of President Compaore and his political party, the ODP/MT, most of whose members also played prominent roles in the ruling National Revolutionary Council (1983–87) and Popular Front (1987–91). The Government's framework was new, however, and included a strong Presidency, a Prime Minister, a Council of Ministers presided over by the President, a two-chamber National Assembly, and an independent judiciary. The Compaore Government does not face new elections until 1997 (for the legislature) and 1998 (for the Presidency).

The President has the support of the military. He continues to give priority to the the military budget, despite structural adjustment requirements to emphasize health and education requirements.

The transition period from military regime to civilian government was marked by controversy in both the presidential elections in 1991 and the legislative elections in 1992. The opposition chose to boycott the presidential balloting, following President Compaore's refusal to convene a sovereign national conference, but later 27 parties, including all of the country's major opposition parties, elected to participate in the legislative balloting after receiving assurances that the elections would be free and fair.

In the legislative vote, President Compaore's ODP/MT held an advantage because of its financial resources, opposition disunity, and control of the Burkinabe administration. It took 78 of 107 seats in the National Assembly. Opposition parties protested numerous election irregularities but ultimately decided to participate in the National Assembly and in the first government of the Fourth Republic, preferring to work for change within the system rather than outside it. Independent observers agreed that numerous violations occurred in the 1992 elections but that they did not seriously affect the outcome.

There are no restrictions in law or practice on the participation of women or minorities in the political process. However, there are few women in positions of responsibility; 3 of the 25 ministers and 6 of the 107 National Assembly deputies are women. Women are also represented in subcabinet level positions of responsibility.

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

The Government's reaction to local human rights groups has been mixed. It continued to tolerate the activities of the Burkinabe Movement for the Rights of Man and Peoples (MBDHP), an independent group composed mostly of professionals and led by a ranking Burkinabe magistrate. The MBDHP advocated the release of opposition supporters detained following election-related violence in 1991. The Government released those persons, but it ignored continuing MBDHP demands that it account for the disappearances of Boukary Dabo and Guillaume Sessouma.

The Government is rarely responsive to investigations by international nongovernmental organizations. At year's end, there were no known outstanding investigations by outside organizations.

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

Discrimination on the basis of race, religion, or ethnic origin is illegal under the 1991 Constitution. Minority ethnic groups are as likely to be represented in the inner circles of the Government as are the majority Mossi, and government decisions do not favor one group over another.

Women.—In the absence of constitutional and other legal protections, women face extensive discrimination. In general, women continue to occupy a subordinate position and face discrimination in such areas as education, jobs, property, and family rights. In the modern sector, however, women make up one-fourth of the government work force, although usually in lower paying positions. Women still do much of the subsistence farming work in rural areas.

Violence against women, especially wife beating, occurs frequently. Cases of wife beating are usually handled through customary law and practice. Such cases are sometimes mediated by a "popular conciliation tribunal" composed of community representatives. The Government is attempting to educate people on the subject through the media.

Children.—Children's rights are enshrined in the Constitution. The Government announced its commitment to improving the condition of children by adopting a national policy to revitalize primary health care and improve access to primary education. In March it issued a report on the Convention of the Rights of the Child.

Females constitute approximately one-third of the total student population in the primary, secondary, and higher educational systems. Schools in rural areas have disproportionately fewer female students than schools in urban areas.

Female genital mutilation (FGM, circumcision) has been condemned by health experts as damaging to physical and psychological health. While the Government has made a strong commitment to eradicating FGM through educational efforts, FGM is still widely practiced in Burkina Faso, especially in many rural areas, and is usually performed at an early age. According to an independent expert in the field, the percentage of Burkinabe females who have undergone this procedure may be as high as 70 percent. Another form of mutilation, scarification of the faces of both boys and girls of certain ethnic groups, is gradually disappearing.

People with Disabilities.—While there is a modest program of government subsidies for workshops for the disabled and for bicycles and wheelchairs, there is no government mandate or legislation concerning accessibility for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—Workers, including civil servants, traditionally have enjoyed a legal right to association which is recognized in the Fourth Republic's Constitution. There are a large number of trade unions and five trade union federations. Although unions are independent of the Government, in the past the Government has limited their freedom of action to ensure compliance with government labor policy. Essential workers—police, fire, and health workers—are prohibited from joining unions.

Once the most powerful political force in the country, organized labor—approximately 60,000 nonagricultural workers—lost much of its influence under the earlier Sankara and Compaore military regimes. The labor movement participated in the drafting of the 1991 Constitution, and the return to constitutional government led to full restoration of labor union rights that had been severely curtailed during the Sankara period. An accurate percentage figure of the unionized work force of Burkina Faso is not known since few unions have fully paid up membership records.

The right to strike is provided for in the Constitution, and workers have used strike actions to achieve labor goals. Labor unrest increased after the Government embarked on an economic structural adjustment program with the World Bank and IMF in 1991. The program resulted in a number of significant austerity measures, leading several unions to stage warning and other strikes in 1993, including ones by customs agents and secondary school and university teachers.

Labor unions freely affiliate with international trade union bodies.

b. *The Right to Organize and Bargain Collectively.*—Unions have the right to bargain for wages and other benefits, both directly with employers and with industry associations. These negotiations are governed by minimums on wages and other benefits contained in the Interprofessional Collective Convention and the Commercial Sector Collective Convention, which are established with government participation. If no agreement is reached, employees may exercise their right to strike. Either

labor or management also may refer an impasse in negotiations to labor tribunals. Appeals may be pursued through the Court of Appeal to the Supreme Court, whose decision is binding on both parties.

Collective bargaining is extensive in the modern wage sector, which encompasses only a small percentage of the population.

The Labor Code prohibits antiunion discrimination. Complaints about such discrimination are handled by Labor Ministry Inspectors and may be appealed to a labor tribunal in the Ministry. If the worker's complaint is upheld, he or she must be reinstated. Union officials believe that this system functions adequately.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is prohibited by law and is not practiced.

d. *Minimum Age for Employment of Children.*—The Labor Code, which was approved by the National Assembly in March, sets the minimum age for employment at 14, the average age for completion of basic secondary school. However, the Ministry of Employment, Labor, and Social Security, which oversees labor standards, lacks the means to enforce this provision adequately, even in the small wage sector. Most children actually begin work at an earlier age on small, family subsistence farms and in the traditional apprenticeship system and informal sector.

e. *Acceptable Conditions of Work.*—The Labor Code mandates a minimum monthly wage, a standard workweek of 40 hours with at least one 24-hour rest period, and establishes safety and health provisions. The current minimum wage in the formal sector is $85 (25,000 CFA); it does not apply to the large subsistence agriculture sector, which employs more than 85 percent of the population. The minimum wage was last set by the Government in 1983 and is not adequate for an urban worker to support a family. Wage earners usually supplement their income through reliance on the extended family and subsistence agriculture.

A system of government inspections under the Ministry of Labor and labor tribunals ensures that health and safety standards are applied in the small industrial and commercial sectors, but they are not applicable in the subsistence agricultural sector. If a workplace has been declared unsafe, for any given reason, by the government labor inspection office, workers have the right to remove themselves from dangerous work situations without jeopardy to continued employment.

BURUNDI

Ethnic violence between Tutsi (14 percent of the population) and Hutu (85 percent) erupted on October 21, when a coup attempt by elements of the Tutsi-dominated military disrupted the effort, begun by former President Major Pierre Buyoya, to move to an open multiparty political system. In the failed coup attempt, soldiers killed the first democratically elected President, Melchior Ndadaye, a Hutu, who had defeated Buyoya in presidential elections on June 1. The assassination of President Ndadaye initiated a vicious cycle of ethnic killings and led to a massive outflow of refugees.

At year's end, the number of Burundi refugees (mainly Hutu) outside the country was estimated at nearly 600,000, and the number of displaced within the country was estimated at over 500,000. The refugees faced life-threatening conditions in countries of asylum, notably in Rwanda, where the United Nations High Commissioner for Refugees (UNHCR) reported extremely high death rates due to disease and malnutrition.

Burundi authorities, religious institutions, and humanitarian assistance organizations agree it is too soon to make credible estimates of the numbers killed during the ethnic violence. Mortality figures will remain uncertain until enough witnesses return to establish the fate of others and until the countryside is sufficiently stabilized to permit investigation of suspected burial sites.

Government operations were slowly recovering at year's end. The Prime Minister and most of the ministers had resumed work in their offices, and many made assessment trips and public appearances in the interior. Several ministers, particularly those who had received specific death threats, returned at night to the guarded protection of a secluded hotel.

In contrast, at the beginning of the year the outlook for political reform had looked promising. Following adoption of a new Constitution in 1992, President Buyoya took a series of steps to ensure free and fair presidential and parliamentary elections. These measures included developing a new Electoral Code and inviting more than 600 international and domestic election observers, who subsequently certified the validity of the outcomes. In the presidential and legislative campaigns,

Buyoya was supported by his party, the former sole ruling party, the National Party for Unity and Progress (UPRONA) and Ndadaye by his party, the Front for Democracy in Burundi (FRODEBU), with smaller parties generally allying themselves with UPRONA or FRODEBU based on their ethnic ties. President Ndadaye was sworn into office in an exemplary change of power on July 10; and the National Assembly was sworn in shortly thereafter and held its initial session on July 19. President Ndadaye appointed 9 Tutsis to his 23-member Cabinet.

In his 100 days in office, Ndadaye cautiously began discussing reform of the 18,000 member Tutsi-dominated security forces, consisting of the military (army and gendarmerie), the police, and the Surete; to increase Hutu representation in many other institutions, including the judiciary and the civil service; and to encourage the return of thousands of Hutu refugees. A weak coup attempt on July 3, shortly before Ndadaye's inauguration, quickly dissolved after failing to gather support among the military. However, on October 21, soldiers from the Tutsi-dominated military stormed the presidential palace and attempted to seize power. President Ndadaye was taken prisoner and brutally slain. The President and Vice President of the National Assembly, the Minister of Territorial Administration, and the head of the Center for Documentation (Intelligence) were also killed in the coup attempt, along with the wife of the Foreign Minister and a family friend. Some government ministers initially accused the Army Chief of Staff, Lieutenant Colonel Jean Bikomagu, of backing the coup attempt, but he denied involvement, as did other senior officers. In an October 31 press conference, the Prime Minister gave Bikomagu a qualified vote of confidence.

The U.N. Security Council issued a Presidential statement condemning the coup attempt and the murder of President Ndadaye and other officials and stressed the importance of bringing those responsible to justice. The Government and the military arrested several accused plotters, but others were still at large at year's end. A national commission of inquiry was named but had not yet begun its work. The Government requested the establishment of an international commission of inquiry, a proposal broadly supported by both Hutus and Tutsis.

At year's end, relations between the military and the Government remained tenuous. The Government remained cautious toward the military, though dialog was improving slowly. Most units remained in their barracks, but there were still occasional reports of violence by some military elements.

Landlocked Burundi is extremely poor and densely populated. Over four-fifths of the working population is engaged in subsistence agriculture, working small privately owned plots. The small monetary economy is based largely on the exports of coffee and tea, with few other cash crops. The October coup attempt and ethnic killing that followed caused massive dislocations which severely disrupted both the monetary and subsistence economies.

Despite the progress on political reform made through October, members of both Tutsi and Hutu ethnic groups committed serious human rights abuses during and following the coup attempt. Elements of the Tutsi-dominated military initiated the attempted coup and murdered President Ndadaye and others, unleashing unrestrained ethnic violence. Both Tutsi and Hutu engaged in massive revenge killings of civilians. Rogue elements of the military continued to operate in some parts of the country at year's end. For example, in November civilians, reportedly aided by soldiers, killed the governor of Bubanza. Prior to that, some uncontrolled military elements had engaged in killing in the northern and central provinces of Gitega, Muramvya, Karuzi, Ruyigi, and Kirundo.

There were human rights abuses committed prior to the changeover in Government, many relating to the aftermath of the ethnic violence in November 1991. For example, there were vigilante-style killings resulting in the deaths of eight persons in March. The details of interethnic killings remained unclear but reportedly resulted from rivalry between FRODEBU and UPRONA followers in the province of Bubanza during the heated political campaign. Hutu residents took the law into their own hands when local officials refused to pursue suspects who had staged harassment raids on their homes. There were also examples of unfair trials, mainly involving Hutu defendants, stemming from the 1991 violence. Women continued to experience extensive societal and legal discrimination, and, with their children, suffered many of the casualties in the latest violence.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—The Governments of President Buyoya and President Ndadaye did not engage in political or other extrajudicial killings. However, the attempted coup against the democratically elected Govern-

ment and assassination of President Ndadaye triggered interethnic violence and killing on a broad scale throughout the country (see Section 1.g.). By the end of the year, the Government and the military had arrested about nine military enlisted men and officers implicated in the coup plot of October 21. Several others were believed at large in Burundi and abroad. Investigations into the coup attempt by the Government and the military were continuing at year's end.

There were early warning signs of extrajudicial killings. For example, in March a political party official reported that, following unexplained nighttime raids on Hutu houses, local Hutu residents in Bubanza province killed two unidentified persons who had allegedly harassed residents. Apparently, the vigilante-style killings took place after a local administrator refused to take the persons into custody, telling the crowd to turn them over to the gendarmes. Subsequently, local Hutu residents killed six additional persons in the southern portion of Bubanza. The reported refusal to act by the local administrator contributed to heated rhetoric by both UPRONA and FRODEBU. The specifics of these allegedly politically motivated killings had not been determined by the time of the October military coup attempt.

b. *Disappearance.*—There were hundreds of persons reported missing in the violence and dislocations, but the continued instability prevailing at year's end precluded any formal tracing or accounting of the missing or dead.

Significant numbers of Hutus disappeared before, during, and after the November 1991 violence. Some may have been (as the Government claimed) among the 40,000 Burundians who fled from the country to Rwanda or Zaire as a result of the violence. There were, however, documented cases in which persons disappeared after having been seen being detained by, or in the custody of, the security forces and in which there was no available record of their detention or release. While the Government had announced that it intended to establish a commission of inquiry to determine the causes of the violence and deaths resulting from the events of November 1991, no commission was formed, and no reports were issued prior to the advent of the Ndadaye administration.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—These practices are expressly forbidden under the 1992 Constitution. During the October violence, civilians of opposing ethnic groups committed the most vicious examples of cruel and inhuman treatment. Both Hutu and Tutsi civilians, armed with pangas, machetes, and spears, customarily hacked victims to death and reportedly tied up and forced some victims to witness the murders of their own spouses and children before killing the bound victims. In some cases, the attackers killed only the men, but severely wounded or dismembered women and children with spears or machetes. Military personnel were seen beating civilians on the street in Bujumbura shortly after the coup attempt.

Prison conditions were life threatening and characterized by severe overcrowding and inadequate hygiene, clothing, medical care, food, and water. Four or even five persons were forced to share a poorly ventilated cell 2 meters square. Prisoners had to rely on family members to ensure an adequate diet, and officials acknowledged that digestive illness was a major problem in the prisons. Women were held separately from men. By mid-October, most of those eligible under President Ndadaye's amnesty law had been released.

d. *Arbitrary Arrest, Detention, or Exile.*—Regular police and gendarmes with arrest authority are permitted to make arrests without a warrant but are legally obligated to submit a written report to a magistrate within 48 hours of the detention. The magistrate can order the suspect released or confirm the charges and continued detention, initially for 15 days and then subsequently for periods of 30 days as necessary to prepare the case for trial. The law allows unlimited pretrial detention. The Surete is obligated to follow the same laws but is known to have detained some persons for a number of months without having their cases certified and forwarded to the Ministry of Justice as required.

Daily police operations were severely disrupted during the coup attempt (as were most government operations). In normal circumstances, legal procedures are generally followed in criminal cases, though time limits prescribed by law are often exceeded. Proceedings are constrained by the lack of a well-trained and adequately supported judiciary. At the beginning of the year, the Government arrested between 40 and 60 political activists, principally from the predominately Hutu parties, apparently without ever charging them. Government officials subsequently said the charges ranged from stealing a national flag to being implicated in activities in support of the Hutu-insurgency group PALIPEHUTU (Party for the Liberation of the Hutu People). These arrests were considered by political parties to have been politically motivated actions to impugn the stature and to weaken FRODEBU in the eyes of voters.

Political exile is forbidden in the new Constitution, and the Ndadaye Government did not use forced exile as a means of political control. Former President Bagaza and his wife returned to Burundi from exile on July 28 after 6 years in Uganda and Libya. According to Ndadaye administration officials, no negotiations were held or conditions set for Bagaza's return.

e. *Denial of Fair Public Trial.*—The legal system, like much of the Government administration, was severely disrupted as a result of the coup attempt. When operating normally, it is divided into civil and criminal courts, with the Supreme Court at the apex. Military courts have jurisdiction over crimes committed by members of the military or those involving actions against the military. The new Constitution provides for a High Court to try the President, Prime Minister, or the President of the National Assembly in the event of high-level crime while in office. It also established the Constitutional Court to review all new laws (including decree-laws) and to preside over other constitutional issues.

Trials in civilian and military courts are technically public, though the public has traditionally not had regular access to information about cases (including court dates). The law and the Constitution provide for accused persons (whether tried in a civilian or military court) the right to a defense. In practice, only a small percentage of defendants are able to afford legal representation, and consequently most defendants are not represented by counsel.

Under the Constitution, the judicial system is independent, but in practice, it is dominated by the Tutsi ethnic group. The President has the authority to appoint judges as well as the power to pardon or reduce sentences. Most Burundians assume the courts still promote the interests of the dominant Tutsi minority. Generally, defendants are Hutu, while the judges and magistrates are, almost without exception Tutsis.

Other major shortcomings in the legal system were the frequent lack of defense counsel for the accused; the lack of adequate resources to allow the system to function effectively; the need for better training of judicial and enforcement officials; and the need for revisions in the Legal Code to bring it into conformity with the new Constitution and international standards. For example, confessions made during torture were accepted as evidence in 1992 trials.

There were two trials involving 133 Hutus arrested in Ngozi province and accused of crimes in the November 1991 violence. In one of the trials, the Government prosecuted 57 persons; the assigned defense counsel (Tutsi) failed to defend even minimally his Hutu clients, and the court handed down stiff sentences, including 5 life sentences, and 22 sentences of at least 15 years.

Upon President Ndadaye's assumption of office, two former ministers and several former government officials from the former Bagaza regime were released from prison provisionally in July. The Government also released in July, on a "temporary" arrangement, former Foreign Minister Cyprien Mbonimpa, who was on trial before the Supreme Court. In July the Government also released and dropped charges in the case of 50 military enlisted soldiers out of the original 150 military enlisted men allegedly implicated in the March 1992 coup attempt.

President Ndadaye pledged in his inaugural address to submit draft amnesty legislation, and the National Assembly passed an amnesty law on September 19. The law provided amnesty for all crimes committed before July 1, 1993, with the exception of arson, cannibalism, murder, poisoning, drug trafficking, and group or armed robbery. About 5,000 persons were reportedly affected or obtained release from prison as a result of the amnesty. With the amnesty law, all political detainees and prisoners had been released.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The right to privacy is provided for in the Constitution, and the law requiring search warrants was generally respected by the authorities. However, persons suspected of antigovernment activities, which in the past has been broadly interpreted by the Government and the courts, have been subject to surveillance by security forces.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Since the assassination of President Ndadaye, there were massive human rights violations by all sides. Elements of the Tutsi-dominated military attempted the coup and killed the President and several other officials. After that, members of both ethnic groups killed, maimed, and burned members of the opposite group. For example, over 25 Tutsi civilians were herded into a gas station in Kabimba and burned alive. In Ruyigi, several Hutu civilians were arrested for violence and then handed over to a Tutsi crowd, which attacked and beat them to death. About 20 other arrestees were shot by the military. In Gitega province, the military reportedly fired on civilians from helicopters. In the ethnic upheaval, attackers burned homes and crops, slaughtered livestock, and vandalized schools, churches, and private homes.

Belgian physicians with Doctors Without Borders were among the first in the field, assisting those caught in the waves of violence. The International Committee of the Red Cross (ICRC) reacted urgently to fly in teams of medical personnel, medical supplies, and relief items. The ICRC surveyed hospitals and clinics in Bujumbura, Kayanza, Ngozi, and Kirundo to assess medical needs and begin organizing field hospital assistance.

At the end of the year, Burundi remained a society severely polarized along ethnic lines. Violence and interethnic killing had begun to subside, but sporadic incidents continued and the situation remained unstable.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The new Constitution provides for free opinion and expression as long as these rights are expressed "in a manner consistent with the public law and order."

The current press law, promulgated under the Buyoya government in December 1992, gives the Government wide latitude in restricting all media. Under the Buyoya regime, it was never fully enforced, and papers essentially wrote whatever they wanted, including articles critical of the Government. In late December, the Minister of Communications used the law to suspend an extremist Tutsi newspaper for undermining national unity. Radio and television are government-controlled, and some observers believe that control tightened under the FRODEBU Government.

The December 1992 law, designed to correct restrictions in an earlier law deemed unconstitutional by the Constitutional Court, retained restrictions on permissible criticism of government policies, the person of the President, and statements that could be construed as contrary to national unity or injurious to the national economy. The law also provided for government review and possible censorship of all media prior to distribution. In practice, private newspapers published without prior government review, and no cases of seizure were recorded.

Newspapers independent of government control demonstrated a willingness to report and comment on issues that the government-controlled press had previously been hesitant to cover. This trend, begun in 1992, continued until October, as did the consequent willingness of the government-controlled Le Renouveau to open its pages to issues previously ignored, in particular political matters.

Newspaper readership remained limited, and the majority of the population relied on the government-controlled radio programming in French, Kirundi, and Swahili for information. Reporting in both radio and television reflected government policies, but some air time was reserved for opposition party activities, both prior to and following the elections.

Prior to the elections, the Government promised all political parties equal access to the official media and began to produce radio and television debates with participation by representatives of the various political parties. At the same time, journalists and editors for the government-controlled media continued to practice self-censorship. This included canceling programs which the Government found unacceptable and altering texts or footage to correspond to the Government's preferences.

Following the June elections, the Minister of Communication fired the Director-General of Radio-Television Nationale du Burundi for failing to adhere sufficiently to the Government's editorial preferences. Many observers felt that the control of the public media became stricter and less tolerant of diversity of opinion following the elections. At the same time, the independent newspapers, of admittedly limited influence, remained outspoken and openly critical of the Government, without interference.

Academic freedom has not been tested because the predominantly Tutsi faculty was supportive of the previous government, and the new Government had not been in power long enough for conflict on academic issues to arise. Schools closed at the onset of violence in October and had not reopened by year's end.

b. *Freedom of Peaceful Assembly and Association.*—In December 1991, the Government promulgated a decree-law establishing guidelines for granting permits for public meetings or parades. During 1993, the newly formed political parties regularly held well-attended meetings in Bujumbura but reported facing harassment and bureaucratic obstacles when they applied for permits for meetings, particularly in rural areas.

c. *Freedom of Religion.*—There is no state religion in Burundi. More than 60 percent of the population is Catholic, and the Catholic church plays an important role in the lives of both rural and urban dwellers. A number of Protestant churches have significant followings.

Religious organizations are subject to the same rules and restrictions that apply to secular organizations. They must obtain approval from the Government to operate in the country, and a Burundi citizen must be designated as the legal represent-

ative of each organization. Prior to 1993, there were continuing incidents of temporary detentions and harassment of Jehovah's Witnesses who refused to comply with local and school officials' demands that they recognize secular authority and participate in state-sanctioned practices, such as singing the national anthem. In 1993 Jehovah's Witnesses reported less harassment than in the past, and, by the end of the year, the group had received government approval as a religious organization.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—During periods of rumored PALIPEHUTU incursions in the past, the Government closed land and water frontiers; generally the Bujumbura airport remained open in those instances. However, during the first week following the October 21 coup attempt the airport was closed to traffic. Internal movement was obstructed immediately after the coup attempt by the destruction of bridges and trees felled for roadblocks to prevent feared military attacks. By year's end, internal roads had been cleared.

Repatriation of Hutu refugees was a major issue in the FRODEBU election campaigns since over 200,000 refugees were estimated to be living in Tanzania, Rwanda and Zaire. Upon the FRODEBU victory, refugees began returning in record numbers, many without waiting to be processed through the repatriation system, most coming with no means of support.

The new Government's goal was to repatriate each returnee to his or her original property and provide a 6-month food ration for each, but the Government found itself unprepared for the volume of work and resources the program demanded. The most problematical aspect was land restoration to refugees who had been gone for over 20 years from property that had often changed hands several times in good faith. The Government's refugee commission authorized settlement of cases with no legal references or standards, depending instead on local committees who they said "would know to whom the land belongs." Disputes arose immediately, and local committees were accused of being simply FRODEBU partisans with biased judgments. In late September, the repatriation commission was obliged to table decisions until local committees could be checked and guidelines set for dispute settlements.

As a result of the attempted coup d'etat on October 21, nearly 600,000 Burundians, including many recent returnees, fled to Tanzania, Rwanda, and Zaire. At year's end, approximately 170,000 internally displaced persons, mainly Tutsis, were estimated to be sheltered in camps within Burundi. Several hundred thousand more, mostly Hutus, were dispersed, hiding in various locations in the countryside.

Prior to the coup attempt, Burundi hosted approximately 300,000 refugees, mostly Rwandans, about 80,000 of whom were assisted by the UNHCR. Many Rwandan refugees from a camp in northern Burundi joined their compatriots in and around Bujumbura to escape recent violence.

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

For the first time in Burundi's history, citizens exercised their right to change the national Government by democratic means in free and fair elections in June. Three political parties nominated presidential candidates, and 7 parties ran candidates for the National Assembly. Following a very heated political campaign which brought age-old ethnic biases to the fore between UPRONA and FRODEBU supporters, President Melchior Ndadaye, a former banker, was elected and sworn into office. He promptly announced the appointment of Sylvie Kinigi, a Tutsi woman, as Prime Minister, and a 23-person Cabinet, in which 60 percent of the members were Hutus and 40 percent Tutsis. These members represented FRODEBU, UPRONA (opposition), Peoples' Party, and Assembly of Burundi Peoples' parties, as well as members of the military. The new National Assembly was sworn in shortly thereafter and held its first extraordinary session on July 19.

The elected Government remained in office despite the assassination in October of President Ndadaye and the President and Vice President of the National Assembly. The Assembly reconvened and elected a new parliamentary leadership. Most ministers reported regularly to their offices though some still returned for safety to a guarded hotel at night. The Government began replacing missing local administrators and began examining the constitutional options for the installation of an interim President.

Women are still poorly represented in the political process and in government, including in the legislature and the judiciary. In addition to Prime Minister Kinigi, the Minister of Social Action, Human Rights, and Protection of Women, is also a woman.

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

Under the Buyoya government, the two independent human rights groups (ITEKA and SONERA) faced bureaucratic obstacles, such as inordinate delays by Ministry of Justice officials in responding to requests for information on specific cases or for permission to visit prisons, but they were not actively impeded from carrying out their activities. These activities included investigations and reports on individual human rights cases and civic education programs. The two organizations undertook a joint investigation of the violence of November 1991.

The outgoing Buyoya government and the new Ndadaye Government welcomed contact with international human rights organizations. The African American Institute organized an international civilian/military conference in February to discuss a broad range of topics concerning the military's role in democracy. The ICRC continued to visit prisons and hospitals throughout the year and played a major role in assisting the wounded in the violence after Ndadaye's assassination in October.

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

The new Constitution explicitly provides equal status and protection for all citizens, without distinction based on sex, origin, ethnicity, religion, or opinion. In practice, de facto discrimination against women, Hutus, Batwa or Twa (Pygmies) was apparent throughout society and institutions despite government efforts to discourage it.

Women.—Women hold a secondary place in society and face both legal and societal discrimination. For example, the explicitly discriminatory elements of inheritance laws and those relating to obtaining financial credit remained unchanged. Although assured of the same pay as men if they held the same job, women were far less likely than men to hold mid- or high-level positions in either the public or private sectors. President Ndadaye appointed some women to high government positions; he brought two women officer candidates into military cadet ranks.

Nevertheless, conditions for women did not undergo appreciable change. In particular, the traditional distinction between male and female roles in Burundi remained institutionalized in rural areas, where women are responsible for hard labor in most food-crop production. In rural areas, females also had little opportunity for education. Overall, females get only one-third of the schooling of males.

Violence against women occurs, including wife beating and rape, but there is no documentation of its extent. Police do not normally intervene in domestic disputes, and the press does not cover incidents of violence against women, including rape. There were no known court cases dealing with abuse of women.

Children.—The Government has not expressed a particular commitment to children's human rights as distinct from those of all other citizens. During the October violence, children were victims of the violence along with adults of both ethnic groups. At year's end, the number of orphans created by the violence had not been determined, and the Government had not yet formulated a response to this problem.

Indigenous People.—The indigenous Twa (Pygmy) minority, which comprises perhaps 1 percent of the population, remained almost completely marginalized, economically, socially, and politically. While the former Buyoya government stated its commitment to serve all Burundians, most Twa continued to live in isolation, without attending school or having access to government services, including health care. There were no known efforts by the former Government or other political parties to discriminate against Twa in the elections.

National/Racial/Ethnic Minorities.—Burundi's fundamental problem is the ethnic conflict between majority Hutus, who gained political power only with the election of Ndadaye in June, and minority Tutsis, who have historically held power and still control the military and dominate educated society. In practice, de facto ethnic discrimination against Hutus—85 percent of the population—colors every facet of society and institutions, including the military and the judicial establishment, despite constitutional provisions and some policies introduced under the Buyoya military administration to attract Hutus into the professions. These late efforts had not had a significant impact, but Hutus, under Buyoya, had made inroads into the civil service, and by 1993 the number of Hutus exceeded the number of Tutsis entering secondary school.

The Ndadaye administration upon assuming office began a more concerted effort to put its FRODEBU faithful into the government bureaucracy. Those policy changes led quickly to increased tensions between long-term Tutsi professionals (civilian and military) and the new FRODEBU Government.

People with Disabilities.—Burundi's rudimentary economy effectively excludes the physically disabled from many types of employment. Some sheltered craft work-

shops exist in Bujumbura but the most frequent occupation for the physically disabled is street and market vending or begging. The Government has not enacted legislation or otherwise mandated provision of accessibilty for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—The Government promulgated a revision of the Labor Code in July. Both the Constitution and the revised Labor Code protect the rights of workers to form unions. However, only about 15,000 workers in the wage economy (about 20 percent) participate in the new system of voluntary checkoffs put into place to help finance union activities. Most workers are from the ranks of urban civil servants. The military, the gendarmerie, and certain expatriates working in the public sector are prohibited from forming or joining unions.

The national umbrella trade union organization, the Organization of Free Unions of Burundi (CSB), is financially dependent on this same system of voluntary checkoffs. CSB represented labor in drafting negotiations for the new Labor Code revisions and has also participated in specific collective bargaining negotiations in cooperation with individual labor unions. The CSB includes all labor unions except the teachers union and is the only existing labor federation. The Labor Code permits the formation of additional unions or union confederations outside the CSB.

The Labor Code also provides workers the right to strike. The revised Labor Code affirms, but does not greatly alter, the right of workers to form unions and to strike. Restrictions on the right to strike and lockout are: 1) the action must be taken only after exhausting all other peaceful means of resolution, 2) negotiations must continue during the action, mediated by a mutually agreeable party or by the Government, and 3) 6 days' notice must be given. Retribution against workers participating in a legal strike is prohibited.

One strike occurred in the first half of October at the National Data Processing Center, where workers who chose to leave the organization upon privatization did not receive the required indemnity payment. At year's end, the strike was still in effect, and negotiations still in progress.

CSB maintains international affiliations with the Organization of Central African Workers, the Organization of African (Labor) Unions, the International Confederation of Trade Unions, and the World Confederation of Labor. CSB has also sponsored seminars and training programs with the African-American Labor Center.

b. *The Right to Organize and Bargain Collectively.*—The 1993 Labor Code revision recognizes the right to collective bargaining which had formerly been acknowledged only by ordinance. Since most workers are civil servants, government entities are involved in almost every phase of labor negotiations. Public sector wages are set in fixed scales in individual work contracts and are not affected by collective bargaining. In the private sector, wage scales also exist but individual contract negotiation is possible. In principle, private sector wage scales can also be influenced by collective bargaining, though this is infrequent.

The Labor Code also gives the Labor Court jurisdiction over all labor dispute cases, including those involving public employees. Labor negotiations are still conducted largely between unions and employers under the supervision of the tripartite National Labor Council, the Government's highest consultative authority on labor issues. The Council represents government, labor, and management and is presided over and regulated by the Minister of Labor.

The 1993 Labor Code revision prohibits employers from firing or otherwise discriminating against a worker because of union affiliation or activity. A three-step process was available to resolve complaints regarding labor practices or policies toward a union or union member: Direct employer-employee negotiations under the auspices of the CSB; an administrative hearing before a government labor inspector; and a legal proceeding before the Labor Court.

There are no export processing zones, though a decree-law making the entire nation a free zone for many nontraditional, export-oriented activities was promulgated on August 31, 1992. The decree-law requires, inter alia, that wages meet the minimum interprofessional standards fixed by law but allows employers more latitude in negotiations with employees. The law also makes it easier for qualifying enterprises to hire foreign workers.

c. *Prohibition of Forced or Compulsory Labor.*—Forced and compulsory labor are prohibited by law and not practiced. The Committee of Experts of the International Labor Organization (ILO) noted the repeal of some decrees and orders which were inconsistent with the commitment to abolish forced labor but reiterated its concern about other decrees or orders requiring obligatory community development and not excluding political prisoners from prison labor.

d. *Minimum Age for Employment of Children.*—The current Labor Code states that children under the age of 16 are not allowed to be employed by "an enterprise,"

even as apprentices, though it also states that they may undertake occasional work which does not damage their health or schooling. Young children are, in fact, often seen doing heavy manual labor, including transporting bricks on their heads, in rural areas in daytime during the school year. Children are legally forbidden from working at night, though many did so in the informal sector. As a practical matter, children are obligated by custom and economic necessity to help support their family by participating in activities related to subsistence agriculture in family-based enterprises and the informal sector.

e. *Acceptable Conditions of Work.*—The nationally established formal minimum wage for unskilled workers is $0.54 (140 Burundi francs) per day in Bujumbura and Gitega and $0.34 (88 Burundi francs) in the rest of the country, with a graduated scale for increased skill levels. This amount does not meet the daily needs for a family. Employees working under contract, particularly in urban areas, generally earn significantly more than the minimum wage. All employees in the public sector work under contract, while the CSB estimates that 70 percent of employees working in the formal private sector are covered by a contract.

The Labor Code revision calls for maternity and health costs to be taken over by social security, once it is established, rather than to be borne by employees. Most families live outside urban areas and are involved in subsistence agricultural production which allows them to supplement their income with homegrown foodstuffs. Many urban households rely on more than one wage earner or supplement earnings by participation in petty commerce.

The Labor Code imposes a maximum 8-hour workday and 45-hour workweek except in cases when workers are involved in activities related to national security. Supplements must be paid for overtime in any case.

The Labor Code establishes health and safety standards requiring an employer to provide a safe workplace and assigns enforcement responsibility to the Ministry of Labor. However, enforcement suffers from a shortage of staff and resources. Health and safety articles in the Labor Code do not directly address the workers' right to remove themselves from a dangerous work situation.

CAMEROON

Despite democratic reforms begun in 1990, political power remained in the hands of the President, Paul Biya, and a small circle of advisers drawn primarily from his own ethnic group and the former single party, the Cameroon People's Democratic Movement (CPDM). Biya was reelected in October 1992 in presidential elections marred by widespread irregularities, ascribed largely to the Government by international observers. In contrast, the March 1992 legislative elections were generally considered free and fair by international observers, and some opposition parties gained representation in the National Assembly—while others boycotted the vote. The elections have not significantly diminished the authority of the President, since the present Constitution, which dates from the one-party era, imposes few legislative or judicial checks on executive power.

The flawed presidential vote cast a shadow over Cameroonian politics throughout 1993. The President announced steps to reform the Constitution. At the end of the year, however, the Government still had not convened the promised constitutional consultative committee, which had been envisioned to be broadly representative of Cameroonian society; nor had it published the text of the constitution as revised by the government-dominated Technical Committee.

Internal security responsibilities are shared by the national police, the National Intelligence Service (CENER), the gendarmerie, the Ministry of Territorial Administration (MINAT), military intelligence (SEMIL), the army, and to a lesser extent, the Presidential Security Service. MINAT is in charge of prisons, and its local officials (prefects or senior divisional officers) are responsible for invoking security forces to maintain order. The police, which includes a special security force, the Mixed Mobile Brigade (BMM), and the gendarmerie have the dominant role in enforcing internal security laws. As in previous years, security forces, including the BMM, committed numerous human rights abuses.

Cameroon has a strong, diversified agricultural base and a small but important petroleum sector, which produces 50 percent of export earnings. With a per capita gross domestic product (GDP) of about $800 in 1992–93, the country ranked among the lower middle-income developing countries. Per capita GDP has fallen by about 50 percent since 1986, due to population growth of nearly 3 percent per year, declining oil production, slow adjustment to a drop in the world prices of Cameroon's major exports, and the effects of corruption. Self-sufficiency in food production helps

mitigate the effects of shrinking export earnings and a growing foreign debt burden. Private economic activity is hindered by a bloated public corporation sector, lack of fiscal integrity, and uneven judicial enforcement of contracts and property rights.

There were serious human rights abuses, including political and extrajudicial killings. Security forces fired on peaceful opposition demonstrators in March, killing 2 persons and wounding more than 20. Security forces continued to engage in arbitrary detention—over 100 persons were detained on 1 day in November—and physical mistreatment to intimidate opposition leaders. They routinely beat persons detained in connection with common crimes. Although Cameroon's independent newspapers circulated widely and criticized the administration, the authorities used a variety of techniques to intimidate the press, e.g., arresting or bringing libel suits against some prominent journalists. The former labor wing of the ruling party continued to dominate the labor movement, and there were no other independent unions authorized. Societal discrimination against women also continued to be a serious problem.

On May 26, a military tribunal convicted and sentenced one military officer and five soldiers for their roles in the January 1992 summary executions of Choa Arabs in Kousseri. The officer and one of the soldiers were sentenced to death and the remaining four soldiers were given prison sentences ranging from 10 to 15 years; four others were found innocent of similar charges. The six convictions are under appeal. The trial was the first case in which members of the security forces were publicly tried for human rights offenses. Generally, security force personnel commit even the most egregious abuses with impunity; persons reporting such abuses are more likely to be punished than are the perpetrators (see Section 1.a.).

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were several incidents of political and extrajudicial killing, some attributable to government security forces. While in their custody March 16–20, gendarmes beat to death Louis Abondo Langvoue, who was detained in connection with a theft in Bertoua, East Province. An autopsy report, corroborated by photographs and statements from the presiding medical examiner, concluded that Abondo had died from "severe continuous trauma, dehydration, and shock" due to "severe, merciless, and indiscriminate beating." As of late December, the Government had initiated no investigation or disciplinary action in the case but had suspended the medical examiner from his post.

Using excessive force, gendarmes fired into a crowd of opposition demonstrators in Bamenda on March 25, killing 2 and wounding 20. The incident occurred during the second in a series of peaceful demonstrations held without legal authorization by the opposition Union for Change. According to eyewitness accounts, a cordon of 30 gendarmes initially fired tear gas to disperse a crowd of some 500 seated demonstrators. As the crowd began to scatter, at least two gendarmes fired into the crowd. After issuing a public statement which blamed the deaths and injuries on opposition supporters armed with home-made weapons, the Prime Minister established a commission of inquiry composed entirely of government security officials. Its conclusion that gendarmes had fired in self-defense was belied by eyewitness accounts of the incident and the lack of any casualties among the gendarmes.

On January 17, outside Bafoussam, West Province, unknown assailants abducted Cameroon Democratic Union (CDU) Vice President Benjamin Menga from his car and beat, stabbed, and shot him. He died 6 days later of his injuries. Since Menga was not robbed, his death was widely thought to be politically motivated. CDU officials charged that Menga was a victim of a rival opposition party, the Social Democratic Front, whose members had allegedly threatened him. However, the charges that Menga's death was politically motivated have not been substantiated. As of year's end, no suspects had been charged, and the investigation appeared to have lost momentum.

In May members of the Palace Guard (Dogari) of the Lamido of Rey Bouba, a progovernment traditional ruler in North Province, killed 20 persons in countering a decision by villagers in Mbanre to install a pro-opposition chief. In the skirmishes, townspeople also killed three members of the Dogari with poisoned arrows. The nearest gendarmerie detachment, located in Belel, declined to intervene when informed of the fighting.

In June there were reports that gendarmerie and army units shot and killed eight Choa Arabs who had been detained for alleged banditry and illegal possession of weapons in Far North Province. The Choas charged that they were ethnically targeted by the gendarmerie forces, but in the highly emotional ethnic rivalries of the northern region, it has not been possible to confirm or disprove this. The charge was

based on allegations of personal vendettas by certain gendarmerie officers; on the other hand, the Choa Arabs have politically voted with the Government and have also been identified frequently among the highway bandits that plague the north.

On November 25, 1993, Yaounde police reportedly shot and killed Moise Fokou, a 23-year-old street vendor, in Yaounde's Mokolo market area. Published photographs of the vendor's body and eyewitness accounts suggested that the vendor was in handcuffs at the time of his death.

In December there were credible reports that 23-year-old Cyprain Tonwie Ndifor was beaten and later died while in gendarmerie custody in Northwest Province. However, no detailed investigation of the case had been completed at the end of the year.

The Government seldom punishes abuses by security force members. Officials argue that publicly disclosing such abuses involving security forces would hurt military and police morale and thereby undermine their effectiveness. In a notable exception, a military tribunal tried 10 soldiers and gendarmes, including 2 officers, for the January 1992 summary execution of 5 Choa Arabs in Far North Province. In a decision handed down by a Yaounde military tribunal on May 26, five of the accused, including one officer, were found guilty. Two of the guilty were sentenced to death. As of December 31, an appeal was pending in the case.

b. *Disappearance.*—There were no reports of long-term disappearance. However, police and gendarmes frequently failed to inform detainees' family members or attorneys of their whereabouts. For example, when police detained nearly 100 members of the opposition Union of Cameroonian Democratic Forces (UFDC) party on March 31, they did not inform family members who had to visit numerous detention facilities before finding them. Similarly, when police detained journalist and Union for Change administrative secretary Francois Borgia Marie Evembe on August 19, they notified neither his family nor his attorney. After nearly 2 days of searching, family members located him in a Yaounde police cell.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the Penal Code proscribes torture, renders inadmissible in court evidence obtained thereby, and prohibits public servants from using force against any person, there were many credible reports of security forces inflicting severe beatings, systematic torture, and other inhuman treatment (see Section 1.a.). Sanctions against those responsible are rare, although the Government maintains that they face administrative punishments which are not made public.

The security forces follow a pattern of degrading mistreatment of detainees, including stripping, confinement in severely overcrowded cells, and denial of access to toilets or other sanitation facilities. Police and gendarmes routinely beat detainees to extract confessions and the names and whereabouts of other alleged criminals. In particular, they often beat them on the soles of their feet with an iron bar or whip them with a reinforced rubber tube.

For example, security forces beat Social Democratic Front (SDF) economic adviser Joseph Kwi and other opposition supporters in this manner; they had been detained for participation in the March and April peaceful protest demonstrations. Similarly, security forces beat Victorin Hameni Bieleu, President of the opposition UFDC party, who was detained March 31 to April 8 with approximately 100 of his supporters, on the soles of his feet; he also suffered blows to the eye. While in custody, security forces awakened Francois Borgia Marie Evembe during the night and subjected him to lengthy interrogation, sometimes lasting 6 or 7 hours (see Section 1.b.).

In May Secretary of State for Internal Security Jean Fochive issued a directive to all police officers stating that numerous abuses of detainees had come to his attention and that future incidents would result in disciplinary action—including demotion of those responsible. In the directive, which Fochive publicly acknowledged, he specifically cited whippings, beatings on the soles of feet, and beatings administered as detainees hung suspended from the ceiling (the so-called balancoire) as unacceptable practices.

Nevertheless, released members of the opposition Union for Change reported in November that they had been beaten on the soles of their feet and then forced to stand or walk. In some cases, police demanded money from the detainees, threatening more severe threatment if they refused.

Prison conditions are life threatening, especially outside major urban areas. An 18-year-old convicted thief died in the Buea prison in July after suffering from acute malnutrition. An August 8 newscast on government-controlled television revealed serious deficiencies in food, health care, and sanitation even in New Bell prison located in Douala, Cameroon's largest city. Overcrowding is severe throughout the penitentiary system. For example, Bamenda's central prison houses more than three times the number of inmates for which it was built. Some traditional rulers in

northern Cameroon maintain private prisons which operate outside the authority of the government penitentiary system. Prisoners are sometimes chained in their cells.

Conditions are worst at isolated Tchollire II prison, where inadequate food and medical attention reportedly caused at least 40 deaths between 1990 and 1992 among the inmates. The authorities have refused requests by foreign diplomats to visit the prison. The International Committee of the Red Cross (ICRC), which reopened its office in Cameroon in 1992, suspended visits to prisons and detention centers following the Government's refusal to permit ICRC representatives access to some detainees. Women held in custody do not appear to be targeted for rape or abuse by security or prison personnel.

d. *Arbitrary Arrest, Detention, or Exile.*—Arbitrary, prolonged detention remained a serious problem. In particular, the security forces failed to implement fully the Penal Code requirement that detainees be brought before a magistrate within established time frames, and have held detainees incommunicado.

By law, a person detained in connection with a common crime may be held in custody up to 24 hours before being charged. That period may be renewed three times. However, the law only provides for habeas corpus in the few majority-Anglophone areas of the country; elsewhere, the Francophone legal tradition applies, precluding judicial authorities from acting on a case until the administrative authority that ordered the detention turns the case over to the prosecutor. After a magistrate has issued a warrant to bring the case to trial, the detainee may be held in "pretrial detention" indefinitely pending court action. Furthermore, a 1990 law permits detention without charge for renewable periods of 15 days "in order to combat banditry." Persons taken into detention are frequently denied access to both legal counsel and family members. The law permits release on bail only in the Anglophone provinces, where the legal system includes some features of British common law. Even there, bail is granted infrequently.

The Government repeatedly detained opposition activists on political grounds, as in the cases of Francois Borgia Marie Evembe, Joseph Kwi, and Victor Hameni Bieleu (see Sections 2.b. and 2.c.). Other politically motivated detentions occurred on August 28, when SDF Northwest Province coordinator Joseph Akontch was held for 2 days on the eve of an opposition-led general strike, and on September 8, when Littoral Province coordinator Leolin Nja Kwa was taken into custody for 3 days. Both men were released without charge after their detention. Neither was physically harmed during these incidents. In October the police detained the spouse and children of opposition figure Jean Michel Nintcheu. The wife and three children under 10 years of age were detained for approximately 10 days without charges.

The most serious instance of arbitrary detention was the arrest in November of approximately 100 persons in connection with the opposition coalition, the Union for Change. The detainees were questioned about their affiliation with the Union for Change and their intentions to attend a press conference given by John Fru Ndi, the leader of the main opposition party, the SDF. All detainees were released without charge within 48 hours of their arrest. Nearly all rank and file Union for Change supporters were beaten at the time of arrest, and most suffered beatings and extortion of money at the hands of police during their detention. Senior Union for Change officials were generally not mistreated while in custody.

The Government does not practice political exile. However, some opposition members who considered themselves threatened by the Government have voluntarily left the country and declared themselves to be in political exile.

e. *Denial of Fair Public Trial.*—The Cameroonian court system is subordinate to the Ministry of Justice; it is part of the executive, not a separate or independent branch of government.

Magistrates in Cameroon are career civil servants responsible to the Minister of Justice, and thus are subject, particularly in political cases, to government direction. For example, one widely publicized corporate control dispute between a European investor and a Cameroonian with close ties to the ruling party was decided on questionable grounds in favor of the ruling party supporter. Some politically sensitive cases are never heard. For example, it took nearly a year before the Chief Justice informed SDF lawyers that he had declined to hear their October 1992 appeal for an injunction against the presidential swearing-in, pending Supreme Court review of electoral irregularities.

Magistrates acknowledge that rendering a decision that displeases the Government may result in transfer to a less desirable position. However, decisions in nonpolitical cases are usually not subject to government interference. Trials are public. A 1990 law established a State Security Court to try "crimes against the internal and external security of the state." Persons detained during the 1992 state of emergency were arraigned by State Security Court prosecutors but were not formally charged with a crime.

If a defendant is indigent, the presiding judge in the case will designate an attorney from among the members of the bar in the court district. However, because appointed attorneys receive little compensation, the quality of such legal representation is often poor. The Bar Association and some voluntary organizations, such as the Cameroonian Association of Female Jurists, offer pro bono legal assistance in some cases.

Traditional courts continue to play an important role, particularly in rural areas. Their authority varies by region and ethnic group, but they are often the arbiters of property and domestic disputes and may serve a probate function as well. Most traditional courts permit appeal of decisions to traditional authorities of higher rank.

There were no known political prisoners, as distinct from political detainees, at year's end. However, political prisoners released under the 1991 Amnesty Decree complained that the Government had not implemented provisions mandating that former military officers and public servants be reinstated to positions they held prior to their incarceration.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—While both invasions of the home and tampering with correspondence are violations of Cameroonian law, there were reports of police and gendarmes harassing citizens and conducting searches without warrants. This practice was particularly widespread in Southwest Province, where security forces entered private homes and businesses to enforce payment of taxes and customs duties. Gendarmes destroyed goods, alleged to have been smuggled, without permitting due process of law for those accused of import violations. In one instance, gendarmes participating in an anticontraband drive set fire to a small cargo vessel belonging to a Nigerian trader in Limbe, Southwest Province, when he refused to pay a bribe.

There were credible reports that the Government kept some opposition activists and dissidents under surveillance.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Although the 1972 Constitution provides for freedom of expression and press, Cameroonian law and practice have long restricted these liberties. In late 1990, a new law established more liberal regulations to begin publication of newspapers and magazines. That same law, however, formally enshrined prepublication censorship and granted the Ministry of Territorial Administration the authority to suspend or revoke the right to publish. The law also provided for licensing of private radio and television stations, but, as of the end of December, no licenses had been granted, and the Government retained complete control of the electronic media. Public servants employed by the official media face retribution for openly criticizing the Government, as in the case of numerous Cameroon radio-television journalists who have been transferred to less desirable assignments for such remarks.

The Government publishes an official newspaper—the Cameroon Tribune—and determines the content of radio and television broadcasts. Nevertheless, government reporters sometimes run stories which implicitly criticize the ruling party or portray government programs in an unfavorable light. The government- controlled broadcast media, although funded by all taxpayers, provide disproportionately high levels of coverage to the CPDM functions, while giving little air time to opposition events. Parties represented in the National Assembly, however, were given access to television and radio time during scheduled "expression directe" political broadcasts.

Some 70 private newspapers are published, about one-quarter weekly and the others at irregular intervals. These newspapers circulate widely and are often outspoken in their criticism of the Government and the President. Starting in mid-1993, there were fewer cases of censorship of individual articles. Rather, issues containing articles critical of the Government and its supporters were subject to seizure or to restrictions on distribution.

The Government used its licensing authority to suspend nine private newspapers in November 1992. Although the papers continued to circulate clandestinely until the suspension order was lifted in May, the order imposed a severe economic hardship on these nine newspapers and had a chilling effect on the fledgling private press. After the suspension was lifted, the police seized several newspapers for publishing stories that embarrassed the Government. For example, police removed from newstands the June 22 and July 20 editions of La Nouvelle Expression, which reported a scandal involving construction of a presidential golf course, and the September 27 issue of Le Nouvel Independant, which implicated a confidant of the President in a 1988 murder.

In other intimidating techniques, the Government stationed security forces throughout the spring outside Rotoprint, the Douala firm which prints most private

papers. It detained journalist Francois Borgia Marie Evembe for a total of nearly 10 days in connection with two articles he wrote for Le Messager which criticized the President (see Sections 1.b. and 1.c.). It tried Le Messager publisher Pius Njawe, Challenge Nouveau publisher Benjamin Zebaze, and Challenge journalist Martin Waffo for their April publication of a purported letter from the Minister of Justice to the Prime Minister suggesting charges against opposition leader John Fru Ndi and others for "insurrection, murder, spreading of false information, and incitement to revolt" in the aftermath of the 1992 presidential election. The court gave Njawe a 6-month suspended sentence, and Zebaze and Waffo received 5-month prison terms; however, at year's end, all three men were free while their sentences remain under appeal.

In a highly publicized libel case, the owner of a fish import company sued La Nouvelle Expression editor Severin Tchounkeu and staff writer David Nouwou in Douala court, alleging he had been falsely accused of involvement in a customs fraud scandal. Although the journalists offered documentary proof for their story, the court found them guilty, and on April 4 the judge imposed an unusually stiff sentence of 6 months in prison—the first time since independence that a journalist served time for libel. The two journalists spent 6 weeks in prison before the judge's ruling was overturned on appeal. There is credible evidence to suggest that Government displeasure at the journalists' implication of the Customs Minister in the scandal contributed significantly to the harsh sentences the court handed down.

There are no legal restrictions on academic freedom, though it is generally believed that there are state security informants on university campuses. Some university professors believe that their political viewpoints and activism have had a negative impact on professional opportunities and advancement. Free political discussion at the university is dampened by the presence of armed security forces, as well as sometimes strident pro-opposition groups.

b. *Freedom of Peaceful Assembly and Association.*—Freedom of assembly and association are provided for in law but restricted in practice. The Penal Code prohibits public meetings, demonstrations, or processions without prior government approval. The 1990 Law on Freedom of Association established that Cameroonians may freely form associations simply by notifying the responsible administrative authority according to a set procedure. Some 90 political parties operated legally, along with a growing number of civic associations.

While political parties and civic associations were generally permitted to hold public assemblies, the Government at times harassed opposition groups by denying them access to meeting facilities or refusing their permits on technicalities. For example, in April the All Anglophone Conference was at the last minute denied permission to use the conference hall at the University of Buea. In August the governor of Southwest Province issued a communique forbidding the Cameroon Anglophone Movement from holding a meeting. Some opposition leaders, such as Ndeh Ntumazah and Garga Haman Adji, were unable to hold scheduled press conferences when they were denied authorization. In September security forces disrupted a meeting of the newly formed Liberal Democratic Alliance (LDA) in Buea, using tear gas to disperse supporters gathered outside LDA chairman Njoh Litumbe's home.

In November, government security forces blocked two separate Yaounde press conferences of opposition leaders John Fru Ndi and Garga Haman Adji. On November 3, Fru Ndi was denied access to the privately owned headquarters of the opposition UFDC, where he had intended to hold a press conference. Minutes later, the vehicle in which Fru Ndi was riding was rammed and sprayed with high pressure water by a mobile government water cannon. Fru Ndi suffered minor lacerations during the confrontation and sought refuge in the residence of a diplomat. In the case of Garga, on November 18, Yaounde police first prohibited a conference in the Yaounde Hilton and then prevented Garga from receiving journalists in his private residence.

On December 1, security officials forcibly broke up and dispersed a press conference of the Cameroonian National Trade Union, which was calling for a general strike to protest public sector salary cuts.

In some cases, opposition parties deliberately flouted the requirement to obtain permission for public meetings or protest marches. For example, in Northwest Province, the Social Democratic Front refused to apply for permits to hold demonstrations in March and April, despite pleas by the provincial governor that they do so.

c. *Freedom of Religion.*—Freedom of religion is provided for in the Constitution, and there is no established state religion. There are no restrictions on places of worship, the training of clergy, religious education, religious travel—such as the hajj—or participation in charitable activities.

A religious group must be approved and registered with the Ministry of Territorial Administration in order to function legally. A presidential decree in February granted legal status to Jehovah's Witnesses, banned from 1970 until 1990. There were

no reports of government harassment of Jehovah's Witnesses. Although properties confiscated in 1970 have not been returned, the Witnesses are free to build new kingdom halls.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Freedom of movement within the country is not restricted by law. Police frequently stop travelers to check identification documents, vehicle registrations, and tax receipts as a security and immigration control measure. During a gendarmerie and police campaign to stop contraband smuggled from Nigeria, the checks became pervasive and occasionally oppresive in Southwest Province. Personnel manning these roadblocks frequently solicited bribes to speed passage.

During antigovernment protests, opposition supporters sometimes erected roadblocks. For example, during the August Anglophone "Solidarity Day" general strike some strike supporters in Southwest Province used barricades to enforce the work stoppage. Roadblocks were erected by Union for Change supporters in Bamenda during demonstrations in March and April, and again in August to protest the detention of Northwest Province coordinator Joseph Akonteh. Opposition supporters also inhibited movement in Douala during the general strike called for August 30 and 31.

The Government has sometimes used its passport control function against those it considers real or potential threats. For example, the Government has refused for more than 2 years to issue a passport to UFDC president Victor Hameni Bieleu. Although government officials claim that the problem stems from legal charges pending against Hameni Bieleu since the 1992 state of emergency, the denial of his passport predates these charges.

Cameroon has long served as a safe haven for displaced persons and refugees from the region. As of December 31, the U.N. High Commissioner for Refugees in Cameroon was providing assistance to more than 2,000 refugees, primarily from Chad, but also from Liberia, Zaire, and Sudan. However, estimates of the total number of refugees, mostly spontaneously settled Chadians, range from 8,000 to 50,000. Although Cameroon occasionally returns illegal Chadian immigrants, there were no reports of forced repatriation of recognized refugees.

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

Cameroon continues to be governed by the President and a small circle of advisers, many drawn from his own ethnic group, who came to power during a period of single-party authoritarian rule. His party controls the National Assembly, and he has the power to dissolve the Assembly and call new elections at any time; to return bills for a second reading, requiring that they be passed by a majority of the full Assembly; and to govern by decree during the 10 months each year when the Assembly is not in session. With a working parliamentary majority, the ruling party, the CPDM, and its coalition partners also set the legislative agenda, preventing many opposition initiatives from coming to a vote.

The governing parliamentary coalition consists of the CPDM, the former single party; the MDR, a small, northern-based party allied with the CPDM since April 1992; and the legalized wing of the splintered leftist party, the UPC. The only parliamentary party not formally allied with the CPDM is the UNDP. The CPDM and several small parties campaigned in the 1992 presidential election under the banner of the "Presidential Majority." While this entity is not known to have had any official standing as such, it was given extensive coverage in the official press as a coalition of parties which had rallied to President Biya.

Opposed to the Presidential Majority was the Union for Change coalition of parties supporting the chairman of the SDF Party, Ni John Fru Ndi, and his call for a limited, 2-year presidential mandate to implement democratic reforms and to convene a national conference. The Union for Change does not have any official status as a political organization, although its constituent parties are legally recognized. The SDF is the largest party within the Union for Change but has its own structures and policies. The Union for Change has continued to operate as an opposition political organization since the October 1992 presidential election.

Based on the results of the October 1992 presidential elections, the two largest parties not to be formally allied with either the Union for Change or the CPDM-led coalition are the UNDP, headed by Bello Bouba Maigari, and the CDU, headed by Adamou Ndam Njoya.

Although multiparty elections were held in 1992, the flawed presidential race represented a step backward in Cameroon's democratization process. The widespread electoral irregularities attributed principally by international observers to the Government undermined public confidence in President Biya's professed commitment to political reforms. There were also irregularities during the annual voter registration

period, which resulted in a sharp decrease in registered voters nationwide. According to estimates made public by Minister of Territorial Administration Gilbert Andze Tsoungui, the number of registered voters fell by 20 percent. MINAT ascribed the decrease to the removal of fictitious or underage persons from the rolls.

Political reform efforts focused on revising Cameroon's 1972 Constitution, which dates from the one-party era. However, the constitutional reform process has been tightly controlled by the Presidency and has permitted minimal public or opposition participation. A multiparty commission established in 1991 to draft a new basic law was adjourned in February 1992 prior to completing its mission. In May, however, the Government unilaterally released a draft which it claimed to be the work of the multiparty commission. The May draft retains a centralized presidential system, in which human rights guarantees may be superseded by subsequent legislation. In the next phase of the constitutional reform process, the President promised to appoint a constitutional consultative committee, including opposition delegates, to review the work of the technical committee of lawyers and academics and prepare a "quasi-final draft." The President will decide on the final version to be submitted for ratification by either the National Assembly or a popular referendum. As of year's end, the Government had taken no further steps to advance the constitutional reform process but maintained that there will be a new Constitution in 1994, as well as municipal elections.

Members of the President's ethnic group, the Beti, wield a disproportionate share of political power, particularly in key economic and security portfolios.

Women serve in prominent positions in the executive, legislative, and judicial branches of the Government, but are underrepresented among the senior leadership. Only 2 women sit in the 44-member Cabinet, and 1 woman sits on the 14-member Supreme Court. There are 17 women in the 180-seat National Assembly.

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

Domestic and international human rights monitoring groups were permitted to operate in Cameroon, but their effectiveness was impeded by the Government.

Numerous nongovernmental civic associations included the National League for Human Rights, the Organization for Human Rights and Freedoms, the Association of Women Against Violence, the Cameroonian Association of Female Jurists, the Cameroonian Association for Children's Rights, and the Human Rights Clinic and Education Center. Financial hardships, inexperience, and occasional fear of government reprisals discouraged these nongovernmental civic associations from publicly criticizing the Government's human rights record. For the most part, therefore, these groups sought primarily to heighten awareness of human rights issues rather than investigate specific alleged violations. In order to accomplish this, they distributed informational publications and held awareness clinics and meetings. One group, the Cameroonian Association of Female Jurists, made public announcements of its activities on radio and television programs.

The presidentially appointed National Commission for Human Rights and Freedoms, occasionally critical of the Government, was refused access to political detainees and was unable to conduct investigations due to lack of funding by the Prime Minister's office. It also failed to report publicly on its investigations into allegations of human rights abuses.

Members of the International Federation of Editors and Journalists were unable to investigate reported harassment of the independent press, when they were twice denied visas to Cameroon and, as noted in Section 1.c., the ICRC suspended visits to prisoners and detainees because of Government restrictions.

While government officials often make public statements giving their version of alleged human rights abuses, they generally do not respond publicly to specific charges of wrongdoing made by domestic or international monitors.

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

The preamble to the 1972 Constitution prohibits discrimination based on sex, enshrines freedom of religion, and mandates that "everyone has equal rights and obligations." However, discrimination based on race, language, religion, or social status is not explicitly forbidden. Both English and French are official languages in Cameroon.

Women.—Despite constitutional provisions, women remain subservient to men. Polygyny is permitted by law and tradition, but polyandry is not. The extent to which a woman may inherit from her husband is normally governed by traditional law in the absence of a will, and customs vary from group to group. In many traditional societies, custom grants greater authority and benefits to male than to female

heirs. In cases of divorce, the husband's wishes determine custody of children over the age of 6. A married woman may not legally obtain contraceptives or be sterilized without her husband's consent. While a man may be convicted of adultery only if the sexual act takes place in his home, a female may be convicted irrespective of venue.

Women's rights advocates report that violence against women has surged in recent years, and that the law does not impose effective penalties against violators. Wife beating is not a legal ground for divorce. In cases of sexual assault, a victim's family or village often imposes direct, summary punishment upon the suspected perpetrator through means ranging from destruction of property to lynching. While there are no reliable statistics on violence against women, the number of newspaper reports indicate the frequency is high. In September a senior Ministry of Health official publicly estimated that a high percentage of emergency room admissions nationwide were cases of spousal abuse.

Children.—The Constitution guarantees a child's right to education, and schooling is mandatory through age 14. Babies and small children are sometimes held in prison if their mothers are incarcerated. Child marriages are not common, although young girls often wed in their midteens, especially in rural areas. The Cameroonian Association for Children's Rights is concerned with a wide range of children's rights issues, including child incarceration and child marriages.

Female genital mutilation (circumcision), which has been condemned by international health experts as dangerous to both physical and psychological health, is usually practiced on girls at an early age. It includes the most severe form of the abuse, infibulation, and continues to be practiced in some areas of the Far North and Southwest Provinces.

National/Racial/Ethnic Minorities.—There are frequent and credible allegations of discrimination among Cameroon's more than 200 ethnic groups. Ethnic favoritism is a factor in both private and public sector employment. The Bamileke, the country's largest single ethnic group (with at least 20 percent of the population), believe they have been systematically denied political power commensurate with their numbers and economic importance. Opposition newspapers frequently attacked the Beti, while those close to the Government criticized the Bamileke and Anglophone groups.

Outbreaks of ethnic violence occurred between the Kotoko and Choa Arab communities in Far North Province, between Mbo and Bamileke residents in West Province, and in Bui Division Northwest Province.

An important ethnic, political division falls along linguistic lines. The Anglophone minority (20 percent) often charges that the Francophone majority does not share real power and that the Government provides fewer economic benefits to English-speaking regions. In April the All-Anglophone Conference enumerated a long list of Anglophone grievances and called for a two-state federal system, divided into French-speaking and English-speaking states, to protect their minority language rights. The heavy police and gendarmerie presence in English-speaking Southwest Province, ostensibly to stop the flow of Nigerian contraband (see Section 1.f.), contributed to Anglophone resentment.

People with Disabilities.—The Constitution does not protect the disabled. Lack of facilities and care is particularly acute for the mentally handicapped. Although Cameroonian society is generally tolerant of physical disabilities, which are commonplace, the Government has not mandated accessibility for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—A new Labor Code passed in 1992 allows workers to form and join trade unions of their own choosing. Under the new rules, groups of at least 20 workers may organize a union but must then register with the Ministry of Labor. Provisions of the Labor Code do not apply to civil servants, employees of the penitentiary system, or workers responsible for national security. At year's end, some but not all of the implementing decrees had been issued for the new Code.

Ministry officials explained that they had received applications to create national confederations but that these could not be authorized before local unions and regional or sectoral federations were formed. The Federation of National Educators (SYNES) applied in 1991 for legal status as a public service association, since government workers are not permitted to form trade unions. The Ministry of Public Service had not accorded legal status to SYNES by year's end. In response to a complaint filed by SYNES, the ILO Committee on Freedom of Association criticized the Government for delays in registering the new union and for failure to respond to charges that its members were subject to harassment.

The new Labor Code explicitly recognizes workers' right to strike but only after mandatory arbitration. As the continuing economic contraction caused the Govern-

ment and state-owned enterprise sector to fall behind in salary payments in 1993, numerous wildcat strikes occurred. Workers at both the Cameroonian Press Corporation (SOPECAM), which publishes the government daily Cameroon Tribune, as well as the Cameroonian Transport Corporation walked off the job on separate occasions during the year, demanding payment of salary arrears. One SOPECAM strike lasted more than 6 weeks; the others were of shorter duration. Employees returned to work after management agreed to make partial payment. Other workers staged sit-ins or temporary work stoppages during the year at Yaounde's Congress Hall (where arrears totaled 11 months) and the Bamenda provincial hospital. The new Labor Code provides for the protection of legal strikers and prohibits retribution against them provided that they follow the labor arbitration procedures outlined in the Code.

The only labor confederation in Cameroon is the Confederation of Cameroonian Trade Unions (CSTC), formerly affiliated with the ruling CPDM party under the name Organization of Cameroonian Trade Unions. The CSTC formally declared its political independence in 1992, and secretary general Louis Sombes publicly criticized the Government during 1993. However, since no other labor organizations have been legalized, the CSTC is still widely regarded as a quasi-official labor confederation, even by many of its own members. There are no known individual unions entirely independent of government and political party controls. The only new union registered by the Ministry of Labor in 1993, the Union of Contract Employees and State Agents (SYNCAE), is an affiliate of the CSTC.

The CSTC is a member of the Organization of African Trade Union Unity and the International Confederation of Free Trade Unions.

b. *The Right to Organize and Bargain Collectively.*—The 1992 Labor Code provides for collective bargaining between workers and management in local work places, as well as between labor federations and business associations in each sector of the economy. As of December 31, sectoral collective bargaining negotiations had not been undertaken, although the Government instructed individual state-owned enterprises to negotiate salary reductions with workers. Prior to passage of the new Code, the Government collaborated with the CSTC and employers to set wages through a complicated formula that took into account the sector and region of employment and the worker's education level.

The Labor Code prohibits antiunion discrimination, and employers guilty of such discrimination are subject to fines ranging up to the equivalent of $3,500 (1 million CFA). However, employers found guilty of antiunion discrimination do not have to reinstate the workers who have been discriminated against. The Ministry of Labor reported no complaints of such discrimination in 1993.

In November the CSTC disputed the legality of wage cuts in public and public corporation sectors and called for a general strike. Although there was no labor union organized to represent civil servants as a whole, the first efforts to form a public sector union were made in November.

Eight firms have obtained approval to operate under Cameroon's industrial free zone regime, and four had begun operations by the end of the year. Free zone employers are exempt from some provisions of the Labor Code but must respect all internationally recognized worker rights.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited by the new Labor Code, although it specifically excludes "any work or service extracted from any person as a consequence of a conviction in a court or law" and "work or service in the general interest, forming part of the civic obligation of citizens." In 1993 Cameroonian prisons continued to allow inmates to be contracted out to private employers or used as communal labor for municipal public works. There are credible reports that slavery continues to be practiced in the Lamidat of Rey Bouba, an isolated traditional kingdom in North Province.

d. *Minimum Age for Employment of Children.*—The Labor Code establishes that no child be employed before the age of 14. Ministry of Labor inspectors are responsible for enforcing the minimum age of employment but lack resources for an effective inspection program. In rural areas many children begin work at an early age on family farms. Some rural youths, especially girls, are often employed by relatives as domestics. Street vendors in the cities are sometimes under 14.

e. *Acceptable Conditions of Work.*—Under the 1992 Labor Code, the Ministry of Labor is responsible for setting a single minimum wage applicable nationwide in all sectors of the economy. As of the end of the year, the minimum wage had not been set. A decree establishing the monthly minimum wage at approximately $80 (25,000 CFA) had been submitted to the Prime Minister for approval but had not been signed by year's end. The Labor Code establishes a standard workweek of 40 hours in public and private nonagricultural firms, and 48 hours in agricultural and related activities. The Code makes compulsory at least 24 consecutive hours of weekly rest.

The Government sets health and safety standards, and the Ministry of Labor inspectors and occupational health doctors are responsible for monitoring these standards. However, they lack the resources for a comprehensive inspection program.

CAPE VERDE

Following the free elections of 1991 and the constitutional revision of 1992, Cape Verde continued its efforts to strengthen democratic institutions in 1993. Dr. Antonio Mascarenhas Monteiro, an independent, remained as President, sharing constitutional powers with the Prime Minister, Dr. Carlos Wahnon de Carvalho Veiga, and his party, the Movement for Democracy (MPD), which controlled the National Assembly.

A new police force, which has been separated from the military, has primary responsibility for maintenance of law and order It is controlled by, and responsive to, civilian governmental authority. There were no reported human rights abuses by security forces.

Cape Verde has few exploitable natural resources except for an attractive climate, a hardworking population (350,000), and a strategic geographic position. Cape Verdeans have a long history of economically driven emigration, primarily to Western Europe and the United States, and receipts from Cape Verdeans abroad are important sources of national income. Cape Verde can produce food for only 25 percent of its population, even in years of optimum rainfall. Because of this, the country continues to rely heavily on international food aid. The National Assembly has adopted legislation to privatize Cape Verde's state-owned enterprises and to facilitate foreign investment, but 1993 brought limited progress.

The Constitution provides strong guarantees for human rights, and it includes the principles of separation of powers, a political system based on individual rights and liberties, and a market-based economy. Cape Verdeans enjoy a wide range of civil and political liberties. The principal human rights problems in 1993 were societal discrimination and domestic violence against women.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There were no allegations or reported occurrences of torture or other cruel, inhuman, or degrading treatment or punishment.

d. *Arbitrary Arrest, Detention, or Exile.*—Cape Verdean law requires that the accused be brought before a judge to be charged within 24 hours of arrest. A person may not be arrested without a court order unless caught in the act of committing a felony. In exceptional cases, and with the concurrence of a court official, the formal charge process may be delayed up to 5 days after the arrest. These laws are observed in practice.

For crimes against state security, the Ministry of Justice has 40 days to prepare the case for a trial, and the accused may be incarcerated until the trial or for a period not to exceed a year. There is a functioning system of bail.

There were no known instances of security detentions or forced exile for political or other reasons.

e. *Denial of Fair Public Trial.*—The judicial system is composed of the Supreme Court and the regional courts. There are five Supreme Court judges, including one who is appointed by the President of the Republic, one appointed by the National Assembly, and three appointed by the High Council of Magistrates. Defendants enjoy a presumption of innocence. Trials are public; they are conducted by one judge and without a jury. Evidence suggests that the courts protect individual rights in criminal cases. The autonomous Institute for Judicial Support, to which most private lawyers belong, provides free counsel for indigent defendants. The defense is permitted to present witnesses and has access to government evidence. Verdicts may be appealed.

Regional courts adjudicate minor disputes on the local level in rural areas. The local judges, appointees of the Ministry of Justice and Labor, usually are prominent local citizens. As older judges retire, the Government appoints local judges with higher levels of education. Regional court decisions may be appealed to the Supreme Court.

The Government did not take any new initiatives to relieve the overburdened judicial system, and the courts continued to experience a backlog of cases. The average time for a case to come to trial is in excess of 6 months.

There were no known political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution recognizes citizens' rights to the inviolability of domicile, correspondence, and other means of communication. These rights are respected. The law requires that warrants be issued by a judge before homes may be searched.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of citizens to express ideas by words, images, or any other means and for freedom of the press without censorship. These freedoms are respected in practice. Journalists are independent of the Government and are not obliged to reveal their sources. No authorization is needed to establish newspapers, other publications, or electronic media.

The government-owned newspaper, Novo Jornal de Cabo Verde, reopened in March as a biweekly after restructuring to cut costs. Together with the government-owned radio and television stations, the Jornal gave balanced coverage to domestic and international events and to opposition viewpoints. Independent newspapers also enjoyed full freedom of the press without censorship. The national radio station broadcasts live National Assembly sessions in their entirety.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly and association without authorization and without harassment by authorities.

c. *Freedom of Religion.*—The Constitution requires the separation of church and state and prohibits the imposition of religious beliefs and practices. It provides for freedom to exercise individual or group religion and to express one's faith. About 80 to 90 percent of the population, including much of the Government leadership, is nominally Catholic. There are no restrictions on resident foreign clergy or on the numerous and diverse religious groups represented in Cape Verde.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no extraordinary legal or administrative restrictions on travel or residence in Cape Verde. Historically, emigration has been an important and government-supported means to escape harsh economic conditions. The Government maintains an office to serve intending emigrants and maintains close contact with emigre communities. It also encourages Cape Verdeans living abroad, including dual nationals, to maintain ties with their homeland. Repatriation is a constitutional right and is not discouraged by the Government. Acquiring dual nationality, which is a right protected by the Constitution, is not a ground for revocation of citizenship.

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

Citizens have this right. In January 1991, after 15 years of one-party rule, power was transferred peacefully through democratic elections to an opposition party which won the country's first free legislative and presidential elections. Promulgation of the new Constitution in 1992 consolidated this change.

The Constitution provides for separation of powers. Government ministers are not required to be members of the National Assembly, but they are subject individually to parliamentary confirmation. Collectively, they must retain the support of a parliamentary majority. The Government may be dismissed by the President, with the approval of the Council of the Republic. This Council is composed of the President of the National Assembly, the Prime Minister, the President of the Supreme Court, the Attorney General, the President of the Regional Affairs Council, and four private members. Two of the private members are appointed by the President, and two are appointed by the National Assembly. Referendums may be held under specified circumstances, but they may not challenge individual political rights and liberties or the right of opposition parties to exist and function freely. No referendums were held in 1993.

There are no restrictions in law or practice regarding the rights of women or minorities to vote or to participate in the political process. Cape Verde's Parliament is 7.6 percent female; there are 2 female ministers out of 13 government ministers.

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

While there are no official restrictions on their formation, to date no private groups have been established to monitor and report on human rights. In late 1991, the Government established a human rights commission with the objective of rais-

ing popular consciousness about human rights and the need to respect them at the institutional level. The commission was largely inactive in 1993.

The Government cooperates fully with representatives of foreign private human rights organizations. Human rights organizations made no known visits to Cape Verde in 1993.

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

Racial discrimination is not a problem in Cape Verde where the vast majority of the population shares mixed Portuguese and African ancestry.

Women.—Despite constitutional prohibitions against sex discrimination and provisions for full equality, including equal pay for equal work, traditional male-oriented values predominate; women experience difficulties in obtaining certain types of employment and are often paid less than men. Women comprise 38 percent of the work force, and make up more than 50 percent of the workers in business, hotels, restaurants, social services and administrative positions. Roughly the same percentages of males and females attend universities and secondary schools; 0.7 percent of women hold university degrees (compared with 0.8 percent for the total population) and 14.3 percent hold secondary school certificates (compared to 13.8 percent for the total population).

There was some improvement in employment opportunities for women as evidenced by the increasing presence of women in the upper echelons of government and among law and medical professionals.

Domestic violence against women, including wife beating, remains common, particularly in the rural areas. Crimes such as rape and spouse abuse are rarely brought to the attention of the police or tried in the courts. While neither the Government nor women's organizations have addressed directly the issue of violence against women, the Ministry of Health and Social Affairs has undertaken to publicize civil and human rights of both women and children through an extensive campaign which includes public service programming on television and radio as well as a widespread poster campaign.

Children.—Child abuse is a continuing problem in Cape Verde. The Government is concerned about children's welfare and has mounted a public relations campaign to educate both children and parents about the dangers of child abuse and the rights of individuals. Few cases are prosecuted, but, if a complaint is filed and found to warrant intervention, children can be removed from their parents' homes and placed in an orphanage.

People with Disabilities.—Physically disabled persons are not subject to discrimination in employment or education, and a campaign is under way to educate the public about the capabilities of the disabled for employment. There is no government mandate for access to public buildings for the disabled, thereby limiting access to some public services, but the Government attempts to provide transportation (a combination wheelchair and three-wheel motor scooter) for handicapped persons.

Section 6. Worker Rights

a. *The Right of Association.*—All workers are legally free to form and to join unions of their own choosing without government authorization or restriction. There are no reliable figures for union membership available. There are two umbrella union associations in Cape Verde: the Council of Free Labor Unions (CCLS), formed after the change in government, and the National Union of Cape Verde Workers (UNTC-CS), formed and controlled by the former ruling party. The Government did not interfere with the activities of these organizations, but both suffer from a lack of funding.

The Constitution provides union members the right to strike, and there are no restrictions on this right. There were periodic strikes, most frequently in state-owned enterprises. An employer must reinstate a worker fired unjustly. Unions are free to affiliate internationally.

b. *The Right to Organize and Bargain Collectively.*—The Constitution provides to unions the right to organize and operate without hindrance and specifically gives unions the right to sign collective work contracts. Workers and management in the small private sector, as well as in the public sector, reach agreement through collective bargaining. As the country's largest employer, the Government continues to play the dominant role by setting wages in the civil service. It does not fix wages for the private sector, but salary levels for civil servants provide the basis for wage negotiations in the private sector.

A legislative decree of November 1991 bans antiunion discrimination by employers and provides that fines may be levied on offenders. There were no reported cases of such discrimination in 1993.

Cape Verde has no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is forbidden by law and is not practiced.

d. *Minimum Age for Employment of Children.*—The legal minimum age for employment is 14. Although children under 16 are prohibited from working at night, more than 7 hours per day, or in establishments where toxic products are produced, the law is rarely enforced. The Director General of Labor in the Ministry of Justice and Labor is responsible for enforcing minimum age laws. In practice, however, minimum age laws are enforced only in the mainly urban formal sectors of the economy and then only with limited success.

e. *Acceptable Conditions of Work.*—There are no established minimum wage rates in the private sector. Large urban private employers link their minimum wage rates to those paid to civil servants, which for an entry level worker is $180 (15,000 Cape Verdean escudos) per month. The majority of jobs pay insufficient wages to provide a worker and his family a decent standard of living; therefore, most workers must rely on a combination which includes second jobs, extended family help, and subsistence agriculture.

The maximum legal workweek for adults is 44 hours. While large employers generally respect these regulations, many employed in domestic service or by small employers in rural areas do not enjoy legally mandated work conditions.

Rural laborers are largely uninformed of workers' rights, and these rights frequently are not respected. In 1992 the Director General of Labor established a small department in the Ministry of Justice and Labor dedicated to the protection of rural laborers.

All enterprises must submit a yearly report to the Director General of Labor with information on each employee's wages and days of leave. Although the reports provide the Government with current information on employment practices, they are not used as a control mechanism. Nevertheless, the Director General does carry out periodic inspections to ensure that employers adhere to correct labor practices and imposes fines on private enterprises which are not in conformity with the law. There is no overall safety and health code, although some regulations exist in this area. The Director General of Labor is responsible for enforcing labor regulations. However, Cape Verde has few industries that employ heavy or dangerous equipment, and work related accidents are rare. Consequently, there is no systematic government enforcement of labor laws.

CENTRAL AFRICAN REPUBLIC

The Central African Republic (C.A.R.), ruled since 1981 by a military regime under General Andre Dieudonne Kolingba, made a peaceful transition from a military regime to a democratically elected Government. On September 19, citizens elected Ange-Felix Patasse, head of the Movement for the Liberation of the Central African People (MLPC), President, and a new National Assembly representing multiple political parties and viewpoints. Despite General Kolingba's last-minute efforts to subvert the process, and notwithstanding several incidents that marred the voting, an 80-person international observer delegation certified the validity of the outcome. In the National Assembly elections, the new President's party, the MLPC, did not gain a majority, winning only 33 of the 85 seats, while the Confederation of Democratic Forces (CFD) coalition gained 25 seats, and Kolingba's Central African Democratic Assembly party (RDC) won 14 seats. The National Assembly convened on November 8 and elected Hugues Dodozendi of the MLPC as president of its Executive Bureau. Besides Dodozendi, 5 other MLPC members hold seats in the 11-member Executive Bureau. The other five seats are held by members of five different opposition parties.

The military and the national gendarmerie, under the Ministry of Defense, share internal security responsibilities with the civilian police force, under the direction of the Ministry of Public Security. The Presidential Security Guard has been commanded by Central African officers since mid-1993, when French officers and trainers were relegated to advisory roles. There were two serious incidents of military unrest in 1993 over nonpayment of salaries, resulting in two short-lived mutinies and scattered human rights abuses. However, the comportment of security forces during the preelectoral period and the elections was professional.

The C.A.R. is a landlocked and sparsely populated country, most of whose inhabitants practice subsistence agriculture. Its principal exports are coffee, cotton, timber, tobacco, and diamonds. Economic structural reforms begun in 1992 in cooperation with international donors have had little success because of unfavorable world

economic trends and government corruption and mismanagement. There were sweeping public strikes over the issues of salary arrears and the pace of political reform. However, following the October installation of the new President, the strikes ended, and public sector personnel, including teachers and doctors, returned to the workplace.

The human rights situation improved markedly as the year progressed, culminating in the democratic elections and the installation of a new Government on October 22. However, efforts by the Kolingba regime to halt the political reform process and two military mutinies resulted in a number of human rights abuses, including the killing of one person and the deaths of two others under uncertain circumstances. Police beatings of some detainees continued, and the Government is not known to have punished those responsible. Other human rights abuses included continuing discrimination and violence against women and discrimination against Pygmies.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Following a peaceful march on the Treasury by civil servants demanding pay, lawless elements of the population looted the downtown area as well as the market area west of town. Security forces used excessive force in containing these antigovernment riots on April 26 and 27, during which three persons died.

On May 15, the Presidential Guard mutinied, and a member of the Guard shot and killed a woman whose car was commandeered. While the Prime Minister stated that the soldier responsible would face criminal charges, the Kolingba government took no action against him.

The Government did not honor its pledge to conduct an inquest into the 1990 killing by security forces of Pierra Wanga nor its pledge to release a report on the 1992 beating death of opposition activist Jean-Claude Conjugo at the hands of security forces during an antigovernment demonstration. There were, however, no additional incidents of this sort in 1993.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the Penal Code prohibits torture and specifies sanctions for those found guilty of physical abuse, credible reports indicated that police beating and abuse of criminal suspects occurs. In one instance, a diplomat observed security forces administering a public beating to a detainee. As far as is known, the Government did not punish those responsible.

Prison conditions are harsh, and inmates suffered from extensive overcrowding until September 1, when, to celebrate the 12th anniversary of his taking power, President Kolingba issued a general amnesty, releasing thousands of prisoners from 20 prisons, including former President (Emperor) Bokassa.

d. *Arbitrary Arrest, Detention, or Exile.*—Central African law stipulates that persons detained in nonpolitical cases must be brought before a magistrate within 96 hours. In practice, this deadline is often not respected, in part due to inefficient judicial procedures. Political detainees may be held legally without charge for up to 2 months. Political detainees are defined in the law as "those held for crimes against the security of the State." The C.A.R. judicial system does not provide for bail, but persons are often released on their own recognizance.

The Kolingba government abandoned the practice of arresting and detaining labor leaders and opposition supporters as threats to state security. It detained political activist Joseph Bendounga for part of one morning following an antigovernment riot and arrested Guy Mamadou Marabena of the MLPC for a brief period, allegedly for vandalizing the property of a political rival; he was released when the charges could not be substantiated.

The Government released in the September 1 amnesty three Sudanese nationals, Hafiz Abdel Galil, El Rayh Ahmed, and Mohammed Zein Hassan from Ngaragba prison. They had been held without charges since March 1990, reportedly for refusing to pay a bribe to a local official.

There were no known instances of incommunicado detention, and there were no known political detainees held by the Government during the year.

Exile is not permitted by law and does not occur in practice. The Government repeatedly stated that any person in self-exile for strictly political reasons, rather than criminal, may return home without fear of persecution. Several took advantage of this policy. The best known remaining person in exile is Rodolph Iddi-Lala. He was originally sought for alleged criminal as well as political activities, and it was not clear at year's end whether the September 1 amnesty applied to those wanted for, but as yet not convicted for, criminal offenses.

e. *Denial of Fair Public Trial.*—The judiciary consists of regular and military courts, with the Supreme Court at the apex. In criminal cases, the accused have the right to legal counsel, trials are public, and defendants have the right to be present at their trials. These safeguards are generally respected in practice, but the judiciary suffers numerous shortcomings, including executive interference, institutional neglect, inefficient administration of the law, and shortages of trained personnel and material resources. The High Court of Justice, a body created to try political cases, did not convene and is virtually defunct.

President Kolingba appointed by decree a new Chief Justice to the Supreme Court in June, following opposition accusations that his predecessor was corrupt. While it was widely assumed that Kolingba hoped to influence the Court through this appointment, the Court acquitted itself honorably in tabulating and proclaiming election results that led to a change of government.

There were no political prisoners during 1993.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Government rarely abused legal prohibitions on invasion of the home without a warrant in civil and criminal cases. In certain political and security cases, defined in Title IV of the Penal Code, i.e., for treason, police are statutorily permitted to search private property without written authorization and do so in practice. The Kolingba regime maintained its close watch, including telephone monitoring, on opposition figures as the elections approached.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—There was increased official respect in 1993 for the right of private citizens to speak publicly about political developments or to criticize the Government or political parties. In the election campaign, opposition leaders openly criticized the policies of the Government and opposition rival candidates at public rallies, in political broadsheets, and on the government-controlled national radio and television.

One newspaper and both radio and television are government owned and controlled. Journalists working for these entities were not physically threatened, but few were permitted to offer dissenting points of view. The pro-RDC Minister of Communication initially refused the Prime Minister's instructions to open the media to the opposition during the electoral campaign, thus violating a key provision of the Electoral Code, but he later relented.

During the preelectoral phase, the government media tacitly supported President Kolingba with ample coverage of him, his party, and his policies while neglecting other candidates, who received proportionately less print or air time to express their views. Prime Minister Lakoue's Social Democratic Party (PSD) also received disproportionate media attention. The media glossed over civil unrest and other politically relevant issues for much of the year. Under the new Government, the media are more open and objective. They cover opposition party rallies and meetings and air uncensored interviews in which opposition supporters and politicians are permitted to express their views.

Opposition parties and groups published and distributed manifestos and policy statements, usually in stenciled and photocopied form without government restriction or censorship. Similarly, foreign journalists were not impeded in their work.

Although a number of educators, including presidential candidate Abel Goumba, were actively involved in political activities, the University of Bangui remained on strike over nonpayment of teachers' salaries for most of the year, and issues of academic freedom were not tested.

b. *Freedom of Peaceful Assembly and Association.*—The right of assembly is constitutionally provided for but is restricted by regulations. A 1992 decree requires the organizers of all demonstrations and public meetings to register with the Government 48 hours before they occur. In May the Ministry of Public Security refused to permit an opposition rally. The police reportedly incited a riot the same month by firing tear gas into a crowd of civil servants who had been peacefully protesting arrears in payment of salaries. However, subsequently there was no government interference with political campaign rallies, and candidates and their supporters circulated freely throughout the country.

The Government no longer enforced a 1961 law requiring all associations to register annually as a means of influencing the activities and policies of organizations opposed to the Government. A 1991 law compelling all parties to register with the Ministry of Public Security in order to participate legally in the political process remained in force, but in practice it had little effect on the political process. Registered political parties and apolitical associations were permitted to hold congresses, elect officials, and publicly debate policy issues.

c. *Freedom of Religion.*—There is no state religion, and a variety of religious communities are active, including traditional African faiths, Christian denominations, and Muslims. Religious organizations and missionary groups are free to proselytize, worship, and construct places of worship. However, religious groups must register with the Government, and any group whose behavior is considered subversive in nature remains subject to sanctions, although no sanctions were imposed in 1993.

The Government lifted its 1986 ban on the activities of the Jehovah's Witnesses community, but there is continued ambiguity about the status of this group, since the document restoring the group's rights states that it must obey undefined relevant regulations and statutes. Human rights monitors argue that the ban was unconstitutional in the first place.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—People are free to move within the country, but police and other officials sometimes harass travelers unwilling or unable to pay bribes at checkpoints along major intercity roads and at major Bangui intersections. The Government has not taken effective measures to eliminate these practices. The Government recognizes the right of voluntary travel abroad and repatriation. Financial and educational constraints, rather than government controls, restrict foreign travel and emigration. There were no known cases of revocation of citizenship during the year.

By the end of 1993, more than 28,000 Sudanese had fled civil strife in Sudan to seek safe haven in the remote southeastern corner of the C.A.R. In collaboration with the United Nations High Commissioner for Refugees (UNHCR), other U.N. agencies, and private relief organizations, the C.A.R. National Commission for Refugees provided assistance to this group. The C.A.R. also hosted some 20,000 Chadian refugees, most of whom entered the C.A.R. in early 1993 to escape the actions of Chadian security forces in the south of that country. The Chadian refugees are also under the protection and supervision of the UNHCR.

Refugee populations near the Chadian border were encouraged by the Government to resettle in a site further from the frontier, but neither the refugees nor any Central Africans were forced to resettle elsewhere. There were no reports of forced repatriations of refugees in 1993.

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

Citizens were able to exercise peacefully their constitutional right to change their government by democratic means following a protracted controversy between opposition parties and the Kolingba regime, which throughout much of the year used constitutional arguments and political subterfuge to impede the electoral process. In the wake of the failed elections of October 1992, the Government agreed in January to the formation of a mixed Electoral Commission composed of representatives of all political parties. This body drafted a new Electoral Code that was submitted for approval to the Provisional Political Council of the Republic, a quasi-legislative body appointed by Kolingba that included all presidential candidates from the annulled presidential elections of October 1992 save Abel Goumba, who did not participate.

Following a riot and two military mutinies in May, President Kolingba in July accepted a mixed Electoral Commission proposal for August and September elections. There was heavy voter turnout (80 percent) for the first-round, multiparty presidential and legislative elections in August which pitted eight presidential contenders against each other and ended with the ouster of President Kolingba, who finished fourth with 12 percent of the popular vote. Public and external pressures, including from the French Government, blocked an attempt by Kolingba to annul the election results through a presidential decree altering the makeup of the Supreme Court. In lighter second-round voting (63 percent) on September 19, Ange-Felix Patasse of the MLPC prevailed over Abel Goumba and the Patriotic Front for Progress (FPP) with 52 percent of the vote. Patasse was inaugurated on October 22.

The 85 deputies from 11 identifiable political parties were sworn in on November 3. An international observer group that monitored both rounds of voting described the electoral process as free, fair, and legitimate despite minor administrative irregularities and the unsuccessful attempts by unknown persons in Bangui and the town of Berberati to use violence to derail the elections. The time-consuming process of tabulating votes did not permit the Supreme Court to proclaim first-round legislative and presidential results within 8 days, as stipulated by the Electoral Code, but the Court did adhere to the spirit of the Electoral Code throughout the electoral process.

Women remained underrepresented in the political process. Three female candidates were elected to the Parliament and two others were named to President Patasse's Cabinet.

Pygmies (Ba'aka), who represent 1 to 2 percent of the national population, are not represented in the Government and have little political power or influence, although they voted in large numbers in the 1993 election. In general, the Ba'aka have little ability to participate in decisions affecting their lands, cultures, traditions, and the allocation of natural resources.

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

The Central African Human Rights League (LCDH) is a nongovernmental organization with multiple goals, including publicizing human rights violations in the C.A.R. and pleading individual cases of human rights abuses before the courts. The LCDH raised its public profile with two public seminars and the advent of a publication dedicated to relevant human rights issues. The LCDH took the lead in calling for a unified opposition response when the Government repeatedly delayed announcement of electoral dates. Despite the LCDH's activist stance, the Government did not attempt to hinder its activities.

The International Committee of the Red Cross visited the C.A.R. at least twice and was given access to prisons and refugee sites. There were no known requests from other international human rights organizations to visit in 1993.

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

The Constitution stipulates that all persons are equal before the law without regard to wealth, race, or religion, but significant discrimination exists.

Women.—Despite the Constitution, in practice women are not treated as equal to men economically, socially, or politically, and women in rural areas suffer more discrimination than women in urban areas. When school was in session, 60 to 70 percent of urban females went to primary school while only 10 to 20 percent of their rural counterparts did. Overall, at the primary level females and males enjoy equal access to education, but a majority of females drop out at age 14 to 15 due to social pressure to marry and bear children. At the University of Bangui, the sole university in the C.A.R., only 20 percent of the students are women.

In rural communities, where farming is the chief livelihood, women continue traditional child-raising duties and perform most food-farming tasks while men seek salaried work or produce cash crops. Women not engaged in traditional agricultural activities often work in commerce as market vendors. Customs forbidding women and children to eat certain classes of food, including some meats, persist in some areas of the country.

There are no accurate statistics on the percentage of female wage earners, but in cities many educated women find work outside the traditional patterns. Some hold clerical positions, and a modest but growing number are establishing private businesses or moving into the higher echelons of government. Women are in the military, the police force, and the gendarmerie.

Polygyny is legal, although there is growing resistance among educated women to this practice. There is no legal limit on the number of wives a man can take, but a prospective husband must indicate at the time of the marriage contract whether he intends to take further wives. Women who are educated and financially independent tend to seek a monogamous relationship. Divorce is legal and may be initiated by either partner, but in practice many Central Africans never marry because men cannot afford the traditional bride payment. Central African law follows French law and does not statutorily discriminate against women in inheritance and property rights. However, a welter of conflicting customary laws (depending on region or ethnic background) often prevails.

Violence against women, including wife beating, occurs, but it is impossible to quantify its extent as data are lacking, and cases are seldom officially reported. The courts hear very few cases of spouse abuse, although the issue does come up during divorce trials or in civil suits for damages. Some women reportedly tolerate abuse in order to retain a measure of financial security for themselves and their children. The Government did not address this issue in 1993.

The Government chartered the Association of Central African Women Jurists in 1993. This group established a legal clinic to advise women of their legal rights and published pamphlets in conjunction with the Ministry of Social Affairs that advised women of the legal prohibition and dangers of female genital mutilation. A second pamphlet, directed at women and young children, discussed food taboos.

Children.—There is no official discrimination against children, but the Government spends little money on programs for children. There are some church and other nongovernmental youth projects. Given crippling strikes in the education sec-

tor, children did not attend school in 1993. As a result, the number of Bangui's street children increased markedly.

Current interpretation of Article 187 of the Penal Code forbids blows or injuries to children under the age of 15.

The Government has never enforced a 1966 law forbidding female genital mutilation (circumcision) or Article 187, which is also interpreted as prohibiting this procedure. Circumcision has been condemned by international health experts as damaging to both physical and psychological health. This traditional tribal practice is common in certain rural areas, and to a lesser degree in Bangui, and is performed at an early age. According to health officials, about 10 to 15 percent of C.A.R. females have undergone this mutilation. The Association of Women Jurists initiated an educational effort against the procedure with the support of officials in the Ministry of Health.

Indigenous People.—Despite constitutional provisions, in practice some minorities are treated unequally. In particular, the indigenous forest-dwelling Ba'aka, commonly known as Pygmies, are subject to discrimination and exploitation which the Government has done little to correct. Pygmies often work for villagers at wages lower than those paid to other groups.

National/Racial/Ethnic Minorities.—There are about 90 ethnic groups, and in the past there has been little ethnic balance at the higher levels of government. Under the Kolingba government, members of the minority Yakoma ethnic group held a disproportionate number of senior positions in the Government, military, and state-owned firms. Under the Patasse Government, this trend has changed. Although residents of the north of the country are a majority in his Cabinet, a much broader ethnic balance has been achieved.

Religious Minorities.—Muslims, particularly Mbororo (Peuhl) herders, claim to have been singled out for harassment, including police shakedowns and bandit attacks, due to popular resentment of their presumed affluence. Few Muslims hold senior executive posts in Government, but about a half-dozen Muslims won seats in the National Assembly.

People with Disabilities.—There is no codified or cultural discrimination against the disabled. There are several programs designed to assist the disabled, including handicraft training for the blind and the distribution of wheelchairs and motorized carts by the Ministry of Social Services. There is no legislated or mandated accessibility for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—Under the new Labor Code, last revised in 1990, all workers are free to form or join unions of their own choosing without prior authorization. The right of association has been widely exercised by the relatively small part of the population holding wage-earning jobs, notably persons in the large public sector, including teachers, civil servants, and postal workers.

The current Labor Code does not refer to any trade unions by name, a change from previous versions. The International Labor Organization (ILO) had requested this change to reflect the proliferation of new unions. There are now five recognized labor federations, including the Organization of Free Public Sector Unions (OSLP) and the Labor Union of Central African Workers (USTC).

The USTC and its member unions continued to assert and maintain their official independence from the Government and political parties. However, prior to the presidential elections USTC Secretary General Theophile Sonny-Cole expressed publicly his support for the candidate of the Confederation of Democratic Forces (CFD) and the USTC and CFD both participated in a so-called ghost town strike in April.

In April the USTC executive bureau suspended from its ranks three of the six public sector union heads, following those unions' own suspension of their USTC activities at the end of 1992. The public sector unions formalized the break in October, with the creation of the OSLP, which the Government recognized almost immediately. The membership of the OSLP now outnumbers that of the USTC by nearly three to one (20,000 versus 8,000).

Unions have the right to strike and exercised it in both the private and public sectors. To be legal, strikes must be preceded by the union's presentation of demands, the employer's response to these demands, a conciliation meeting between labor and management, and a finding by an arbitration council that the union and employer failed to reach agreement on valid demands. Strikes did not always meet these requirements, although whenever the Government sought to enforce them, the unions acceded to them. In June the acting Minister of Public Works sent a note to labor leaders in which he observed that the right to strike is an individual decision and, by implication, not one that collective union leadership can legally dictate. The Labor Code states that if employers initiate a lock-out which is not in accord-

ance with the Labor Code, then the employer is required to pay workers for all days of the lock-out. Other than this, no mention is made of sanctions on employers for acting against strikers. It is not known the extent to which this policy is actually followed.

Repeated strikes by the public sector unions met with limited response. In most cases, the Government did not intervene, allowing health services to operate at a minimal level and schools to remain closed. In isolated cases, however, the Government sent in troops or issued provocative decrees to try to break the unions' solidarity. In April government troops occupied a labor union building following a strike officially called over salary arrears but influenced in large measure by the Government's reticence to hold long-promised presidential elections. In June the President and Prime Minister made statements that employees not showing up for work would not be paid. That statement resulted in a student uprising during which the Minister of Finance was briefly taken hostage.

Federations are free to affiliate internationally. The USTC maintains international labor contacts, although it is not formally affiliated with any international bodies.

b. *The Right to Organize and Bargain Collectively.*—The Labor Code accords trade unions full legal status, including the right to sue in court. However, by requiring a union official to be employed full time in the occupation as wage-earner, the Labor Code serves to restrict union organizing activities to after hours.

The Labor Code does not specifically state that unions may bargain collectively. While collective bargaining has nonetheless taken place in some instances, the Government is usually involved in the process.

Wage scales are set by the Ministry of Labor and Civil Service, but have been only a tangential issue in labor negotiations; the outright nonpayment of salaries continued to be the major complaint of the unions, and the main impetus for the public sector strikes, which finally ended in November after a month's arrears were paid.

The law expressly forbids discrimination against employees on the basis of union membership or union activity. However, leaders of public sector unions, particularly teachers, continued to complain of government discrimination against them and their members, most often through arbitrary reassignment to provincial posts. The Labor Code does not state whether employers found guilty of antiunion discrimination are required to reinstate workers fired for union activities.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is specifically prohibited by the Labor Code, and there were no reports of such labor. The ILO in 1993 reiterated its longstanding concern that the C.A.R. Government amend or replace laws and ordinances dating from 1966, 1972, and 1975 that stipulate imprisonment involving compulsory labor for persons engaged in independent activities of a political nature. The Government stated these laws were in "abeyance" but indicated it was "aware of the need to bring its legislation and practice into conformity with international labor conventions."

d. *Minimum Age for Employment of Children.*—Employment of children under 14 years of age is forbidden by law, but this provision is only loosely enforced by the Ministry of Labor and Civil Service. In practice, the role of children in the labor force is generally limited to helping the family in traditional subsistence farming or in retailing.

e. *Acceptable Conditions of Work.*—The Labor Code states that minimum wages are to be set by decree of the Minister of Labor rather than by an act of the National Assembly. Minimum wages differ among the various sectors. In September 1991, minimum wages were raised for the first time since 1980 by between 10 and 50 percent, depending on the category of employee. The lowest paid workers received the largest percentage increases in the minimum wage, which assures a family the basic necessities but is barely adequate to maintain a decent standard of living in a country with a high cost of living. Agricultural workers are guaranteed a minimum of $26 (FCFA 7,800) per month, while office workers are guaranteed $60 (FCFA 18,000).

Still more serious for public sector employees has been the outright nonpayment of wages due to the Government's chronic revenue shortfalls. Most labor is performed outside the wage and social security system, especially by farmers in the large subsistence agricultural sector.

The law sets a standard workweek of 42 hours for government employees and most private sector employees. Domestic employees may work up to 55 hours per week. The law also states that there must be a minimum rest period of 24 consecutive hours on Sundays, although in certain circumstances the Sunday requirement may be waived.

There are also general laws on health and safety standards in the workplace, but they are neither precisely defined nor actively enforced by the Ministry of Labor and Civil Service, a matter about which the ILO has expressed concern to the Government for many years. The Labor Code states that a labor inspector may force an employer to correct unsafe or unhealthy work conditions, but it makes no mention of the right of workers to remove themselves from such work conditions.

CHAD

Chad continued to be governed by a transitional Government headed by President Idriss Deby, who in a 1990 coup overthrew dictator Hussein Habre. President Deby and his Patriotic Salvation Movement (MPS) are supported by a large military establishment. A sovereign National Conference was convened between January and April, bringing together a diverse group of government, political, economic, military, and special interest representatives from Chadian society. The National Conference confirmed Deby as Chief of State, established a new transitional Government under Prime Minister Fidel Moungar (later Kassire Coumakoye) with a Cabinet of 16 Ministers, elected 57 counselors to a quasi-legislative body, the Transitional Council (CST), and adopted the Transitional Charter as an interim constitutional document. The Conference gave the transitional Government a 1-year mandate, i.e., until April 6, 1994, but the CST may extend this mandate once, for a period left unspecified, before elections for a new Government take place.

The 31,800 person army, gendarmerie, and police are responsible for internal security. The National Conference recognized the need to reduce and reorganize the army, and it dissolved the Center for Research and Intelligence Coordination (CRCR), the intelligence organization, which had continued to employ persons known to have committed serious abuses under the Habre regime. The Government announced its replacement by a National Security Agency (ANS), the staffing and oversight of which fall under the purview of the Presidency. With financial and military assistance from France, the Government demobilized thousands of soldiers. Nevertheless, military forces, principally Republican Guard units, were responsible for serious human rights abuses, including massacres of civilians in southern Chad and in N'Djamena, the capital.

Chad, with a population of 6.3 million, has an estimated per capita income of only $190 per annum. Over 78 percent of the population is engaged in subsistence agriculture, fishing, and stock raising. Cotton is the most important export. The Government relies heavily on external financial support, especially from France, to meet recurring budgetary costs and almost all government investment. Pervasive corruption at all levels and a heavy black-market trade in fuel, sugar, oil, cloth, and soap served to limit severely government customs receipts, discourage local production and marketing, and restrict the cash economy.

While the National Conference held out the hope of a real transition to a democratic system, the transitional Government stalled and implemented few Conference decisions. As of year's end, it had set no dates for promised 1994 elections. However, a technical commission of jurists constituted at the end of the year began work on drafts of a constitution, electoral code, and charter of political parties. The Deby Government continued to be responsible for serious human rights abuses, particularly those committed by Republican Guard units in the south and in N'Djamena and other cities. At times, the security forces operated independently of the Government, and certain units, particularly those from President Deby's ethnic group, seemed immune from prosecution. Combined with military threats against the judiciary and a magistrates' strike, there was a breakdown in the criminal justice system. The Government by year's end had prosecuted none of those responsible for such abuses. A number of killings remained unexplained and were not investigated, including those of several labor leaders. Domestic violence and discrimination against women remained widespread.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—The President's Republican Guard and other units of the National Army (ANT) carried out a series of massacres of civilians and other killings. Despite assurances by the President, there was no real progress in investigating and punishing those responsible (see Section 1.g.).

On October 22, security forces shot and killed dissident leader Abbas Koty, who fled Chad in 1992 after attempting a coup. Koty had returned under a trilateral agreement between Chad, Libya, and Sudan guaranteeing his safety. He was mur-

dered in October by security forces in broad daylight in front of witnesses. There is strong evidence that this was a political killing and not incident to resisting arrest for coup plotting as reported by the Government. The Government arrested at least eight persons in connection with the alleged coup attempt.

There were several unexplained and uninvestigated murders of labor leaders, including Mbailao Mianbe, head of a civil service union (see Section 6.a.).

b. *Disappearance.*—The status of approximately 100 followers of former rebel leader Abbas Koty, who were allegedly captured following a June 1992 coup attempt, was not known by year's end. A number of close associates of Abbas Koty were arrested following his assassination on October 22, 1993. Three persons believed to have been arrested at that time have not been accounted for: Adoum Acyl, Yacoub Isak Koty, and Isak Kochi.

According to reliable observers, there were credible reports of a small number of politically motivated, incommunicado detentions in unidentified places of detention.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Transition Charter specifically prohibits the practice of torture and degrading or humiliating treatment, but the Government did not or could not intervene effectively to stop torture practices by security forces. Reliable reports indicated that military personnel engaged in torture and other cruel mistreatment of prisoners, civilian and military, in government custody, most commonly by severe beatings, but also by immersion in water to the point of near drowning. Interrogators also reportedly used mock executions to intimidate detainees. There was no indication that investigations were conducted or arrests made as a result of the many reports, including in the media, of torture.

Prison conditions continued to be abysmal and life threatening, characterized by overcrowding, poor sanitation, lack of medical facilities, inadequate food, and mixing of male and female prisoners. Prisoners were almost totally dependent on their families for food. The authorities allowed nonpolitical prisoners to have visitors. In a departure from previous practice, the authorities allowed prisoners arrested for apparent political reasons subsequent to the August killings to have visitors. The Government authorized independent human rights groups access to selected prisons and prisoners and allowed private physicians to examine and treat prisoners. It granted the International Committee of the Red Cross (ICRC) permission to visit detainees, but for administrative reasons this had not taken place by year's end.

On October 23, the Foreign Minister convoked the diplomatic corps and promised that the eight persons arrested in connection with the alleged Koty coup plot would not be mistreated and would be given a fair trial. The Government denied the eight persons visits by their families and lawyers but permitted human rights groups and doctors access on two occasions. There was no evidence of their physical mistreatment.

d. *Arbitrary Arrest, Detention, or Exile.*—The Penal Code and the Transitional Charter provide formal safeguards against arbitrary arrest, but in practice these provisions were not uniformly respected, notably after the August demonstrations and killings (see Section 1.a.). Most military or security organizations had the de facto authority to arrest or detain citizens without warrant and without remanding the detainee for an early trial. As a result, large-scale arbitrary arrests took place on orders of senior members of the Government subsequent to the August violence. The authorities released all detainees after protests by legal groups. No charges were made nor trials conducted.

There were credible reports of arbitrary arrests and detentions of political activists in rural areas. These arrests were in some cases attributed to local leaders of the Patriotic Salvation Movement (MPS) and were directed against opposition party leaders. No investigations or judicial action was taken.

At year's end, best estimates indicated that the Government held approximately eight political or security detainees. Arrested the day of his assassination, the eight members of Abbas Koty's group (see Section 1.a.), remained in prison at year's end, without formal charge and without any indication when they would be brought to trial.

The Government did not use exile as a political weapon in 1993.

e. *Denial of Fair Public Trial.*—The judicial system was unable to contend with more than civil actions due to a breakdown of law and judicial process. Significant interference by the Government and the military in the judicial system contributed to the breakdown. Even major incidents of mass murder, as in the case of atrocities in the south during April, did not go to trial. As in 1991 and 1992, there were strong indications that members of the security forces, particularly those belonging to northern ethnic groups and those in the Republican Guard, had de facto immunity from prosecution.

In June armed troops physically threatened the principal judicial offices in the capital when there were rumors that soldiers involved in killings at the Customs Administration headquarters might be charged. Subsequently, magistrates went on strike in July to protest threats from the military after the judicial system adjudicated in favor of a southern official who killed several northern soldiers during violence in June at the Customs Administration. None of those responsible for the violence was tried. Legal professionals complained that threats of violence and interference prevented adequate and fair administration of justice.

Other factors also affected the judiciary. In November and December, magistrates again went on strike along with most members of the Ministry of Justice to protest nonpayment of salaries. Magistrates, as well as other legal professionals, were not paid for at least half of the year, and there was a shortage of trained personnel, the most basic supplies, equipment, and courtroom space.

In civil cases, in which the judiciary still operated to a limited extent, there were a number of suits for libel and slander. The Government, most notably the Republican Guard, along with individual members of the Government took advantage of the court system to defend their records.

Despite substantial emphasis placed on the justice system by the National Conference, there was no overhaul of the justice system in 1993, although legal professionals created three private, independent associations to study reform. Chad's highest court is the Appellate Court of N'Djamena which, under the Transitional Charter, assumes in theory constitutional review responsibilities in the absence of a Supreme Court. It also reviews decisions of lower courts and adjudicates all cases calling for more than a 20-year penalty. District courts exist in major cities, and justices of the peace preside in larger townships. Special courts were inactive, including the military courts-martial system, instituted in 1991 to try soldiers and civilians for crimes of violence committed in uniform or with military weapons.

Most rural areas do not have access to formal judicial institutions and rely on traditional courts presided over by village chiefs and sheikhs in most civil cases. Their decisions, which in most cases are respected by the population, may be appealed to a formal court.

At year's end, the number of political and security prisoners (as distinct from pretrial political and security detainees) was unknown.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Transitional Charter precisely states citizens' rights to privacy of home and correspondence, freedom from arbitrary arrest and search, and liberties of association. The Penal Code stipulates that searches of homes will be conducted only during daylight hours and only under legal warrant. In practice, security forces conducted frequent searches for weapons without legal warrant, day or night, especially during the second half of 1993. In some cases these searches resulted in mistreatment of individuals and extortion of money.

The National Conference's Letters of Instruction to the transitional Government stipulated that roadblocks manned by government forces, often responsible for extortion of travelers and an impediment to free travel, would be removed. This was successfully accomplished in midyear for most of the country.

Membership in the MPS is not required for employment or appointment to high position. However, MPS membership has been solicited by coercive means in rural areas, and members of other political parties have been detained and mistreated by MPS and government officials.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—The ANT in late January and early February launched a military campaign in the south to neutralize the rebel force of the National Awakening Committee for Peace and Democracy (CSNPD) of Lieutenant Moise Kette. The ANT attacked more than 13 villages between the towns of Doba and Gore, burning and looting villages, destroying crops, and driving over 12,000 refugees into the Central African Republic. The ANT killed at least 29 civilians in its initial attacks. Though rebels had attacked and killed government forces in the region, government claims to the effect that the civilian deaths occurred as a result of fighting between government forces and rebels were unconvincing. The ANT, principally units of the Republican Guard, cordoned off the region, restricted travel, and prevented independent investigations from taking place. No credible government inquiry of any value was conducted, nor were there arrests or punishments of those responsible for the excessive use of force.

The ANT committed further excesses in February and March, with deaths and injuries reported. Republican Guard units committed atrocities in a number of villages in the region of Kou-Mouabe. A government investigating committee, which included members of human rights groups, went to the region and reported that, within the space of a few days in April, the Republican Guard summarily executed over 200

persons. According to the commission, over 300 civilians in the region had been killed by the Republican Guard since the beginning of 1993.

The committee identified six Republican Guard officers and one former member of the CSNPD rebels, who acted as a guide to the villages, as responsible for the killings and other abuses. As of year's end, the authorities had arrested only two persons, and one was allowed full freedom of movement to and from the prison, even though there was no indication of a pretrial hearing or setting of bail. The status of the other prisoner, a southerner, was unknown. He allegedly was tortured by the Republican Guard and forced to guide units to the villages. The remaining five officers escaped arrest. None had been brought to trial by year's end.

The armed opposition group, the CSNPD, said the massacres were perpetrated against civilians suspected of collusion or sympathy with the opposition. However, the Government alleged that the CSNPD committed abuses against civilians in the region, including killing and robbery. Credible sources reported that rebels stole goods and extorted money from villagers in the region.

In June Republican Guard army units fired indiscriminately during a clash over control of the Customs Administration in N'Djamena, killing at least two innocent civilians. There was no credible investigation, and no one was arrested.

On August 4, armed men fired at crowds in a market in Gniguilim, near Abeche in eastern Chad, killing at least 82 persons and wounding 105. The Government conducted an investigation and reportedly arrested several persons, but it had not released any details by the end of the year, including the identities of the killers, which reportedly had not been satisfactorily established. No trials had been conducted, nor had those responsible been punished.

On August 5, army units suppressed a demonstration, a protest against the killings in Gniguilim, in Abeche, killing at least two civilians and wounding several.

On August 8, members of the Ouaddaian community in N'Djamena sought to hold a prayer meeting to protest the Gniguilim massacre. After being turned away by gendarmes and police, some Ouaddaian members attacked the police and gendarmes, killing five. Senior officials called in the Republican Guard which used massive force—heavy weapons and automatic rifles—against the remainder of the Ouaddain crowd and on bystanders, including in neighborhoods far removed from the scene of the riot. The Republican Guard killed at least 61 civilians and wounded over 100. The Government failed to take any disciplinary action against the Republican Guard.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Transitional Charter provides for freedom of speech and press, and the small private press published articles criticizing the Government. The Government controlled access to radio, the most important medium, and to the sole television station. It permitted only government-approved programming and commentary but often included nonpartisan coverage of opposition activities and statements. However, in September, during a political crisis between the President and Prime Minister, the President denied the Prime Minister radio air time.

Foreign publications were available. There were no reports of censorship of these publications or of issues withdrawn from circulation.

The academic system is primarily state supported, and the teachers at all levels are state employees. Reportedly students and teachers practice self-censorship in discussions with a political content.

b. *Freedom of Peaceful Assembly and Association.*—The Transitional Charter provides for freedom of association, assembly, press, and publication.

Political and civil groups conducted meetings and press conferences for the most part without government interference. However, the Government restricted assembly on several occasions. In August it banned religious and ethnic demonstrations, and in September it prevented leaders of political parties and associations from having access to a private conference hall by bringing pressure on the owner. Permits are required for public gatherings of all sorts.

New political parties continued to appear and, as of the end of 1993, 43 parties were authorized to function. Parties and associations issued political and civic-oriented tracts of all sorts, many critical of the Government, without interference from the Government.

c. *Freedom of Religion.*—Chad is officially and in practice a secular state. Islam, Christianity, and other religions are practiced without constraint. Missionaries of all religions are permitted to enter Chad to proselytize and to perform public assistance work.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—No special permission was required of Chadians or foreigners to travel

within most areas, but access to areas designated military zones was not permitted. The Government set up military cordons to restrict acccess to areas of southern Chad near the towns of Gore and Kou-Mouabe, both sites of human rights abuses. Most of the government roadblocks were removed in June on orders of the transitional Government. Although there was significant improvement, members of the security forces continued to operate some roadblocks around the country, asked for domestic travel documents, and extorted money from travelers. The transitional Government revoked the requirement for government authorization for international travel.

Chadians were free to emigrate. Several thousand bona fide refugees, a product of mid-1992 fighting between the Government and rebels in the Lake Chad region, remained in Niger and had valid concerns as to their reception back in Chad. Similarly, approximately 12,000 refugees in camps in the Central African Republic, who fled southern Chad when their villages were attacked by the Republican Guard, had valid concerns about their safety if they returned to their villages. The presence in southern Chad of large units of soldiers of northern ethnic groups, some already responsible for atrocities in the south, discouraged reentry of refugees from the Central African Republic.

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

Citizens do not have this right, and President Deby and his MPS, backed by the military, dominate the political process. Nevertheless, positive movement towards political pluralism was noted in 1993.

The National Conference held from January to April established that elections would take place in 1994. The Conference consisted of approximately 800 delegates drawn from the Government, traditional leadership such as sheikhs and sultans, opposition political parties, human rights groups, unions, students, women's groups, farming cooperatives, and other groups. The balance of representation was equitable, and the discussions and debates were open and uninhibited. The Transitional Charter and the Letters of Instruction to the transitional Government were drafted in committee and presented to a floor vote. The Conference elected the Prime Minister from a slate of 13 candidates. It also elected from the floor 57 Transitional Council (CST) counselors, who in turn selected their president for a term of 6 months.

The CST utilized its authority to require key cabinet ministers, including the Prime Minister, to explain their programs to the Council. The CST exercised its legislative authority in refusing to ratify a treaty with Libya presented by the Presidency and directed the Prime Minister to reduce the Cabinet from 31 ministers to 16 to bring the Government into conformance with the Letters of Instruction.

During the year, there was increasing conflict between President Deby and Prime Minister Fidel Moungar over a variety of issues. Eventually the Transitional Council replaced Moungar in November with Kassire Coumakoye.

The creation of a tripartite system of government, each institution with separate powers, represented a major advance in the Chadian political system. Though preponderant authority remained with the executive, the other two government institutions in the face of difficult problems persisted in consolidating their respective and separate powers. A technical commission of jurists constituted at the end of the year began work on drafts of a constitution, electoral code, and charter of political parties.

Chadian women have political equality and protection under the law and were active in the National Conference. Several hold high office in the transitional Government and are represented in leadership positions of the political parties. Nevertheless,women are underrepresented in government, and cultural biases prevent their full integration into political life. There are one female cabinet minister and four female CST counselors.

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

Four Chadian human rights organizations operated legally: the Chadian League of Human Rights, the Convention for the Defense of Human and Citizens Rights, the Chadian Association for the Promotion and Defense of Human Rights, and the Chadian Association for the Struggle Against Human Rights Violations. These organizations were active in the National Conference, and some members are represented in the transitional Government. Several of these organizations took part in commissions investigating human rights abuses. The reports of these organizations were published without constraint. Reports on human rights abuses in the south were critical of the army (Republican Guard units) and persons who commit-

ted them. The political opposition and civil associations regularly criticize the Government on human rights issues.

The transitional Government, as one of its first official acts, commissioned a special government/human rights commission to investigate massacres that were carried out in southern villages near Kou-Mouabe. The commission's report was accurate and unbiased but in the end had little effect in disciplining those responsible. A similar commission to investigate atrocities in eastern Chad also had little impact (see Section 1.g.).

An international organization, the Association for Victims of Repression in Exile (AVRE), visited Chad in midyear and again in December to treat torture victims and investigate the human rights situation. Representatives had access to high level government officials. A delegation of the International Human Rights Federation (FIDH) conducted a seminar and investigated human rights conditions in December under the auspices of the Chadian League of Human Rights. The Government gave several independent human rights organizations permission to visit prisons and regular access to most prisoners (see Section 1.c.).

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

The Transitional Charter provides for equal rights to all citizens, regardless of sex, race, religion, or origin.

Women.—According to the Transitional Charter and the Letters of Instruction, women have equal rights with men. The Transitional Charter provides that Chadians of both sexes have the same rights and obligations.

In practice, however, culture and tradition among Chad's various ethnic groups perpetuate the de facto subordinate status of women, especially in rural areas where women do much of the heavy farm labor and have little opportunity for education or wage employment. The literacy rate for women is significantly lower than for men: A 1991 United Nations study indicated that on the average females receive one-third of the education of males. In 1993 there were fewer girls in school than boys. Women are not discriminated against in property and inheritance rights under the law. However, in traditional practice males are favored in inheritance matters.

The transitional Government gave some attention to women's issues. A new family code, on which work had begun in 1992, was not completed by the end of 1993, largely because of frequent cabinet changes, government reorganizations, and lack of initiative on the part of employees who went for long periods without pay. The Transitional Council passed a contraception law, which allows Chadian women to make their own choices in family planning. Several women hold high positions in the Government as well as in commerce, the professions, and the military, and women's advocacy groups have begun to form, notably the Association of Women in Distress in Chad and the Association of Women Jurists. The latter group was instrumental in pressing for improvements in womens rights at the National Conference and throughout 1993.

Domestic violence directed against women, including wife beating, is common, and women have only limited legal recourse against abusive spouses. Police rarely intervene, and women usually rely on family or ethnic group to resolve such cases.

Children.—The Government and Chadian society are supportive of children's human rights. Nevertheless, there are few active programs to address children's rights.

Female genital mutilation (circumcision) is widespread and performed on females at a young age. The practice is deeply rooted in tradition, both in the north and the south, and is strongly advocated by many Chadians, women as much as men, despite its severe adverse consequences for women's physical and mental health. According to a recent survey sponsored by the U.S. Agency for International Development in Moyen Chari prefecture, the percentage of women who have undergone this procedure is extremely high and depends to an extent on religious affinity. Some 96 percent of rural Catholic women in Moyen Chari were found to be circumcised as compared to 86 percent of animist, 83 percent of Protestant, and 55 percent of Muslim women. Urban statistics range from a low of 53 percent for Protestants to 63 percent for Muslims, 75 percent for animists, and 86 percent for Catholics. The Government took no action to prohibit the practice.

National/Racial/Ethnic Minorities.—There are approximately 200 ethnic groups. They are roughly divided among Saharan and Arab Muslims in the northern, central, and eastern regions, and Sudanian zone ethnic groups, who practice Christianity or animist religions, in the south. Sustained civil conflict since independence in 1960, revolving primarily around ethnic differences, has prevented development of a solid sense of national identity. Ethnic and regional friction continues to trouble the country, despite efforts to ensure wide ethnic and regional representation in gov-

ernment. Well-armed minority ethnic groups close to the President, which represent a small fraction of the population, exercised authority over military and civilian government decisions.

People with Disabilities.—Against a background of civil conflict and inadequate funding, the Government has not developed policies, including legislation on accessibility to buildings, to assist the disabled. Resources and medical expertise are sorely lacking. There is no official discrimination directed against the disabled, but they have little opportunity for wage employment or special education.

Section 6. Worker Rights

a. *The Right of Association.*—Some 78 percent of all workers are involved in subsistence agriculture, animal husbandry, or fishing. Government employees and workers in the few state-owned enterprises constitute the bulk of union members.

The Transitional Charter and Letters of Instruction specifically recognize labor's right to organize. Workers are free to join or form unions of their choosing. Only the military are prohibited from joining unions. Government authorization is required before unions can commence operation, but this procedure was not tested in 1993. The dominant union federation remained the Federation of Chadian Unions (UST). A second, smaller federation, the Free Federation of Chadian Workers (CLTT), continued to operate. Neither union had organizational, financial, or procedural ties to the Government.

While Ordinance No. 30 of 1975 suspending all strike action has not yet been repealed, the Government respected labor's right to strike. Teachers unions maintained almost continuous strikes in 1993, resulting in loss of the 1992–93 academic year for primary and secondary students. Health workers struck in September and again in December. Strikes in December affected 12 of the 16 government ministries. Subsequent to the National Conference, most organized labor had agreed to observe a social truce with the transitional Government, but the continued failure of the Government to pay civil servants eroded worker confidence and provoked an almost total work stoppage at the end of the year. Labor/government relations, good for much of 1993, deteriorated in later months.

International Labor Organization (ILO) bodies reviewed complaints against the Government stemming from the arrests, antiunion discrimination, and other actions taken against the UST and individual unions in 1992 and deplored these actions as inconsistent with the requirements of freedom of association. In addition to Ordinance No. 30, organized labor remained under the authority of several outdated laws, such as Ordinance No. 1 of 1976 prohibiting public employees from exercising the right to organize and a provision in the Labor Code prohibiting all political activity of trade unionists. A new labor code finalized in draft in 1992, but not released and implemented prior to the end of 1993, was to serve as a revocation of the old laws. The new code was not enacted into law because the Government reasoned that the document needed a final review by a special commission. Funding for the commission was not available.

There was no government restriction on labor union participation in international labor conferences. There were no incidents of government interference in union activities. However, several union members were murdered, leading many to presume that they were targeted for labor activisim. There was no indication that these allegations were true. In the case of Mbailao Mianbe, head of a civil service union in the UST, who was murdered in June, evidence pointed to his activities in army reorganization, not union work, as the motive behind his death.

b. *The Right to Organize and Bargain Collectively.*—The law does not specifically protect collective bargaining; both the Transitional Charter and the Labor Code still in effect contain only generalized provisions for the rights of labor. The new labor code is expected to provide more precision and be in accordance with international conventions. The Government sets wages in the public sector, but in a departure from past practice the transitional Government has actively negotiated employment and wage issues with the UST and the CLTT. A case in point was the agreement of the Government to restore to service employees fired for striking in 1992. A new wage rate was negotiated. When the Government attempted to reduce wages further than the 1992 reduction, organized labor successfully negotiated a retraction of the decision. The Government is under heavy pressure from the International Monetary Fund and other international donors to cut spending and increase revenue.

The law does not specifically prohibit antiunion discrimination, and there is no formal mechanism for resolving complaints of such discrimination. In practice, however, this was not a problem.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—There is no specific legal prohibition on forced or compulsory labor. No strong evidence was presented to indicate

forced or compulsory labor took place. There were allegations that unpaid soldiers stationed in the far north were required to work as domestics and field workers in order to survive, in some instances for years. The Government did not respond to these allegations.

d. *Minimum Age for Employment of Children.*—The minimum age for employment of children is 14 in the wage sector, but there is only limited enforcement of this law by the Ministry of Civil Service and Labor. In practice, employment of children is almost nonexistent except on family subsistence farms.

Approximately 600 minors between the ages of 14 and 17 were reported to be in the army at the end of 1992. The Commission for Defense and Security of the National Conference reported that 293 minors had been demobilized as of April 1993. Children continued to serve in the army throughout the year.

e. *Acceptable Conditions of Work.*—The draft labor and social welfare code, which was prepared in 1988 with ILO assistance, continued to be reviewed but was not approved for issuance due to government insistence on appointment of a commission to study the document.

Meanwhile, minimum wages established under previous governments remained unchanged. An ILO committee expressed concern that the legal minimum wage has not been revised since 1978. A new minimum wage law which doubled the hourly rate was negotiated between the Government and labor in midyear. The minimum monthly wage is scheduled to increase to approximately $60 (18,000 CFA francs) in early 1994. Minimum wages are insufficient to support subsistence, much less maintain an adequate standard of living. Salary arrearages of 4 to 5 months in N'Djamena and up to 8 months in rural areas for civil servants, combined with no pay for some soldiers for up to 24 months, have obligated most employees to seek other employment, engage in subsistence agriculture, or rely on the extended family

Most nonagricultural work is limited by law to 48 hours per week with overtime paid for supplementary hours. Agricultural workers are statutorily limited to 2,400 work hours per year. All workers are entitled to 24 consecutive hours of rest per week. The Labor Code recognizes the need for occupational health and safety standards, including labor inspectors with the authority to enforce them. There is no indication that such health and safety standards exist in practice, nor that inspectors have been appointed.

COMOROS

The Federal Islamic Republic of the Comoros comprises three islands and claims a fourth, Mayotte, which is still governed by France. Until the assassination of President Abdallah in November 1989, the Comoros was a de facto one-party state. Following a brief rule by European mercenaries who had served as officers in the presidential guard, French troops arrived to stabilize the situation. Early in 1990, opposition politicians returned from exile, and a wide spectrum of political leaders and eight political parties contested presidential elections in two stages. The acting President, Said Mohamed Djohar, emerged the winner in the second round. Following the President's inauguration on March 20, 1991, the Djohar coalition Government went through several reorganizations and survived three coup attempts. The most recent one, on September 26, 1992, involved two sons of the late President Abdallah.

While several opposition groups exist, the main opposition to the Djohar coalition comes from the Udzima Party, formerly the sole legal party. Postponed legislative elections finally took place in November and December 1992 and resulted in a truly representative National Assembly, which met for the first time January 8, 1993. However, the Assembly could reach no consensus with the President on his choice of ministers, and after one successful no-confidence vote and the threat of a second, Djohar dissolved it on June 18, 1993.

French military advisers assisted the Djohar Government in restructuring and reducing the regular military and police forces to about 1,700 persons. Further reductions in 1993 left a force of 989 persons.

Agriculture dominates the economy, but the Comoros is running out of arable land, and soil erosion on the steep volcanic slopes is exacerbating the problem. Revenues from the main crops—vanilla, essence of ylang ylang, and cloves—continue to fall as the population increases at one of the fastest rates in the world. Comoros is part of the French franc monetary zone and depends heavily on France for budgetary support and technical and security assistance.

The human rights situation changed little in 1993. Nine persons suspected in the September 1992 coup attempt were tried, convicted, and given death sentences on

April 24, 1993. The press gave the trial wide publicity, and a public vigil was kept in front of the courthouse. President Djohar on May 1 commuted the sentences to life in prison. He was pressured to release these prisoners but showed no willingness to issue a general pardon. All 13 people convicted of involvement in the coup attempt were still in prison at the end of 1993. One reason for the President's reluctance to pardon the prisoners was that at their sentencing two of the main defendants, Omar Tamou and Mtara Maesha, admitted to having staged the coup and vowed to do so again if released. The presiding judge said their future liberation depended on their behavior in jail.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no confirmed reports of such killings.

b. *Disappearance.*—No disappearances were reported.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There were no substantiated reports of torture or other cruel, inhuman, or degrading treatment or punishment. However, prison conditions usually were unhealthful, with overcrowding and inadequate diet common. Organizations wishing to inspect conditions at the military prison were denied access repeatedly, though the civilian prison could be visited regularly. For example, the 11 coup plotters held at the Moroni jail were visited by the Comorian Human Rights Association in August, but international organizations, including the International Committee of the Red Cross (ICRC), were denied access to the military prison where the two Abdallah sons are held. The sons are, however, permitted one visit a week by family members. The Comorian Human Rights Association confirmed that prison conditions at the Moroni jail were Spartan, with poor sanitation, inadequate diet, and overcrowding the norm. The Government admitted to these problems; it blamed them on financial constraints.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution does not specify a time limit between arrest and appearance before a magistrate; however, according to usual Comorian procedure, the time limit is 48 days. The law is silent about how long prisoners held for security reasons may be detained without being charged (see below).

e. *Denial of Fair Public Trial.*—The 1992 Constitution provides for the equality of all citizens before the law and the right of all accused persons to defense counsel. The Comorian legal system applies Islamic law and an inherited French legal code. Most disputes are settled by village elders or by a civilian court of first instance. In regular civil and criminal cases, the judiciary is largely independent, and trials are public. The Supreme Court has the power to review the decisions of lower courts, including the Court of Appeals.

National security cases—involving attempts to destabilize the country or overthrow the Government by violent means—are handled in the regular court system. In the past, defendants in security cases were held for up to a year, and then released without a trial. This pattern was broken by the trial of the suspected coup plotters in April 1993. Moreover, there were unconfirmed allegations that the President consulted with the judge during the trial.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of home and property. There were no known cases of arbitrary interference with privacy, including with correspondence. The Paris-based Indian Ocean Newsletter, which is often highly critical of the Government, arrives unhindered through the international mail.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of expression, thought, and conscience, and Comorians discussed and criticized the Government and its leading personalities openly. A wide spectrum of political views was aired throughout the year. Comorians can receive radio broadcasts from Mayotte and two French television stations without interference. Satellite antennas are popular, and amateur radio licenses are granted without hindrance. Several small independent newspapers are published, and they operate without interference and freely criticize the Government. The weekly semiofficial newspaper also publishes articles critical of some government policies. Lack of funds and illiteracy are the biggest obstacles to a wide press audience. Foreign journals and newspapers are available, as are books from abroad.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association. Under the late President Abdallah, Comorians

were circumspect about organizing public political gatherings, and political groupings were careful not to antagonize the Government. Since 1990, as new political parties formed and old ones resumed activity, numerous rallies and assemblies have taken place with a minimum of governmental interference.

c. *Freedom of Religion.*—An overwhelming majority of the population is Sunni Muslim. The Constitution holds Islam to be the "wellspring of the principles and rules which guide the State and its institutions." The State upholds the right of non-Muslims to practice their faith, and there are churches for the small Catholic and Protestant populations. Christian missions work in local hospitals and schools, but by local custom they are not allowed to proselytize.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no restrictions on travel within the country or abroad, and exit visas are freely granted.

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

Citizens now have the right to change their government through peaceful means. The Constitution gives legal status to a multiparty system and provides for other fundamental rights. It calls for new legislative elections to be held within 40 days of the dissolution of the National Assembly. Organizational problems, concerns about the security of voter lists, and financial difficulties caused these elections to be delayed until the end of December. The newly formed party of the President, Le Rassemblement pour la Democratie et le Renouveu (RDR), emerged with a slim majority in the Assembly. Opposition groups boycotted portions of the elections, citing irregularities on the part of the RDR.

Although the nature of Comorian society makes it difficult for women to get involved in politics, they have the right to vote and participate in the political process. There were 11 women candidates in the 1992 legislative elections, none of whom was victorious. In August 1991, the first Comorian woman was appointed to a high government position: Sittou Raghadat Mohamed was named Secretary of State for Population and the Condition of Women. Traditional social, religious, and economic institutions also importantly influence the country's political life. Interisland rivalries have been a persistent and growing factor. Village notables and Muslim religious leaders tend to dominate local politics.

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

In May 1990, a group of private citizens established the Comoros Human Rights Association (CHRA, also known as the Comorian Association for the Rights of Man). The Minister of Justice praised the CHRA for its report on prison conditions and promised to improve them but little was changed during the year. The CHRA had access to civilian prisons and worked as well to ensure fair treatment of injured prisoners being treated at the local hospital. In one recent case, CHRA involvement resulted in the transfer of a prisoner charged with incest from the public hospital, where he was being mistreated, to a missionary facility.

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

Women.—The Constitution formally provides for the equality of citizens regardless of race, sex, or religion. Nevertheless, within Comorian society, men have the dominant role. Change in the status of women is most evident in the major towns. Women are not required to wear a veil. Women are finding increasing employment opportunities in the small paid labor force and generally receive wages comparable to those of men in similar work. However, school enrollment of females is well below that of males. A Comorian Women's Federation, formed in late 1989, has the goal of developing a family bill of rights.

Property rights do not disfavor women; for example, the house the father of the bride traditionally provides to the couple at the time of their marriage remains her property, even in the case of divorce.

Violence against women, including wife beating, occurs. However, medical authorities, the Women's Federation, and the police believe that violence against women is rare, in part because of the nonviolent nature of Comorian society. The Government has not addressed this issue specifically, and there are no studies or statistics indicating the extent of the problem. In principle, a woman can seek protection though the courts in the case of violence, but in reality the issue would most likely be addressed within the extended family or at the village level.

Children.—The few legal instruments which address the rights and welfare of children are generally not enforced because of a lack of inspectors.

People with Disabilities.—No legislation is in force or pending concerning accessibility to public buildings for people with disabilities.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution allows workers, including most public sector workers, to form unions and to strike, but these rights only became a reality in 1990 with the association of some workers into small unions. Farming on small landholdings, subsistence fishing, and petty commerce make up the daily activity of most of the population. Hence, the wage labor force is small; less than 8,800 including government employees, and less than 2,000 excluding them. Since 1990 groups of teachers, civil servants, and dock workers—who in previous years formed temporary associations to press their demands—have created unions for purposes of collective action.

b. *The Right to Organize and Bargain Collectively.*—There are no laws that prohibit antiunion discrimination or protect collective bargaining, which is still in its infancy. Labor legislation, to the extent that it exists, is found mainly in the Labor Code, which is not rigidly enforced. The Code does not address the issue of collective bargaining. In the private sector, wages are set by informal employee/employer negotiations. Public workers' wages are set by government policy through the Ministries of Finance and Labor. Economic rather than political impediments stand in the way of a more active role by labor organizations; unofficial unemployment figures exceed 70 percent.

Most unions are in the public sector. Strikes in 1993 usually related to nonpayment of wages. In recent years it has not been uncommon for government workers to go months without being paid. There are no restrictions on unions joining federations or affiliating with international bodies.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is forbidden by the Constitution and is not practiced.

d. *Minimum Age for Employment of Children.*—The Labor Code defines 15 years as the minimum age for the employment of children. The Ministry of Labor is lax about enforcing this provision, but child labor is not an issue due to the lack of employment opportunities for adolescents and young adults. Children generally help with the work of their families in the large subsistence farming and fishing sectors.

e. *Acceptable Conditions of Work.*—The Government mandates minimum wage levels. The rates, which vary by occupation, have not been changed in 13 years and no longer reflect economic realities in the Comoros. The minimum wage for a laborer is about $15 (4,600 Comorian Francs) per month. Efforts in 1993 to raise the minimum wage failed. However, most workers earn some income from subsistence agriculture or fishing and receive support from the extended family. The hours of work in any one job rarely exceed 35 hours per week. The Government periodically reminds employers to respect the Labor Code, which guarantees 1 day off per week, plus 1 month of paid vacation per year, but does not set a standard workweek. Overall, the Ministry of Labor sets very few standards. The authorities gave no concerted attention to health and safety standards in the miniscule manufacturing sector.

CONGO

During 1993 the Republic of Congo's young democracy was severely tried by several episodes of violent civil unrest. Throughout the year, President Pascal Lissouba, who was freely elected in 1992, governed with the support of a group of parties known as the Presidential Movement. The authority of his Government, however, faced challenges from a changing coalition of opposition parties. Strikes in March and tensions following first-round legislative elections in May gave way to armed conflict in June and July. Mediation efforts by the Organization of African Unity and the President of Gabon succeeded in avoiding civil war in August, but combat in the capital, Brazzaville, again erupted in November between opposition supporters and elements of the Government's security forces. Fighting continued sporadically through the end of the year.

The August agreement, known as the Libreville Accords, stipulated acceptance of the results of the first round of elections—with a panel of international arbiters to decide whether new elections should be called for a limited number of contested seats awarded in the first round—and scheduled a rerun of the second round of elections. The opposition alliance, the Union for Democratic Renewal-Congolese Workers Party (URD-PCT) won 8 of the 11 seats contested in the second round of elections

held October 6. The seating of these opposition deputies in the new National Assembly in late October appeared to signal the success of the Accords, but was soon overshadowed by renewed fighting between the army and opposition militias.

The armed forces, which had played a critical role in earlier, successful steps toward the establishment of a democratic system, ultimately demonstrated loyalty to the chain of command and carried out the orders of President Lissouba. However, opposition parties continued to maintain independent militias, and the presidentially recruited Aubeville militia, along with the Presidential Guard, remained outside the regular military chain of command. In December the Government acknowledged the danger of this proliferation of irregular forces and pledged to integrate all groups into the official security forces. Individual soldiers, and members of the Presidential Guard and the partisan militias, were implicated in a full range of abuses. In November the army's strategy included firing heavy artillery rounds into residential neighborhoods, causing many civilian casualties.

The economy is in transition from socialism to a free market system, and the 1992 Constitution recognizes private property rights. In recent years, the economy has been heavily dependent on petroleum earnings and external borrowing. Faced with the collapse of world oil prices after 1985 and saddled with one of the world's largest per capita debts, Congo has been under pressure from international lending institutions to implement strict structural adjustment measures and free market economic policies. Despite political turmoil, Parliament began to implement necessary austerity measures in late 1993.

Following the enormous strides achieved between 1990 and 1992, the human rights situation seriously deteriorated in 1993. While citizens now legally enjoy many civil and political liberties denied them in the recent past, 1993 saw the perpetration of widespread abuses. Militias loyal to faction leaders held hostages from rival groups and engaged in numerous instances of looting, burning, rape, and physical assault. In the violence, at least 200 and perhaps many more persons died, many homes were destroyed, and tens of thousands of people had to flee their neighborhoods in which other ethnic groups dominated. The Government exercised tight control over the media and expelled a Radio France International correspondent for failing to stick to the Government's preferred message. Other human rights problems persisted: reports of police brutality, deplorable prison conditions, societal discrimination against women, and the exploitation of Pygmy villagers in remote parts of the country.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—The death toll from the June-July unrest was probably between 35 and 50. Military actions in November, centered against armed militias in the opposition stronghold of Bacongo, and the fighting in December produced even more casualties. Supporters of both the Government and the two main opposition parties were equally implicated in politically motivated violence. Except for the Presidential Guard, the armed forces and police in their institutional capacity were not directly involved in political killings, though individual soldiers and police officers, acting in support of the President, and some members of the President's irregular militia committed offenses while dressed in police and army uniforms. The Government ignored calls from international groups to investigate human rights abuses and took no steps to identify supporters who participated in extrajudicial killings in 1993. While the army assault in November was directed at opposition militias, many deaths occurred in incidents apart from that conflict, and victims appeared to have been targeted on the basis of ethnic and political affiliation.

b. *Disappearance.*—Each stage of civil unrest throughout the year produced numerous credible reports of kidnapings and disappearances, both political and for ransom. Many people fled to their home villages without notifying local friends or family, and thus may wrongly still be reported as missing. There were also numerous reports of varying credibility of bodies thrown into the river or buried in the neighborhoods of Brazzaville, making an accurate accounting for those missing at the end of the year virtually impossible.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits the use of torture, but there were unsubstantiated, but reliable and persistent, reports of torture employed by partisans of both the Government and the opposition during the crisis in June and July. These abuses included reports of rape and mutilation, e.g., allegations of the amputation of fingers and hands. Videotaped accounts of abuses inflicted by both officials and civilians and interviews with victims on both sides of the conflict lent credence to such claims.

Military and security forces continue to employ unacceptable interrogation methods. Army, police, and customs officials beat detainees, particularly accused thieves and those who resisted arrest, to extract information and as punishment. Military and security force leaders tacitly condoned such beatings, failing to try and punish offenders and failing to provide effective training in the lawful treatment of suspects.

Prison conditions remained dire. Buildings are dilapidated, security lax, constructive activities such as classes or exercises are nonexistent, and food and medical care are inadequate. Most prisons, built during French colonial rule when convicted felons were sent out of the country, were never designed for long-term prisoners. Dozens of prisoners are often kept in the same cell for long periods of time, sleeping on the floor and subsisting on only one meal per day. Malnutrition and disease in prison are generally untreated, and some deaths occur.

d. *Arbitrary Arrest, Detention, or Exile.*—The new Constitution prohibits arbitrary arrest, detention, or exile. While the Code of Penal Procedure requires that all detainees be brought before a judge within 3 days and be charged or released within 3 months, these limits are often ignored in practice due to official indifference and limited resources. Delays in bringing cases to trial and arbitrary denial of bail continued to be problems in 1993.

During the July crisis, partisans on all sides engaged in arbitrary arrests and kidnapings, often solely to exchange hostages. The total number of these extralegal detentions was probably in the hundreds, but most were for very short periods. Partisans seized many people at roadblocks, at schools, and on the streets, including in late October two government officials from their homes. The officials were released on November 1, but subsequent violence led to many new arbitrary arrests and detentions by official and unofficial forces.

Exile is not used as a means of political control.

e. *Denial of Fair Public Trial.*—Modeled on French institutions, the judicial system consists primarily of local courts, courts of appeal, and the Supreme Court. The National Conference in 1991 abolished all special courts and secret trials. Defendants have the right to be represented by lawyers of their choice, and the State will cover legal fees in cases of destitution. There are credible reports of prisoners languishing—sometimes for years—in jail because of lost files, oversights, and bureaucratic inertia. The judiciary is overburdened with a caseload that far exceeds its capacity to ensure fair public trial.

In rural areas, traditional courts continued to handle many local disputes, especially property cases and probate functions. Dispute resolution in these traditional courts is by extended debate, with no known instances of resort to physical punishment. Many domestic disputes are also adjudicated under traditional law or within the context of the extended family.

During the state of emergency in June and July, the President suspended constitutional guarantees, but the Government promptly rescinded the declaration when order was restored. The violence in November did not produce a new state of emergency declaration.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution protects the privacy of the home, correspondence, and telecommunications. Under current law, all official searches of private properties and communications require a warrant. The transitional government announced publicly in 1992 that the police have limited powers and encouraged citizens to insist on their rights. It also prohibited the maintenance of security files on citizens who had not been accused of violating the law. These measures remained in force. However, there was a widespread—if only anecdotally supported—belief that the Government continued to make use of the telephone-tapping equipment remaining from the days of East Germany's tutelage of the secret police. During November, without first attempting to undertake lawful search, the army responded to unconfirmed reports of weapon caches by bombarding some houses with tank cannon fire.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Like the bill of rights that preceded it, the 1992 Constitution provides for freedom of expression and calls for the establishment of a special court to help safeguard freedoms of speech and press. That court has not been established, however, and, despite constitutional and judicial protections, the media enjoy only limited freedom.

While people speak freely and opposition newspapers are permitted to circulate, censorship became pervasive in 1993. Prime Minster Yhombi-Opango declared on June 24 that "only information emanating from state organs" would be broadcast by state radio and television and that news and declarations of political parties and associations would not be carried. Since the state media have a monopoly on local

radio and television—the main means of communicating with the public—opposition parties were effectively excluded from official broadcast and print media, having only indirect access to radio and television through broadcasts from neighboring Zaire.

The Government announced but did not implement its statement that 11 parties would have equal access to radio and television during the October elections. Actual coverage of the opposition was nearly nonexistent, and accusations of censorship remained unanswered. The opposition's attempt to establish its own radio station was one of the precipitating events leading to the outbreak of hostilities in November. In a November 9 speech, President Lissouba committed to providing radio and television time to opposition parties. At year's end, however, no steps had been taken to implement the proposal.

During November's disturbances, the Government objected to the reporting of a Radio France International journalist, Frederique Genot, the only resident foreign correspondent in Brazzaville. After she failed to change her reporting despite several reprimands, the Government took Genot into custody for 2 days and then expelled her from the country.

Academic freedom is respected.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution also provides for freedom of assembly and association. In practice, any group wishing to hold a public assembly must inform the Minister of the Interior, who reserves the right to forbid assemblies which threaten, in the Government's view, public peace or welfare. There were no reports of government denials of such requests in 1993. However, the Government placed strict limits on the time period during which campaigning was permitted before elections, and some opposition gatherings were broken up by uniformed and armed military shortly before the opening of the September-October legislative campaign.

c. *Freedom of Religion.*—There is no state religion; people are free to join any church and practice any religion. Denominations not already established must register with the State, a sometimes cumbersome process. Many different creeds were represented in President Lissouba's administration.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution declares the right of all citizens to circulate freely within the country and specifically prohibits roadblocks and barricades. Barricades were nonetheless widespread during civil disturbances, erected by army troops, members of the Presidential Guard, and opposition supporters. The National Conference Charter of Rights gives all citizens the right to leave the country and to return.

The country maintained its traditional hospitality toward refugees and asylum seekers. The U.N. High Commissioner for Refugees (UNHCR) has registered over 8,000 refugees from Cabinda, Angola, and almost 3,000 Cabindans live in a camp run by the International Committee of the Red Cross and the Red Crescent. The UNHCR also list over 2,200 Chadian refugees in 1993, as well as over 400 Zairians, and 300 Central Africans. A large number of other Zairians—mostly economic refugees—currently live in Congo.

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

Citizens have this right, but disagreement between the political groupings over the constitutional powers of the Presidency and the National Assembly led to near civil war in 1993. After disagreements with the National Assembly, the President dissolved Parliament in November 1992 and called for new elections in 1993. The opposition disputed his right to form an interim government, charged that the first round of legislative elections on May 2 were fraudulent, and refused to participate in the second round of elections on June 6, provoking the civil disturbances. During this period, the new 125-seat National Assembly opened on June 22—despite a boycott by the 49 URD-PCT members—and the President appointed the former army head, General Joachim Yhombi-Opango, as the country's new Prime Minister.

Subsequently, in the Libreville Accords, the parties, inter alia, recognized the published results of the first round of elections and stipulated that the second round of elections would be rerun. In the new second round of elections held October 6, the opposition won 8 of the 11 National Assembly seats at stake, thereby reducing the Presidential Movement's majority. A College of International Arbiters is considering claims that results for 56 seats in the first-round elections were tainted. The disputed seats include 22 now held by Government supporters and 34 held by the opposition.

Women are poorly represented in the political process. The Lissouba Government includes 2 women as part of its 28-member Cabinet. Women also represent only a

tiny minority in the security forces. While not officially prohibited, the indigenous Pygmies, living in remote regions, are largely excluded from the political process (see Section 5).

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

Several local human rights organizations remained active in 1993. These included the National Committee on Human Rights, the Congolese Human Rights League, and a committee of the Congolese Association of Women Lawyers. Other special interest organizations included groups representing the rights of prisoners, women, children, and the handicapped. All freely criticized past government human rights violations as well as abusive and discriminatory aspects of some traditional local customs.

In addition, the Government actively encouraged and even solicited the presence of international and nongovernmental (NGO) observers for elections held during the year. However, it refused to establish a committee to investigate past human rights violations, including torture and extrajudicial executions, as requested by international groups.

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

The new Constitution specifically forbids such discrimination, but much traditional discrimination persisted, particularly against women and Pygmies.

Women.—Although the new Constitution prohibits discrimination based on gender and specifically endorses the right of women to earn equal pay for equal work, discrimination against women is endemic. Inequities persist in salaries as well as in employment opportunities and access to education. According to one 1991 U.N. study, females receive only 33 percent of the schooling provided to males. While traditional inheritance customs favor maternal links, marriage and family laws overtly discriminate against women; for example, adultery is considered illegal for women but not for men, and polygyny is accepted. Women in rural areas are especially disadvantaged in terms of education and wage employment and are confined largely to family farm labor and child-raising responsibilities.

Nonetheless, educated women are increasingly finding pay equity and promotion opportunities more in consonant with their individual abilities, notably in white-collar and government jobs. Their qualifications are often enhanced by scholarships and foreign-sponsored studies. Women are also filling jobs once reserved only for males, such as magistrates and customs inspectors.

Violence against women occurs frequently. In particular, wife beating is an accepted practice, and cases are usually handled within the context of the extended family. Only in extreme instances of abuse are cases prosecuted in the courts. The issue of violence against women is largely ignored by the general population, including the media. The police rarely intervene in domestic disputes.

Children.—The Constitution states that the Government must protect children in accordance with international conventions. Child labor is illegal, and education is mandatory to age 16. In practice, limited state resources prevent achievement of these objectives, particularly in rural areas.

National/Racial/Ethnic Minorities.—The Pygmies, an ethnic minority numbering about 7,000 persons and living primarily in the northern forest areas, are theoretically provided by the Constitution with the same rights as other citizens. However, in practice—in a society in which Bantu Congolese predominate in all respects—they do not enjoy equal treatment. In particular, they are exploited as a source of cheap labor. Pygmy workers are generally underpaid for their work relative to others, with compensation often being in the form of clothing, food, or other goods instead of wages. This practice is reinforced by an ancestral tradition of Pygmy slavery by Bantus, and in 1993 there were still reports that this practice continued in isolated locations. One human rights monitor reported "incontrovertible evidence" that Bantus in the north exploit Pygmies in slave-like conditions. In the past, Pygmies were denied access to public education, health, and other basic services and to the right to own property. Pygmies have traditionally also been excluded from the political process.

People with Disabilities.—The Constitution provides the handicapped "specific measures of protection in relation to their needs." In practice, this means very little, though the Government has provided handpowered tricycles to some polio victims, and some special education is provided to the handicapped. The Government has an office charged with the welfare of handicapped persons, but its efforts in this area are limited by severe resource constraints. A Congolese NGO works actively to bet-

ter conditions for the handicapped. There is no law mandating accessibility to buildings.

Section 6. Worker Rights

a. *The Right of Association.*—Both the Constitution and the Labor Code affirm the right of workers to associate freely, allowing no restrictions on the formation of trade unions or on the right of workers to join a union. Nearly all workers are union members in the formal (wage) sector, and efforts have been made to unionize the informal sector. There is a small agricultural union.

Unions are now free to join or form new federations or confederations. However, the Congolese Trade Union Confederation (CSC), formerly the only officially recognized union confederation, is still a powerful force and in 1993 remained the only umbrella labor organization. After the 1991 National Conference revoked CSC's monopoly status and abolished the checkoff system, which gave CSC much of its power advantage, numerous small competing unions organized. The Secretary General of the CSC is also a member of the National Assembly.

Unions are free to strike but must file a letter of intent to strike with the Ministry of Labor beforehand, which starts a process of arbitration. In theory, a strike may not take place until after both parties have submitted to a process of nonbinding arbitration under the auspices of a regional labor inspector from the Labor Ministry. The letter of intent must also include notification of a strike date, at which time the strike can legally begin even if arbitration is not complete. Employers theoretically may fire workers if no notification is given before a strike. In practice, these aspects of the Labor Code are seldom enforced, and many strikes have occurred without prior attempts to resolve disputes through arbitration.

There were a number of strikes in 1993, including actions against oil companies, oil-related service firms, and state-owned companies employing railway and electrical maintenance workers. The public sector was particularly hard hit by labor disputes which erupted in strikes at the Ministries of Agriculture, Mines and Energy, Commerce, Culture, and Finance. Strikers most often sought increases in pay or other monetary benefits or, in the case of civil servants, back wages now overdue for 8 months. Public workers' strikes in March 1993 were resolved with relatively little civil disturbance, and unions remained relatively quiet as more serious unrest erupted later in the year.

Unions are free to affiliate with international trade unions. Exercising this new freedom, some trade unions signed cooperative accords with other African, European, and American trade union organizations. Although the CSC has not formally disaffiliated from the formerly Soviet-controlled World Federation of Trade Unions, the relationship has all but dissolved due to lack of interest or funding.

b. *The Right to Organize and Bargain Collectively.*—Still adapting to the new freedom of trade union pluralism, the old Labor Code, dating from 1975, remains unreformed. Neither have laws been adopted to create a new legal framework for collective bargaining. In the past, many benefits were legally mandated and industry-specific wage scales or "conventions" were determined by negotiated agreement between representatives of the union, the employer or employers' association, the Ministry of Labor, and the ruling Congolese Workers Party. Independent unions may now negotiate freely on their own or in cooperation with other unions, federations, or confederations.

Under the Constitution, employers are forbidden from discriminating against employees who exercise their constitutional right to organize or join a union. There have been no reported recent cases of firings for union activities.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited by law, and there is no evidence of its practice in the formal economy. (See Section 5, however, for a discussion of allegations of the slave-like exploitation of Pygmies.)

d. *Minimum Age for Employment of Children.*—The Constitution specifically prohibits children under the age of 16 from working. The Ministry of Labor is responsible for enforcing child labor laws but concentrates its efforts on the formal wage sector. Children often work at younger ages on small family subsistence farms in rural areas and can be seen working in the informal economic sectors of the cities without government intervention.

e. *Acceptable Conditions of Work.*—The Government sets a minimum wage of about $80 a month (23,500 FCFA), a level which in theory allows for "human dignity." In those trades still subject to "conventions" (see Section 6.b.), the negotiated minimum wages are without exception considerably higher than the legal minimum. Yet, even these preferential salary scales often set minimum wages quite low relative to the exorbitant cost of living. To make ends meet, many workers are obliged

to hold second jobs, practice subsistence agriculture, or receive help from the extended family. During 1993, this was particularly true for government workers, who were forced to cope with salary backlogs of several months.

The Constitution provides for not only reasonable pay, but also paid holidays, periodic paid vacations, and legal limits on allowable hours of work. The standard legal workweek is 42 hours. There is no specific requirement for a 24-hour rest period. The Labor Code stipulates that overtime must be paid for all work in excess of 40 hours per week and that regular days of leisure must be granted by employers.

Although health and safety regulations require twice-yearly visits by enforcement officers from the Ministry of Labor, in practice such inspections occur on a much less regular basis. There is no specific regulation granting workers the right to remove themselves from hazardous situations, but unions are generally effective in protecting members.

COTE D'IVOIRE

Power in Cote d'Ivoire was concentrated in President Felix Houphouet-Boigny, the country's leader since independence, and in the political party he founded, the Democratic Party of Cote d'Ivoire (PDCI). Genuine reforms have resulted in multiple political parties and opposition groups as well as a vigorous free press, but Houphouet-Boigny and the PDCI, winners of the 1990 elections, continued to dominate all levels of government. Houphouet-Boigny's 33-year rule ended with his death on December 7, but his legacy continued as Henri Konan Bedie, National Assembly President, PDCI stalwart, and Houphouet-Boigny's constitutionally designated successor, assumed the Presidency without incident.

Cote d'Ivoire's security forces include the national police (Surete) and the Gendarmerie, a branch of the armed forces with responsibility for general law enforcement. The Gendarmerie is the primary police organization outside the cities and is under the Ministry of Defense. The total personnel of the uniformed services, which includes the military forces and the gendarmes (but not the police), is 16,000. The armed forces traditionally have accepted the primacy of civilian authority. Security forces were responsible for a number of human rights abuses in 1993, including extrajudicial killing of criminal suspects.

Agriculture is the keystone of Cote d'Ivoire's economy. During the 1980's, Cote d'Ivoire was squeezed by a heavy debt burden and falling prices for its exports, principally cocoa, coffee, and tropical woods. Per capita annual income slipped in recent years from well over $1,000 to below $800. After reaching agreement with the International Monetary Fund and the World Bank on a stabilization program in 1991, the Government reduced its budget deficit, instituted changes in the tax and labor codes, and announced an ambitious program of privatization and administrative reform. Progress, however, has been slow.

The sometimes heightened political tensions of recent years were noticeably lower in 1993, with fewer instances of politically motivated abuses, such as arrests and detentions, travel restrictions, and harassment. The presence of opposition groups, other independent organizations, and a vigorous free press continued to improve both awareness and observance of human rights on a day-to-day basis.

However, in 1993 there continued to be serious human rights abuses. Members of the security forces, mainly the police and forest rangers (an armed unit under the authority of the Ministry of Agriculture), again carried out extrajudicial killings of criminal suspects and beat and abused detainees. They sometimes used beatings to extract confessions or as punishment. Many of these extrajudicial actions were the result of the authorities relaxing restrictions in 1992 on the police to help combat the extremely high crime rate in Abidjan. Abuse of authority by law enforcement personnel, who extort money at numerous roadblocks for contrived minor infractions from people traveling by private or public conveyance, is an example of the Government's failure to apply proper discipline to and control over law enforcement officials. There continued to be serious questions about the independence of the Ivorian judiciary, which appeared to be subject to external political influences.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no known political killings by government forces in 1993. However, following the Government's relaxation of restrictions in 1992 on the use of deadly force by security forces against armed suspects, there were new incidents in 1993 of the forces killing suspects during apprehension. There were also repeated reports, including in the media, that the

security forces killed alleged perpetrators after their arrest. Malefactors in the security forces are punished, and cases against several persons remained pending in the courts at the end of the year.

b. *Disappearance.*—There were no reports of officially sanctioned abduction or disappearance.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Police sometimes beat detainees in order to punish them or to extract confessions. Television footage and press photographs regularly show criminal detainees with swollen or bruised faces and bodies, possibly indicating police mistreatment during arrest or detention. Prisoners are often treated in a degrading or humiliating manner. For example, there were reports of prisoners held unclothed or clad only in undershorts, chained in pairs, and kept in cells measuring only 4 square meters without running water or electricity. In particular, non-Ivorian Africans residing in Cote d'Ivoire (who represent a third of the total population) are routinely treated more roughly by police on arrest than are Ivorians. In 1993 there were reported instances of officials being punished for mistreatment of detainees or prisoners. The Ivorian media also reported several incidents of poor treatment of prisoners, including reports of deaths at the hands of security forces.

Sanitary conditions in prisons are abysmal and are responsible for a high death rate. Common problems include overcrowding, malnutrition, infectious diseases, and infestation by vermin. In 1993 the Ivorian media published several reports on prison conditions, leading to severe public condemnation by human rights organizations and opposition political figures, many of whom had spent time in prison in 1992. Following this, the Government took steps to upgrade prison conditions in selected facilities. At Maca, the nation's largest detention facility, the Government rehabilitated the prison's workshop, bakery, and carpentry shop, and agricultural projects were introduced at several other prisons, allowing prisoners to grow some of their own food.

A prison riot in March in Abidjan resulted in 4 prisoners killed and 19 wounded when police used excessive force in attempting to quell the riot.

d. *Arbitrary Arrest, Detention, or Exile.*—Under the Code of Penal Procedure, a public prosecutor may order the detention of a suspect for up to 48 hours without bringing charges. The Code dictates that longer detention must be ordered by a magistrate, who may authorize detention for up to 4 months, but who must also provide the Minister of Justice a written justification for continued detention on a monthly basis. However, the law is often violated. Police have held persons for more than 48 hours without bringing charges. Defendants are not guaranteed the right to a judicial determination of the legality of their detention.

In contrast to 1992, when the Government detained large numbers of political activists who had not used or advocated violence, no such arrests were known to have occurred in 1993.

The Government does not use exile as a means of political control.

e. *Denial of Fair Public Trial.*—The modern judicial system is headed by a Supreme Court and includes the Court of Appeals and lower courts. The judiciary is theoretically independent of the executive branch in ordinary criminal cases. In practice, as well as under the Constitution's separation of powers provisions, the judiciary follows the lead of the executive in cases concerning perceived national security or political issues.

There is not a clear separation between the judicial and executive branches of government. There are credible reports that the courts give lenient treatment to individuals with personal ties to the Government. The Government, in turn, has asserted itself in matters pertaining to the judiciary; for example, a government official attempted at the last minute to cancel a long-planned judicial seminar involving both Ivorian and American jurists. Though a truncated version of the seminar finally took place a day later than planned, the resulting controversy greatly reduced attendance.

Ivorian law establishes the right to a public trial, although key evidence is sometimes given in camera. Defendants have the right to be present at their trials, and their innocence is presumed. Those convicted have the right of appeal, though in practice verdicts are rarely overturned. Defendants accused of felonies or capital crimes have the right to legal counsel, and the judicial system provides for court-appointed attorneys for indigent defendants. In practice, many defendants cannot afford private counsel, and court-appointed attorneys are not readily available.

In rural areas, justice is often administered at the village level through traditional institutions which handle domestic disputes, minor land questions, and family law. Dispute resolution is by extended debate, with no known instances of resort to physical punishment. These traditional courts are being increasingly superseded by the formal judicial system.

Civilians are not tried by military courts. Although there are no appellate courts within the military court system, persons convicted by a military tribunal may petition the Supreme Court to set aside the tribunal's verdict and order a retrial.

There were no known political detainees or prisoners in 1993.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—In Cote d'Ivoire's multiparty political system, citizens are free to join, or not join, any political party. However, public officials and employees of state-owned corporations are subject to pressure to become members of the PDCI. Party membership applications are sometimes passed to employees by their supervisors, and those who fail to sign up are believed to suffer in terms of promotion.

The Code of Penal Procedure specifies that a police official or investigative magistrate may conduct searches of homes without a judicial warrant if there is reason to believe that there is evidence on the premises concerning a crime. The official must have the prosecutor's agreement to retain any objects seized in the search and is required to have witnesses to the search, which may not take place between the hours of 9 p.m. and 4 a.m. In practice, the police sometimes use a general search warrant without a name or address. On occasion, the police have entered homes of non-Ivorian Africans (or rounded them up on the streets), taken them to local police stations, and extorted small amounts of money for alleged minor offenses.

Security forces monitor some private telephone conversations, but the extent of the practice is unknown. There is no evidence that private correspondence is monitored.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of expression. Independent newspapers criticized government policies frequently and also made unfavorable comments concerning the President of the Republic. The two government-owned daily newspapers offer some censure of government policy, although, in general, government-owned radio and television do not. The opposition press, ordinary citizens, opposition political party leaders, and student groups voice their disapproval of government or Presidential actions frequently and loudly.

Although such criticism is tolerated, insults or attacks on the honor of the country's highest officials are not. It is a crime, punishable by from 3 months to 2 years in prison, to offend the President, the Prime Minister, foreign chiefs of state or government, or their diplomatic representatives, or to defame institutions of the State. Moreover, a press law enacted in late 1991 created a new commission to enforce laws against publishing material "undermining the reputation of the nation or defaming institutions of the State." Although this law was not used to prosecute any newspaper publisher or journalist in 1993, it imposes stiff penalties, including the seizure of offending newspapers.

The Government owns both television networks—although there is one private television subscription service, Canal Horizon—and the major radio station. There are also four independent radio stations operating in the Cote d'Ivoire. The Government continues to exercise considerable influence over official media program content, news coverage, and other matters, using these media to promote its policies. Much of the news programming is devoted to coverage of the activities of the President, the Government, and the PDCI, but the amount of coverage given to the political opposition continues to increase. In 1993 the Government granted licenses to operate five radio stations and one television channel to private organizations, though none of the applicants with ties to the political opposition was selected.

Of the five daily newspapers, those with the widest circulation, Fraternite-Matin and Ivoire Soir, are government owned, though in 1993 both newspapers ran stories critical of government policies and increased significantly their coverage of the political opposition. A third daily, La Voie, with circulation figures approaching those of the government-owned dailies, is owned by members of the Ivoirian Popular Front, Cote d'Ivoire's principal opposition party. The fourth daily, Bonsoir, devotes most of its space to stories of general interest, and the fifth only began circulation in September. Most of the weekly newspapers are affiliated either with the ruling or opposition political parties. Foreign publications circulated freely.

Many prominent Ivorian scholars are active in opposition politics and have not suffered professionally. The Government insists, however, that teachers separate their political activity from their work in the classroom. There are reports that the police have used informers at the University of Abidjan to provide data on dissident political activity.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, but in practice that freedom is restricted when the Government perceives a danger to public order.

Although opposition parties believe that the Constitution permits private associations of any sort, the Government disagrees, and all organizations must register before commencing activities. There were no reports in the past 2 years of registration being denied. Further, Ivorian law prohibits the formation of political parties along ethnic or religious lines. The past several years have seen a proliferation of nongovernmental organizations (NGO's) addressing social, political, environmental, and other issues. In 1991 the Government made an administrative decision to ban the Federation of Ivorian Students (FESCI). Though the ban remains in effect, it was not enforced in 1993, allowing the FESCI to operate openly.

Permits are required for public meetings and are sometimes denied to the opposition but never to the PDCI. Gatherings occasionally are prohibited to prevent the expression of controversial views in public forums. In February 1992, the Government banned all outdoor public meetings "until further notice"; that ban has not been rescinded, though it is no longer strictly enforced.

An "antivandal" law passed by the National Assembly in 1992 holds organizers of a march or demonstration responsible if any of the participants engage in violence. The law was condemned by all major opposition parties and by the Ivorian Human Rights League (LIDHO) as being unduly vague and for imposing collective punishment for the crimes of a few. The law was not applied in 1993, although there were several instances when it could have been utilized, and it had no noticeable effect in restricting demonstrations.

c. *Freedom of Religion.*—There are no known impediments to religious expression. There is no dominant religion, and no faith is officially favored by the Government. The open practice of religion is permitted, and there are no restrictions on religious ceremonies or teaching.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government exercises minimal control over domestic travel. However, one of the most pervasive hindrances to freedom of movement and commerce within the country is the practice of establishing unauthorized internal roadblocks at which uniformed law enforcement officials extort small amounts of money or goods for contrived or minor infractions by motorists or passengers on public conveyances. This practice affects both Ivorian and foreign travelers and is a flagrant example of the misuse of authority and lack of discipline of law enforcement personnel.

Ivorians normally can travel abroad and emigrate freely, and they have the right of voluntary repatriation. There are no known cases of revocation of citizenship. In 1993 the Government twice denied permission to travel to international meetings to the head of the LIDHO under the pretext that he was neglecting his duties as dean of the university law faculty. For this reason he was unable to attend the World Conference on Human Rights in Vienna.

Cote d'Ivoire's refugee and asylum practices are liberal. The Government respects the right to first asylum, and no groups are denied recognition as refugees, either by law or custom. Refugees normally receive 1-year renewable resident visas for their first 5 years in the country, after which they may apply for permanent residence. Cote d'Ivoire does not offer permanent resettlement to refugees who have been granted temporary asylum elsewhere.

Cote d'Ivoire currently hosts some 260,000 refugees from the Liberian civil war, and the Government was actively involved in managing Liberian refugee relief, though most resources came from foreign donors. While the first influx of Liberian refugees received refugee status on entry, the large numbers that followed prompted the Government to initiate an application process, by which each refugee's status is determined by an interagency committee that includes representatives of the United Nations High Commissioner for Refugees. Those not granted refugee status are allowed to remain in the country but are not allowed to benefit from any refugee assistance programs. Since the Government expects that Liberian refugees will repatriate when conditions permit, no provisions have been made for their attaining permanent residence in Cote d'Ivoire. No cases of involuntary repatriation were reported in 1993.

Political exiles from a number of countries have found Cote d'Ivoire a hospitable safe haven as long as they do not engage in political activities directed against their home governments.

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

Citizens have this right, although many in the ruling PDCI continue to block needed reforms and to engage in practices that do not encourage further democratization. Multiple parties were permitted in the 1990 presidential, legislative, and municipal elections whose results were generally accepted as legitimate, despite nu-

merous flaws and fraud. Although under the Constitution only Ivorian citizens are entitled to vote, the electoral law, which is promulgated for each election, has in recent years extended voting rights to non-Ivorian Africans living in Cote d'Ivoire, who constitute approximately one-third of the country's population. This anomaly persists because only the President of the Republic and the President of the National Assembly have the standing to challenge the constitutionality of the electoral law, and neither has chosen to do so. Balloting is done in secret.

The President is both Head of State and president of the PDCI. An appointed Prime Minister, who serves at the pleasure of the President, controls day-to-day governmental affairs and economic policy. With 3 seats vacant, the PDCI holds 162 of the 175 seats in the National Assembly, which in practice is subordinate to the executive branch. Effectively, therefore, the President and the PDCI control all aspects of Ivorian political life.

There are no restrictions in law or practice on the participation of women in politics, and they play an active role in Ivorian society and government. There are two female Ministers in the Cabinet (Minister of Communications and Minister of Family and the Protection of Women) as well as a female director of the social security system. Women play a limited but noticeable role in the legislature; while only 8 of the 175 deputies in the National Assembly are women, 5 of the 36 leadership positions in the Assembly are held by females. Two members of the Supreme Court are women.

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

An internal independent human rights organization, the Ivorian League of Human Rights (LIDHO), was formed in 1987 and was recognized by the Government in July 1990. The League has actively investigated alleged violations of human rights and issued press releases and reports, some of which have been critical of the Government. In 1991 the Ivorian Association for the Promotion of Human Rights was established for thepurpose of improving Ivorians' awareness of their basic rights.

The Government has been cooperative towards international inquiries into its human rights practices.

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

Discrimination based on race, ethnicity, national origin, sex, or religion is against the law. Although French is the official language and the language of instruction in the public schools, radio and television programs are also broadcast in major national languages. Social and economic mobility are not limited by policy or custom on the basis of ethnicity or religion, although there are pronounced inequalities based on sex, with males clearly in the preponderant role.

Women.—Some Ivorian traditional societies accord women considerable political and economic power. In rural areas, tribal customs dictate that menial tasks are performed mostly by women, although farm work by men is also common. Government policy encourages full participation by women in social and economic life, but there is considerable informal resistance among employers in hiring women, who may be considered undependable by virtue of potential pregnancy. Women are underrepresented in some professions and in the managerial sector as a whole. Women in the formal sector, however, are paid on an equal scale with men and also enjoy maternity benefits. There are no reliable figures available on the percentage of women in the work force. Several Ivorian NGO's address the legal, economic, and social welfare of women, and there is a government ministry devoted to women's affairs.

Violence against women, especially wife beating, is neither widely practiced nor tacitly condoned. However, representatives of women's organizations state that wife beating does occur and often leads to divorce. Doctors state that they rarely see the victims of such violence. A severe social stigma is attached to such violence; neighbors will often intervene in a domestic quarrel to protect a woman who is the object of physical abuse. The courts and police view such domestic violence as a family problem unless serious bodily harm is inflicted or the victim lodges a complaint, in which case criminal proceedings may take place. The Government has no clear-cut policy regarding spouse abuse beyond the obvious strictures against violence in the Civil Code.

Children.—Cote d'Ivoire is a signatory to the U.N. International Charter on Human Rights, which contains sections promoting the health and education of children, and its Penal Code contains sections protecting children from infanticide and other violence and abandonment. The Ministries of Social Affairs and of Health and

Social Protection are both charged with safeguarding the welfare of children, and the Government has also encouraged the formation of NGO's centered on children's issues, such as the Abidjan Legal Center for the Defense of Children.

There is a parental preference for educating boys rather than girls, which is noticeable throughout the country but more pronounced in rural areas. According to a 1991 U.N. report, females in Cote d'Ivoire receive only one-third of the schooling of males. Sexual harassment of female students by male teachers is commonplace.

Female genital mutilation is illegal in Cote d'Ivoire but is nevertheless practiced, particularly among the rural population in the north and west. The operation is usually performed on young girls or at puberty as part of a rite of passage; it is generally done outside modern medical facilities and may be extremely painful and dangerous to health. The Government does not make strong efforts to prevent the practice, and social pressures are sufficiently intense that it persists, particularly in small villages, where the chief is the primary decisionmaker and village elders hold great influence. According to an independent expert in the field, the percentage of Ivorian women who have undergone genital mutilation may be as high as 60 percent. Excision is becoming less common as the population becomes urbanized and better educated.

People with Disabilities.—There are no laws mandating accessibility for the disabled. Laws do exist prohibiting the abandonment of the mentally or physically handicapped, as well as acts of violence directed at them. Traditional practices, beliefs, and superstitions vary, but infants with serious disabilities have usually not been allowed to live, though this has changed since independence in 1960. The above laws were designed to combat this traditional practice and have resulted in some curtailment in the practice in recent years. Disabled adults are not the specific targets of abuse, but it is difficult for them to compete with able-bodied workers in the tight job market. The Government supports special schools, associations, and artisans' cooperatives for the disabled. The Ministry of Health and Social Protection has been working since 1992 on legislation to protect the rights of the disabled. The media increasingly addressed the issue in 1993, citing progress made but calling for more to be done.

Section 6. Worker Rights

a. *The Right of Association.*—Workers have the right to form unions under the Labor Code of 1964, but union membership is not mandatory. For almost 30 years, the government-sponsored labor confederation, the General Union of Workers of Cote d'Ivoire (UGTCI), dominated union activity, except for the independent university teachers', secondary school teachers', and doctors' unions. In 1991 several formerly UGTCI-affiliated unions, including those representing transport, media, customs, and bank workers, broke away and became independent. In 1992 a total of 11 formerly independent unions joined together to form the Federation of Autonomous Trade Unions of Cote d'Ivoire (FESCACI). A third labor federation, Dignite, has attracted few members. The leader of the UGTCI occupies a senior position in the PDCI hierarchy.

The UGTCI is a relatively passive coordination mechanism rather than an active force for worker rights, although it has had some success in improving working conditions and safety standards. The UGTCI represents approximately one-third to one-half of the organizable work force. Non-UGTCI unions tend to be more activist than those within the UGTCI structure and to be identified with opposition causes.

The Government's response to its loss of control over the labor movement has been to create rival unions in important sectors, such as university faculty, post and telecommunications, public transport, and radio and television, and to grant these unions special economic concessions. The World Confederation of Labor (WCL) charges that the Government sought to prevent a landslide victory of the WCL's Ivorian affiliate, Dignite, in national trade union elections in early 1993 by imposing a single election ticket of UGTCI in major enterprises and the port of Abidjan. These and other complaints alleging antiunion discrimination, intimidation, and denial of recognition of Dignite, as well as the harassment and arrest of leaders of the independent teachers' union, Synares, during the period 1990–92, continued under investigation by the International Labor Organization (ILO) Committee on Freedom of Association in 1993. The Government did not repress union activities or detain any union officials in 1993, but some of the participants in a 1991 protest march, who were alleged to have destroyed property, remain in detention. The Government officially recognized Dignite in 1993.

The right to strike is provided by the Constitution and by statute. The ILO's Committee of Experts in 1993, however, reiterated earlier observations that the Labor Code gives the President excessive power to submit an industrial dispute to compulsory arbitration in order to bring an end to a strike. The Labor Code requires a pro-

tracted series of negotiations and a 6-day notification period before a strike may be held, effectively making legal strikes difficult to organize. Strikes are seldom called by the UGTCI; however, non-UGTCI unions freely strike. In 1993 hospital employees, telecommunications and postal workers, teachers, railroad employees, and staff at the Presidency and at a scientific research institute held strikes. Each of these strikes involved public sector workers. In each instance, the Government was able to meet some, although not all, of the demands presented by the unions, and the strikes were called off. In some cases, these unions went out on strike more than once during the year to protest arrearages in payment of salaries or other benefits that had been promised during earlier negotiations. Strikes in December involved teachers and electrical and health workers and were called off as a mark of respect after President Houphouet-Boigny's death was announced December 7, though agitation by university students continued.

The UGTCI, which is a member of the Organization of African Trade Union Unity, formally prohibits its individual trade unions from forming or maintaining affiliations with other international organizations in their fields. Non-UGTCI unions and confederations may freely affiliate with international bodies, as is the case of Dignite with its WCL affiliation.

b. *The Right to Organize and Bargain Collectively.*—The Labor Code grants all Ivorians the right to join unions and to bargain collectively. Collective bargaining agreements are in effect in many major business enterprises and sectors of the civil service. In most cases in which wages are not established in direct negotiations between unions and employers, salaries are set by job categories by the Ministry of Employment and Civil Service. Labor inspectors have the responsibility to enforce a law which prohibits antiunion discrimination. Nonetheless, the ILO is reviewing charges that the Government practices such discrimination.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—There have been no reports of forced labor, which is prohibited by law. However, the ILO's Committee of Experts in its annual report questioned a decree that places certain categories of prisoners at the disposal of private enterprises for work assignments without their apparent consent.

d. *Minimum Age for Employment of Children.*—In most instances, the legal minimum working age is 16, and the Ministry of Employment and Civil Service enforces this provision effectively in the civil service and in large multinational companies. Ivorian labor law limits the hours of young workers, defined as those under 18, compared to the regular work force. However, children often work on family farms, and in cities some children routinely act as vendors in the informal sector. There are also reports of children working in what could be described as sweatshop conditions in small workshops. Many children leave the formal school system at an early age; primary education is mandatory but far from universally enforced, particularly in rural areas.

e. *Acceptable Conditions of Work.*—Cote d'Ivoire has administratively determined monthly minimum wage rates which were last adjusted in January 1986. A slightly higher rate applies to construction workers. Minimum wage rates are enforced only with respect to salaried workers employed by the Government or registered with the Social Security Office. Minimum wages vary according to occupation, with the lowest set at approximately $115 (CFA Francs 33,279) per month, insufficient to provide a decent standard of living for a worker and family. The majority of Ivorians work in agriculture or in the informal sector where the minimum wage does not apply.

Through the Ministry of Employment and the Civil Service, the Government enforces a comprehensive Labor Code governing the terms and conditions of service for wage earners and salaried workers and providing for occupational safety and health standards. Those employed in the formal sector are reasonably protected against unjust compensation, excessive hours, and arbitrary discharge from employment. The standard legal workweek is 40 hours. The law requires overtime payment on a graduated scale for additional hours. The Ivorian Labor Code provides for at least one 24-hour rest period per week.

Government labor inspectors are empowered to order employers to improve substandard conditions and, if the employer fails to comply, fines may be levied by a labor court. In the large informal sector of the economy, however, involving both urban and rural workers, the Government's occupational health and safety regulations are enforced erratically at best. Ivorian workers in the formal sector have the right, under the Labor Code, to remove themselves from dangerous work without jeopardy to continued employment by utilizing the Ministry of Labor inspection system to document dangerous workplace conditions. However, workers in the informal

sector are unlikely to be able to remove themselves from such labor without losing their employment.

DJIBOUTI

Djibouti remained at year's end a de facto one-party State ruled, since independence in 1977, by President Hassan Gouled Aptidon and the People's Rally for Progress (RPP). Djibouti is composed of two main ethnic groups, the politically predominant Issa (the tribe of the President, who is of Somali origin) and the Afar (who are also numerous in Ethiopia and Eritrea). The Afars comprise the largest single tribe in Djibouti, but they are outnumbered by the Issa and other Somali clans (Issak and Gadabursi) taken together.

The Constitution permits four political parties. Of the two opposition parties recognized by the Government, only one, the Party for Democratic Renewal (PRD), participated in the December 1992 legislative elections. The National Democratic Party (PND) boycotted them on the grounds that President Gouled did not consult the opposition on the "democratization" process and hence that safeguards did not exist for free and fair elections. The Front for the Restoration of Unity and Democracy (FRUD), essentially an ethnic Afar organization, persuaded most Afars also to boycott the elections. Consequently, the RPP won all 65 parliamentary seats and, with the managed reelection of President Gouled in May, holds all significant government posts as well.

In late 1991 the FRUD began a large-scale Afar insurgency in the northern part of the country; its unmet demands include the formation of a transitional government and regional autonomy for the Afars in Djibouti. A government counteroffensive which checked the FRUD advance in July resulted in the capture of most rebel bases in northern Djibouti.

As a result of the conflict, the Government more than tripled the size of the combined Djiboutian national armed forces (comprised of the army, the national security forces, and the gendarmerie) to nearly 20,000 persons. This mobilization had a devastating effect on Djibouti's economy. By year's end, the total costs of maintaining the armed forces on a war footing accounted for about 35 percent of central government budgetary expenditures, a percentage so high as to be the principal cause of the economic crisis gripping the nation. The armed forces, especially those of Somali origin, committed serious abuses of human rights during this period.

Demobilizing the armed forces remains a challenge for the Government since adult male unemployment in the capital hovers around 60 percent. Djibouti's soil is unproductive. Pastoralists who have not settled in Djiboutiville eke out a living from their livestock. There is virtually no industry. The State is the largest employer. Commerce and services for the 12,000 expatriate residents (mostly French, including 3,800 military personnel) and the operation of the seaport and airport account for most of the gross domestic product. People are free to pursue private business interests and to hold personal and real property.

Human rights remained restricted despite the introduction of a new Constitution and a limited multiparty political system. Although freedom of the press has expanded since the Government allowed the publication of opposition newspapers and tracts, many of the other rights provided for in the Constitution were not respected. The Government orchestrated constitutional changes to enhance its political power and dashed the opposition's hopes for a peaceful settlement of the civil conflict by manipulation of the May presidential elections. Its military offensive and the virtual occupation of the north by national defense forces essentially of Somali origin, along with the attendant abuse of the Afar civilians living there, moved Djiboutians perilously close to open ethnic conflict. The authorities also continued to detain arbitrarily political opponents and to abuse detainees, reportedly including by the use of torture. Violence against women and children continued to be a problem; rape was on the rise in 1993. It often goes unpunished.

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

a. *Political and Other Extrajudicial Killing.*—There were no known instances of deliberately targeted political killings, but fighting between the army and the FRUD led to many civilian casualties (see Section 1.g.).

b. *Disappearance.*—There were no reported disappearances or abductions, yet the Government again failed to investigate the disappearance of 12 Afars on December 18, 1991. These 12 are presumed dead and are listed among the 59 victims of the massacre on that date of Afar civilians in Arhiba, Djiboutiville. Gendarmerie officers implicated in the massacre have not been punished. Nor did the Djiboutian army

try the soldiers who tortured and killed Hasna Mohamed Ali in 1992. There is reason to believe that high-level officials condoned their action after the fact.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution affirms that no one shall be subjected to torture, nor to other inhuman, cruel, degrading, or humiliating punishments. However, security forces continued to abuse detainees, mainly Afars and criminal suspects. In this connection, the Movement for Solidarity with Civilian Victims of the North affirmed that at least 12 Afar women were raped by government forces during a September 5 attack on rebel strongholds.

In 1993 credible witnesses reported seeing police officials beating two British nationals with fists and a broken bottle and dragging them by their hair into a police station for interrogation following a dispute in a local bar.

President Gouled's Chief of Staff, Ismael Omar Guelleh, heads the secret police. Many of his critics assert that he has orchestrated the torture of opponents to Gouled's regime. Interrogation techniques have included use of "the swing" by which victims are tied by their wrists and ankles to a horizontal pole and beaten all over. In general, the Government has taken no action to pursue or prosecute persons accused of torture.

In the overcrowded central prison, former prime minister Ali Aref Bourhan and his fellow inmates staged a brief hunger strike in June to protest the curtailment of family visits. Subsequently, family visits resumed, but Ali Aref's relatives maintained that he had no access to medical care for chronic skin and prostate ailments.

The Government permits representatives of the International Committee for the Red Cross (ICRC) to have regular access to all prisoners whether civilian or military.

d. *Arbitrary Arrest, Detention, or Exile.*—The Ministry of Interior regularly disregards the criminal procedures which stipulate that the State may not detain a person beyond 48 hours without an examining magistrate's formal charge. In particular, people who express views critical of the Government and the President are often subjected to arbitrary arrest and detention. The national police briefly arrested Ibrahim Warsama Myreh, "Dounch", a nephew of the President and a member of the ruling party, after he criticized government-sanctioned fraud during the May 7 presidential elections. On September 15, police detained Mohamed Houmed Soulch, the President of the Djiboutian Association for the Respect of Human Rights and Liberties; he was subsequently released. Another victim of arbitrary detention and interrogation was Dabale Ahmed Kassim, editor of the weekly paper, The Combat, who was accused of offending institutions of the State, a charge which government authorities typically use to keep political opponents in line.

With the ICRC acting as intermediary in the exchange, and with the cooperation of the Ethiopian Government, the Djibouti Government and the FRUD exchanged detainees on December 1: The Government released 68 detainees, and the FRUD released 26 members of the armed forces.

e. *Denial of Fair Public Trial.*—The legal system comprises legislation and executive decrees, French codified law adopted at independence, Shari'a (Islamic law), traditions of the native nomadic peoples, and a Constitution modeled on the Constitution of the Fifth French Republic. Crimes committed in urban centers are dealt with in accordance with French-inspired law and judicial practice in the regular courts. Civil actions may be brought in these courts or in the traditional courts.

The Constitution states that all persons have the right to life, liberty, and the security and integrity of the person. It also declares that the accused is innocent until proven guilty, has the right to legal counsel, and has the right to be examined by a doctor if imprisoned. Theoretically, imprisonment can occur only if an arrest decree is confirmed by a judicial magistrate. In practice, security forces arrest people without warrants, and constitutional provisions for a fair trial are often not respected.

The judiciary is not independent of the executive. The State Security Court tries people accused of political crimes and persons judged by the President to be a danger to national security. Some members of the State Security Court as well as investigating magistrates do not have a legal education. Political trials, such as the trial of Ali Aref Bourhan in July 1992, may be appealed to the Supreme Court, but the judgments of the lower courts are usually sustained. On June 20, the Supreme Court rejected Ali Aref's appeal of the State Security Court's guilty verdict.

A general amnesty for 213 criminals in September did not apply to Ali Aref Bourhan, Mohamed Houmed Soulch, and other detainees considered political prisoners by human rights monitors. However, a December 15 presidential pardon released Ali Aref and 13 associates.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Although the Constitution provides for the inviolability of the family, home, cor-

respondence, and communications, telephone service to opponents of the regime, including opposition party and Afar leaders, is believed to be tapped by the security services.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—The conflict between the armed forces and the Afar-led insurgency resulted in excessive use of force and violations of humanitarian law concerning the treatment of civilians.

On September 5, FRUD combatants ambushed an army convoy 15 kilometers outside Assa Gueyla, killing four soldiers and wounding seven. The rebels kidnaped and raped a woman member of the convoy. Afar leaders asserted that the convoy had been sent to resupply government troops. Retaliation by government forces left a reported 51 dead in the vicinity of Randa and Tadjoura, according to FRUD and other Afar sources. A northern traditional leader confirmed 21 civilian dead near Tadjoura alone. Despite credible reports to the contrary, the Government denied that its security forces perpetrated a massacre of civilians.

The Djiboutian Association for the Respect of Human Rights and Liberties, an organization whose credibility remains to be established, claimed that innocent Afar civilians were often killed indiscriminately by government military and paramilitary forces in northern Djibouti. In one such instance in July, soldiers reportedly killed a father and son, Mola Omar and Mohamed Mola, in the vicinity of the town of Lahassa.

During the first 6 months of 1993, the ICRC maintained medical clinics at some 10 locations in the north, including the towns of Assa Gueyla and Dorra. After the government offensive of July, independent organizations such as the ICRC and Doctors Without Borders no longer had access to northern Djibouti. For this reason, FRUD reports of atrocities and government reports of ambushes have not been independently confirmed. The Government continues to deny access to the north to embassies, international organizations, and other observers. All these organizations continue to receive reports of human rights violations which cumulatively strengthen the circumstantial case against the Government.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Government continued to exercise control of the national media. During the Presidential campaign, which was confined to the 4 to 6 weeks preceding the May 7 elections, it permitted political debate and made available equal television and radio time to the five presidential candidates to express their views. However, the official media devoted disproportionate coverage to the activities of the ruling party.

The Government employed economic coercion to stifle freedom of speech, firing public sector employees who supported opposition candidates or unwelcome political ideas. Since President Gouled's reelection, persons who have publicly expressed views critical of the Government or caused offense to the President have been interrogated, arrested, or detained—occasionally for a long period—before being tried for defamation, as in the case of Mohamed Houmed Souleh (see Section 1.d.).

The Government Information Secretariat censors the official press, which presents the views of the ruling party. Djibouti's radio and television stations and one newspaper, La Nation, a French-language weekly, are government owned and operated. The official media do not criticize the Government. The newspapers of the two legal opposition parties circulate freely and openly criticize the Government.

The Government neither interferes with foreign broadcasts nor prevents the distribution of foreign publications or detains persons in possession of such publications.

b. *Freedom of Peaceful Assembly and Association.*—The Government effectively bans political protest by selective enforcement of public assembly laws, in spite of the freedom of assembly provisions of the new Constitution. Permits are required for peaceful assembly from the Ministry of Interior. The PRD and the PND have applied for and been granted such permits for rallies in the past.

The Government permitted independent presidential candidates and the two authorized political parties to hold rallies before the election, but let it be known that public protest of the results would not be tolerated. As the Government had harshly repressed an opposition political rally in the aftermath of the legislative elections of December 18, 1992, the PND and the PRD, fearing further government repression, refrained from demonstrating against the Government's manipulation of the election process.

The Constitution sanctions four political parties. The ruling party, the RPP, reserved for itself the right to determine the criteria and the circumstances under which the other three parties could be recognized as legal entities. At year's end, the Government had recognized just two opposition parties, the PND and the PRD.

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c. *Freedom of Religion.*—Islam is the state religion. Virtually the entire population is Sunni Muslim. The Government imposes no sanctions on those who choose to ignore Islamic teachings on such matters as diet, alcoholic consumption, and religious fasting.

The foreign community supports Roman Catholic, French Protestant, Greek Orthodox, and Ethiopian Orthodox churches. Foreign clergy and missionaries may perform charitable works but proselytizing, while not illegal, is discouraged.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Travel within Djibouti has been disrupted by civil war so movement between the north and south is severely restricted. In principle, Djiboutians may travel or emigrate to foreign countries,without restriction or interference, except to Israel.

In June the Government refused to issue travel documents to the President of the Association for the Respect of Human Rights and Liberties, Mohamed Houmed Soulch, and to Samira Ali Hugo, wife of FRUD spokesman Abbo Abbatte, who had hoped to travel to the Vienna International Conference on Human Rights.

Djibouti hosts almost 100,000 refugees, according to government sources. This would be approximately a fifth of the total population. The United Nations High Commissioner for Refugees (UNHCR) acknowledges the presence of some 45,000 refugees, a more credible figure. Most refugees come from Somalia although some are from Ethiopia. About 20,000 are in four refugee camps. Most of the other refugees live in Djiboutiville, where they have no refugee status.

Some 4,000 Afar civilians fleeing civil conflict sought refuge in Ethiopia and Eritrea. As many as 9,000 may have fled to those countries since the end of 1991.

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

The right of citizens to change their government, while theoretically possible, remains unrealizable. The Government permits multiparty democracy as long as it poses no credible threat to it, i.e., as long as the elite which has held power since independence in 1977 can retain it. The Constitution, voted into law on September 4, 1992, lays down fundamental rights, almost all of which are circumscribed or controlled in their implementation by the ruling regime.

President Gouled was reelected to a fourth term on May 7 in a tightly controlled multiparty presidential election. He was endorsed by about 60 percent of the 50 percent of the registered voters who went to the polls. The President secured only 53 percent of the votes in the capital where, by all accounts, the balloting was fair, but he claimed more than 80 percent of the votes in the rebellious Afar-inhabited northern districts where international observers detected widespread fraud. The Afars, who compose at least one-third of the population, heeded admonitions from the FRUD to boycott the election. President Gouled's four electoral opponents, all fellow Issas, issued a joint communique characterizing the election as a "massive fraud," and the FRUD dismissed the exercise as a sham.

The Afars, a large segment of the body politic, boycotted all three occasions when the Djiboutians were called upon to vote. They also boycotted the constitutional referendum in September 1992, on the grounds that it was a creation of President Gouled's regime and not a text upon which the disaffected members of the community were consulted. They claimed the Constitution was tailored in such a way as to ensure the President's domination of virtually all aspects of the government—including the legislature and judiciary. Having rejected the Constitution, the Afars boycotted the subsequent elections for fear of legitimizing the process initiated by the President and his supporters.

Women are poorly represented in government and in the political process. There are no women in the Cabinet or in Parliament.

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

The Government was disdainful of a domestic human rights group. It refused to recognize the Association for the Respect of Human Rights and Liberties and imprisoned its leader, who had criticized government suppression in the north. Government officials viewed the human rights Association as a political body and treated it as an opposition group.

The Government cooperated with some international and nongovernmental organizations, notably the ICRC, which had access to the central prison and interceded on behalf of detainees in the conflict between the Government and the FRUD. On December 1, the ICRC arranged the exchange of 68 FRUD detainees held by the Government for 26 held by the FRUD in Ethiopia.

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

The Constitution prohibits discrimination on the basis of language, race, sex, or religion, but discrimination against women and ethnic minorities is widespread.

Women.—Women legally possess full civil rights. They traditionally play a secondary role in public life and do not have the same professional opportunities as men. Women are active in small trade as well as in the clerical and secretarial fields. There are only a few women in the professions (civil service, judiciary, teaching and medicine) and the security services.

According to medical personnel, all forms of violence against women increased in 1993. The Government has not specifically addressed violence against women or children. Very few perpetrators of crimes against women, including rape, are punished. When punished, they are often pardoned or serve short sentences. Most domestic and community violence is considered a family or clan affair. Occurrences of gang rape indicate that violence against women is no longer controllable by traditional authorities.

Children.—Although there are a few charitable organizations working with children, the Government devotes virtually no public resources to the advancement of children's rights and welfare.

In 1988 the Djiboutian National Women's Union began an educational campaign against female genital mutilation, particularly infibulation, the most extensive and dangerous form of sexual mutilation in Djibouti, which is generally performed on girls between the ages of 7 and 10. The campaign has had only marginal impact on this pervasive custom, which is widely condemned by international health experts as damaging to physical and mental health. According to an independent expert, as many as 90 percent of Djiboutian females have undergone this operation. Judicial reforms enacted in 1991 stipulate that anyone found guilty of genital mutilation of young girls can face a heavy fine and 5 years in prison. No one has been convicted under this statute.

The Government has not specifically addressed other forms of child abuse which are often lightly punished. When a child is raped or otherwise abused, the perpetrator is usually fined an amount sufficient to cover medical care given to the injured child.

National/Racial/Ethnic Minorities.—The Government continued with its discriminatory ethnic policy. Because of the President's policy of assigning key positions of authority to members of his tribal group, in particular to powerful advisers in his Cabinet, the Issa (the dominant Somali clan in Djibouti) control the ruling RPP, the civil service, and the military. The President's subclan, the Mammasane, is particularly strong and wields disproportionate power in the affairs of state.

People with Disabilities.—There is no specific legislation concerning the handicapped.

Section 6. Worker Rights

a. *The Right of Association.*—The organized labor movement is in its infancy. Fewer than 20 percent of workers in the very small wage economy are union members. Many unions represent employees of individual private or state-owned enterprises. Under the Constitution, workers are free to join unions and to strike provided they comply with legally prescribed requirements. Previously, the Government exerted control over individual unions through the state organized labor confederation, the General Union of Djiboutian Workers (UGTD). The UGTD has been in eclipse since the establishment of the independently organized Democratic Labor Union (UDT) in 1992.

In May secondary school teachers successfully organized an independent labor union, SYNESED. After its members struck and refused to grade end-of-year exams, the union was recognized by the Government.

Unions are free to maintain relations and exchanges with labor organizations in other countries. The UGTD is affiliated with the pan-African trade union body, the Organization of African Trade Union Unity.

b. *The Right to Organize and Bargain Collectively.*—Although labor has the right to organize and bargain collectively, collective bargaining rarely occurs. Relations between employers and workers are informal and paternalistic. Wages are generally established unilaterally by employers on the basis of Ministry of Labor Guidelines. When disputes about wages or health and safety issues arise, the Ministry of Labor encourages direct, ad hoc resolution by labor representatives and employers. Employees or employers may request formal administrative hearings before the Ministry of Labor's Inspection Service. The law prohibits antiunion discrimination against employees, and employers guilty of such discrimination are legally required to reinstate workers fired for union activities.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor. This prohibition is generally observed, but security forces sometimes compel illegal immigrants to work for them in lieu of deportation.

d. *Minimum Age for Employment of Children.*—The legal minimum age, 14 years, is generally respected. The paucity of labor inspectors makes it unlikely that investigations are ever carried out, according to union sources. Children may and do work in family owned businesses, such as restaurants and small shops, at all hours. Children are generally not employed under hazardous conditions. Many of the beggars in the streets are young children whose parents have forced them to beg for a living.

e. *Acceptable Conditions of Work.*—Only a tiny minority of the population is gainfully employed. Minimum wage rates are specified by government regulation, according to occupational categories, and are enforced by the Ministry of Labor. Last raised in 1980, the minimum monthly wage rate of approximately $200 for a 12-hour day of unskilled labor does not provide adequate compensation for a worker and his family to maintain a decent standard of living. Many workers receive housing and transportation allowances.

By law the workweek is 40 hours, often spread over 6 days. Overtime pay and mandatory seniority bonuses are provided. Workers are guaranteed daily and weekly rest periods and paid annual vacations. The Ministry of Labor is responsible for occupational health and safety standards, wages, and work hours. Because enforcement is ineffective, workers face hazardous working conditions, particularly at the port. Workers rarely protest as they fear replacement by others willing to accept the risks.

EQUATORIAL GUINEA

Nominally, since 1991 Equatorial Guinea has had a constitutional democratic government with judicial integrity and multiparty elections for national offices. The reality is that President Obiang, in power since 1979, and a small group of his associates dominate the executive, legislative, and judiciary, and make no meaningful distinction among the branches of government or its party, the Democratic Party of Equatorial Guinea (DPEG). Fraudulent legislative elections took place in November with the DPEG winning 68 seats out of 80 in the National Assembly. Boycotting the elections were the main opposition parties and an estimated 60 to 80 percent of the potential voters. The new Cabinet was made up exclusively of DPEG members and was expanded from 34 to 42 portfolios.

As the country's senior military officer, Head of State, and government-party chief, Brigadier General Obiang also dominates the military and police. Obiang's brother, Armengol Ondo Nguema, heads the security apparatus, which is responsible for frequent and severe human rights violations, usually inflicted to intimidate the population. The authorities took no meaningful action against any security force member accused of human rights violations. The large Moroccan Presidential Guard in country since 1979 departed in August, leaving an estimated 20 Moroccan police to provide protection for the President. A French-trained and -equipped special force of 200–250 persons, raised largely from Mongomo youth (Obiang's area), replaced the Moroccan Presidential Guard.

Equatorial Guineans live increasingly by subsistence agriculture as well as traditional hunting and fishing. The small monetary sector, based on export of petroleum, timber, and cocoa, and heavily subsidized by foreign assistance, has recovered somewhat from the devastation of the Macias era (1968–1979) but is far short of preindependence levels. The Government failed to implement needed economic reforms, and as a result, the International Monetary Fund in August suspended an enhanced structural adjustment program agreed to in January. Pervasive corruption stifles private sector development and discourages legitimate investment from abroad. The great majority of the population goes without potable water, electricity, even minimal health care, or basic education.

The overall human rights performance deteriorated dramatically. Despite the historic agreement in March on a National Pact between the Government and opposition parties for political reform, and despite its public promises of an open and free electoral process, the Government continued to repress perceived opposition and to control the outcome of the legislative elections. There were extrajudicial killings by the security forces—in numbers unknown since the 1970's—and numerous arbitrary arrests, short-term detentions, and extensive instances of physical abuse of perceived antigovernment elements. Where prosecution was desired, the Government

used military tribunals which failed to meet minimum international standards for fair trial. The regime also attempted intimidation against foreign diplomats, including expulsion of the Spanish Consul General at Bata as well as thinly veiled threats by the regime against the Ambassadors of Spain and the United States.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were at least six politically motivated killings, the highest number in the 14 years since Obiang came to power. Four of the deaths were opposition party members and two were members of a minority group protesting government repression on the remote island of Annobon. The Government did not investigate seriously any of the incidents.

Police detained Damaso Abaga Nve, an activist in the Popular Union Party (PU), without warrant in late March in Ebebiyin, the capital of Kie Ntiem province in the continental portion of Equatorial Guinea. According to credible sources, he died during the night of March 30 after police beat him severely. A committee appointed by the compliance commission, established by the National Pact, investigated and reported that Abaga had been illegally detained on oral orders from a senior local official, that he had died as the result of head injuries inflicted by the police while in custody, and that senior authorities had attempted to cover up the truth of his death. Not having prosecutorial authority, the commission called on the Government to investigate and take appropriate legal actions. The Government did not follow up, claiming Nve had been found dead after his release from detention.

Similarly, police detained arbitrarily Gaspar Mba Oyono, a PU activist, and several others without warrant in late June in the district capital of Nsok Nsomo, Kie Ntiem province. According to credible reports, he was extensively tortured during 5 days. Because of massive internal hemorrhaging, upon release Mba's family took him to the Kie Ntiem provincial hospital at Ebebiyin where he died 4 days later. The Government did not acknowledge the death to be related to mistreatment during detention.

On August 22, security personnel, led by a cabinet member, forced their entry into the hotel room of Moises Andres Mba Ada, the leader of the Popular Union Party who had returned from long exile the previous day, and apprehended Pedro Motu Mamiaga, a longtime PU political activist. Motu had spent years in prison during both the Macias and Obiang regimes and had returned from exile in late July. When Motu demanded to see a written order for his detention, police severely beat him by blows from rifle butts as well as kicks and punches as the arresting team attempted to force him into a police car. Motu's cries of alarm and struggle attracted the attention of numerous passersby, and eyewitnesses reported that Motu was severely injured during his arrest and removal. He died during the night while in custody as a result of severe further torture by Secretary of State for National Security Manuel Nguemba Mba. The Government announced the next day that Motu had admitted to being the leader of a plot to overthrow the Government and kill Obiang, and, out of remorse, had committed suicide. However, the Government refused to return the remains to the family, buried him at an unknown site, and provided no written evidence that Motu was involved in a plot or medical proof that he had committed suicide (see also Section 1.c.).

On August 28 near the town of Bata, four youths had a nonpolitical altercation with Romualdo Rafael Nsogo, an activist in the Convergence for Social Democracy (CFDS). Nsogo claimed he defended himself with a knife, killing one and wounding another. Despite its lack of jurisdiction in the matter, a military tribunal on September 18 took 1 day to convict Nsogo of first degree murder, and a military firing squad executed him the following day (see Section 1.c.).

On August 13, on the remote island of Annobon, the local security detachment used excessive force in handling an incident in which a number of the island's youths, protesting economic conditions on the island, held hostage the island's Governor and military commander. In the assault, the security forces killed an innocent bystander, Simplicio Llorente Yaye, and later shot and killed one of the young activists, Manuel Villarrubia, as he attempted to escape. The authorities arrested 21 others, many of whom had taken no part in the holding of the officials, and the security forces, according to credible reports, tortured some of the detainees before taking them to Bata, where they were tried by a military tribunal for rebellion and supporting Annobon's secession from Equatorial Guinea (see Section 1.c.). Eight were convicted in a 1-day trial in September, but they were pardoned in October; the other 15 were released without charge but were not returned to Annobon.

b. *Disappearance.*—There were no documented disappearances. However, families were often at a loss for days to locate and contact relatives who had been

extrajudicially detained. This was particularly true of active duty and former military personnel held at military camps.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Police and other security forces continued routinely to administer torture and other cruel forms of mistreatment to prisoners. Authorities employed a wide variety of techniques, including severe beatings, electric shock, pouring irritants such as diesel fuel on the skin, and hanging trussed victims from poles and wall hooks. In the case of perceived enemies of the Government, the primary motives for physical and psychological torture often appeared to be to punish and intimidate more than to interrogate or gain confessions.

Police often detained known or suspected opposition supporters only long enough to administer a beating. A common punishment session involved 50 or 75 strokes with a rubber truncheon or short length of electrical power cable on the soles of the feet, back, buttocks, or other parts of the body. Police also employed truncheon blows over the kidneys, leaving short-term hemorrhaging and possible permanent damage, blows to the head, and open-handed slaps over ear openings causing excruciating pain and in some cases leaving permanent injury.

In one well documented case, in January the Government arrested three well-known politicians returning from abroad: Benjamin-Gabriel Balinga Alene, Secretary General of the Social Democratic Party (SDP); Antonio Ebang Mbele, President of the Democratic Progressive Alliance (DPA); and Estanislau Don Malavo, a senior adviser in the Liberal Party (LP). The Government announced to the public over television and radio and to the diplomatic corps by formal note that the three had attempted to enter the country clandestinely at an unauthorized crossing point near Ebebiyin, when in fact they presented themselves for inspection at the Ebebiyin entry point. Despite assurances to the public and foreign diplomats of fair treatment, the authorities took detainees to Bata where they underwent several hours of torture which included truncheon blows to the lower back and to the soles of the feet, followed by being forced to jump up and down. Ten months following the incident, the three still suffered; Don Malavo, in particular, suffered from kidney damage.

In the trial of the nine active duty or former military members (see Section 1.e.), all of the accused had been tortured following their arrests in August. At the trial, according to a reliable source, it was apparent that Sergeant Jacinto Nculu Abaga had been so recently tortured that he could not gesture with either hand; his face was marked; and he walked unsteadily, likely the result of blows to his ears affecting balance and coordination.

Prison conditions continued to be extremely harsh and life threatening, but no deaths were attributed directly to those conditions. With no professional medical attention, no hygiene facilities in the holding cells beyond slop cans, and limited food for prisoners, families or friends must take food to detainees in the morning and evening. Female prisoners are not singled out for rape or mistreatment, but women prisoners are not securely separated from men. In October the prison authorities kept the 49 prisoners at Bata, including 3 women, locked in their cells for all but two short periods at dawn and sundown. In December at the main police station in Bata, 28 persons—1 opposition activist and 27 university students, including 5 women and 1 Roman Catholic priest—were confined and tortured for a week in a single room without sanitary facilities.

d. *Arbitrary Arrest, Detention, or Exile.*—Despite constitutional provisions, there was little enforcement of the rights of persons in detention to be charged or released within a reasonable period of time, to have access to a lawyer, or to be released on bail. Arbitrary arrests in nonpolitical cases by national security forces were commonplace, often on spurious charges, in order to extort money or to gain personal revenge. Non-Guinean Africans—mainly petty traders from Nigeria, Cameroon, and Ghana—were often targets of extortion by regime agents. Detainees were frequently held incommunicado.

The number of known detainees at any one time does not reflect the many more who passed through police and special forces custody for brief periods of time. Many detainees were physically mistreated, administratively fined by their captors, and released without being arraigned before a court. During the National Pact negotiations in February, the opposition produced a list of 64 names of political detainees, none of whom had been processed in the civil courts; most of them were released by April. During widespread detentions in August, the number of political detainees probably exceeded 100 for a time. Banishment to home villages—for which there is no legal provision—continued to be used against perceived political opponents, particularly former members of the security forces. Following legislative elections in November, more than 100 persons were detained for various periods, allegedly for offenses ranging from holding political meetings to promoting the boycott of the elec-

tions. These detentions for the most part took place in rural towns and villages of the continental portion of the country.

The number of political and security prisoners held at the end of 1993 was approximately 50; perhaps as many as 500 politically inspired detentions took place during the year.

While the Government officially welcomes back exiles, it did not evidence a serious interest in promoting their return or offering support once back home. The majority of returned exiles are considered by the Government to be political enemies and, as a result, were unable to obtain government employment—despite qualifications—or to engage in the private sector without harassment. Discouraged and in some cases intimidated by detentions, several former exiles who had returned since 1992 and had became active in politics went abroad again.

e. *Denial of Fair Public Trial.*—There is no effective separation between the executive and the judiciary. All personnel of the judicial system, from clerks to Supreme Court justices, serve at the pleasure of the President. The executive branch acts with little respect for judicial independence.

There is a formal court structure with the Supreme Court at the apex, and also military and customary (traditional) court systems. Traditional laws and customs are honored when not in conflict with national law. The Council provided for in the Constitution to decide constitutional issues was established in 1993; of its five members, only three—including the Chief Justice—are fully trained lawyers.

The nation's mixture of traditional law, military law, and Franco-era Spanish rules and procedures results in an inconsistent system of justice, but one which the Government evinced little serious interest in reforming. Corruption is pervasive, in part because judges and court officials are poorly paid and trained. Appellate proceedings are virtually nonexistent. Defendants unable to afford legal counsel stand little chance of acquittal. With perhaps 5 notable exceptions, most of the country's few lawyers (approximately 36) depend on their connections to the regime for a livelihood, raising questions about their impartiality toward defendants.

In a clear trend during 1993, the Government preferred not to bring political cases before the civilian court system, relying instead on short-term detentions to intimidate its critics. Where trials were seen as useful politically, the authorities employed military tribunals even for civilian defendants or conducted unfair civilian proceedings.

Military tribunals heard three cases in September which did not meet international standards of fair trial. On September 11 in Bata, a military tribunal took 1 day to hear the case against 23 Annobonese civilians (2 in absentia) for attempting to overthrow the State (see Section 1.a.). With no qualified attorneys representing the accused, the military tribunal sentenced the two who had led the protest, Orlando Cartegena Lagar and Francisco Medina Catalan, to 28 years in prison and six others to 20 years in prison. It released the other 15 individuals but did not permit their return to Annobon. Subsequently, in celebration of the 25th anniversary of independence, on October 11 Obiang pardoned the eight condemned Annobonese. He simultaneously promoted 14 security force members who had participated in the August killings and torture on Annobon.

A military tribunal on September 17 found Romualdo Rafael Nsogo, a member of the opposition CPDS, guilty of first degree murder. A military firing squad executed him the next day (see Section 1.a.). Guinean civil law experts said that the process flagrantly violated the country's legal standards as the military had no jurisdiction over an all-civilian matter, that Nsogo did not have trained defense counsel, that the defendant did not have the right of appeal, and that the death sentence was not confirmed by another court as required in capital cases. Nsogo would likely have been processed in a civil court on a lesser charge had it not been for his membership in the opposition party.

On September 23–24, in a case that grew out of the conspiracy claimed by the Government to have involved Pedro Motu Mamiaga (see Section 1.a.), a closed military tribunal in Malabo tried nine active duty and former military members for conspiracy, rebellion, and defaming and insulting the Head of State. The military court found the accused guilty, including Sergeant Jacinto Nculu Abaga, who received 24 years in prison. The only accused represented by a qualified lawyer, a civilian, was released.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Although required by the Constitution, search warrants are not used. The regime frequently places under surveillance persons it deems suspicious. Many believe telephone conversations are routinely monitored. There is systematic interference with correspondence, and there were three attempts by the Government to inspect sealed diplomatic pouches of Spain and the United States.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and press. However, in practice, neither exists.

Most citizens are compelled to practice self-censorship of political expression. Any vocal dissenter or associate of a dissenter puts at risk employment, access to public services, and even life. For a time in 1993, the regime relaxed its usual heavy media censorship of dissent. The political opposition appeared nightly on television during the February-March National Pact negotiations. However, following its signing, the government-controlled media reverted to featuring the party of the regime and emphasizing the personality cult of the President as the sole benefactor of the country. Opposition voices that gained occasional access to television after March were dissidents within parties reflecting intraparty bickering and those parties which had come to terms with the Government to participate in the flawed electoral process.

The security apparatus usually equates criticism of the regime with treason; and tries to prevent distribution of printed materials unfavorable to the regime. There is no free press.

The controlled media consistently reported on alleged international plots to back opposition parties and of efforts to destabilize the Government. The principal targets for these claims were Spain and the United States which were accused of working in concert with the three main opposition parties—the Party of Progress (PP), Popular Union, and the Convergence for Social Democracy.

Academic freedom is nonexistent.

b. *Freedom of Peaceful Assembly and Association.*—The right of assembly and association is provided for in the Constitution. However, any gathering of more than 10 persons for discussions that the regime considers political, even in private homes, is illegal without permission.

Legalized opposition parties experienced difficulty in holding even private meetings outside of the capital. Contrary to the law, security officials routinely ignore or deny requests by the opposition to hold public meetings, and even when approved there usually is harassment from security and other officials, particularly outside the capital. None of the opposition's dozen or so public meetings was given media coverage. However, the political party of the regime, the DPEG, held hundreds of public and in-house meetings which were given daily coverage in the media.

On August 21, the prominent leader of the Popular Union, Andres Moises Mba Ada, returned to Malabo from 12 years in exile. His return witnessed an unprecedented show of popular support as several thousand people appeared at the airport and along the highway into town. Later a few hundred were gathered peaceably outside party headquarters when security forces arrived and without warning violently disbursed the crowd with truncheons and rifle butts, detaining over 30 and injuring a number of others who required hospitalization. The regime claimed the crowd was blocking the street.

c. *Freedom of Religion.*—Equatorial Guinea does not have an official state religion, and freedom of religion is generally respected, though ministers of religion are prohibited by law from being members of parties or making statements critical of regime officials or institutions.

Christianity, mainly Roman Catholicism, is the predominant religion, often interspersed with traditional religious practices. The Islamic and Baha'i faiths are also practiced openly. Jehovah's Witnesses was officially recognized as a legally inscribed religion in January 1994. Even prior to recognition, Witnesses had been able to open a center in Malabo and hold regular services. Proselytizing by Protestant denominations and construction of new churches were also permitted. Foreign clergy and missionaries continue to have an active role in education and health.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Contrary to the Constitution and specific commitments by the Government with the opposition in the March National Pact, movement within the country by opposition politicians was routinely impeded by authorities; passports were routinely confiscated; and exit visas, required for nationals as well as foreigners, routinely denied, not only to perceived opponents but to their families as well, including for medical treatment abroad. Transportation aboard the government-owned aircraft and passenger ship was occasionally denied to opposition politicians, who reportedly were told the transportation was for government-party loyalists only.

Other citizens generally may travel freely within the country. However, poorly trained and paid police often extort payments for passage through traffic checkpoints on major roads.

There are in general restrictions on travel abroad, including lengthy delays in obtaining passports and the required exit permit. Many citizens leave the country without formal documentation for both economic and political reasons to reside abroad, mostly in Gabon, Cameroon, Spain, and France. The principal receiving

country was Gabon, where an estimated 100,000–135,000 Guineans have settled over the years.

There was one political refugee living in Equatorial Guinea who had been documented by the United Nations High Commissioner for Refugees.

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

President Obiang remains the source of political power. Citizens do not have the right to change their government by democratic means. There have been no free elections since 1968. All government employees—judges, legislators, mayors, civil servants, and security forces—serve at the pleasure of the President.

While President Obiang's political party, the Democratic Party of Equatorial Guinea (DPEG), is no longer the sole legal party, it continued to monopolize the political system. Obiang acknowledged in July that the DPEG was supported by public funds. The DPEG continued to receive dues from all government employees, including employees in state-owned enterprises, in violation of agreements made by the Government in the National Pact.

In the legislative elections in November, 8 of the 13 legalized opposition political parties, as well as the United Nations and most of the international community, concluded a priori that the electoral process—from voter registration to vote counting—lacked minimal standards of fairness. While there was no violence during the elections, there were widespread indications of irregularities committed by the Government, including multiple voting by individuals, vote padding, and miscounting. The Constitution does not require presidential elections until 1996.

Women and minorities are seriously underrepresented in the political process. In 1993, for the first time, a number of women opposition members became outspoken about the regime's excesses and the need for peaceful change following the extrajudicial death of political activist Pedro Motu Mamiaga in August. In November, 3 women, all of the Government's party, won seats in the 80-member legislature. This is down from the 8 who sat in the previous 60-member body. Two women were appointed to the 34-member Cabinet, as the Minister and the Vice Minister for Women's and Social Affairs. There is one woman judge in the judiciary, a small scattering of women among the senior levels of the Civil Service, and a handful of women in noncommissioned and junior-service ranks of the security services.

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

There are no local, nongovernmental human rights groups; none would be permitted to criticize openly the Government's human rights abuses. The Equatorial Guinean Human Rights Commission formed in 1991 by President Obiang remained dormant.

The President rejected out of hand the annual report on human rights in Equatorial Guinea prepared by the United Nations Human Rights Commission's (UNHRC) special rapporteur, Fernando Volio Jimenez. As has been the case since the first UNHRC-approved plan of action made in 1980 by Professor Volio, the Government did not respond to, or act upon, recommendations approved at the Commission's annual meeting in March.

The Government did permit the newly-appointed UNHRC Special Rapporteur, Alejandro Artucio, and human rights consultant Eduardo Duhalde to visit in October and December. While the two had wide contact with the general public, visited the two main prisons, and called on President Obiang, few members of the Government were willing to receive them.

A special U.N. mission and two pairs of U.N. expert consultants traveled to Equatorial Guinea in April and July to assess the electoral process as well as the human rights situation. However, the Government rejected virtually all recommendations and offers of assistance extended by the United Nations and supported by the resident donor community.

The International Committee of the Red Cross (ICRC) continued to visit Equatorial Guinea regularly but apparently did not reach agreement with the Government on prisoner visitation programs. Amnesty International maintained close watch through in-country contacts and published extensively on the human rights situation.

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

Women.—Although the Constitution and laws provide for equal rights for women, they are largely confined by custom to traditional roles, especially in agriculture. Polygyny, which is widespread among the Fang, contributes to the secondary status accorded women by society. According to U.N. data, females receive only one-fifth

as much schooling as males. The Ministry for the Promotion of Women focuses on agriculture, handicrafts, and vocational and semiprofessional training. It is interested in developing women's agricultural cooperatives and enrolling more women in the country's postsecondary schools.

There is discrimination against women regarding inheritance and family laws. For an estimated 90 percent of the women in the country—i.e., virtually all ethnic groups except the Bubi—tradition dictates that if a marriage is dissolved, the woman must return the dowry given her family by the bridegroom at the time of marriage and the husband automatically receives custody of all children from the union. Similarly, in the Fang, Ndowe, and Bisio cultures, primogeniture is practiced and, as women become members of their husband's families upon marriage, they are usually not accorded inheritance rights. In theory, women may buy and sell property as well as goods, but in practice, the male-dominated society permits few women to have access to sufficient funds to engage in more than petty trading or to purchase real property beyond a garden plot or modest home.

Violence against women, particularly wife beating, is common, according to medical professionals.

Children.—The Government has given little attention to children's welfare issues, and there are no groups that specifically address the needs of children. Child abuse is uncommon.

National/Racial/Ethnic Minorities.—Although the law provides for equal treatment for all citizens, all ethnic groups are not granted the same rights and privileges. The Fang comprise 83 percent of the population, the Bubi 10 percent, and other groups—primarily closely related to the Fang—the remainder. A small number of Fang clans, especially those of the President and relatives by marriage, dominate all aspects of the regime as well as the economy and social life. Discrimination against the Bubi and Fernandino of Bioko Island, the Annobonese, and the Ndowe and associated coastal groups from the continent, is consistent, whether in the granting of political office or the approval of academic scholarships.

Although all ethnic groups were represented in the Cabinet, only Fang occupied positions of real power. Following the November elections, the expanded (from 60 to 80 seats) legislature and the enlarged (from 34 to 42 members) Cabinet diluted the number and potential influence of minorities in those bodies. Virtually all members of the security forces, as well as the presidential household, are Fang, and all policy and command positions in government are dominated by the President's closest ethnic associates from Mongomo.

For the first time since independence in 1968, a minority ethnic group made its political presence felt. An underground Bubi-interest group emerged shortly before the November elections and publicly demanded a referendum on the island's independence. Calling itself the "Movement for the Self-Determination of Bioko Island" (MSBI), the group spearheaded an electoral abstention rate estimated at 90–95 percent among the Bubi, the island's largest ethnic group.

People with Disabilities.—There is no constitutional or legal provision for the physically disabled with respect to discrimination in employment, education, or provision of other state services. The Government has not enacted legislation mandating accessibility for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—The right to organize unions is provided for in the Constitution. However, no enabling legislation has been passed, and in the small wage-economy no labor organizations exist, although there are a few cooperatives with limited power. Strikes are prohibited by law. There is a Labor Code which aims to uphold the dignity of the worker, but it is not generally enforced.

b. *The Right to Organize and Bargain Collectively.*—There is no legislation regarding these rights or addressing antiunion discrimination and no evidence of collective bargaining by any group. Wages are set by the Government and the employers, with little or no input by workers. The employer must meet the minimum wage set by the Government, and most companies pay above the government established minimum. The Labor Code has served as a useful law in the mediation of selected cases involving compensation to discharged workers.

There are no export processing or free trade zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor and slavery are prohibited by law, and slavery does not exist. However, numerous convicted prisoners and persons detained without formal charges perform day labor in households and businesses, on farms, and at residential construction sites of senior officials, including the presidential household. There is no monetary compensation for forced labor, although two meals a day are accorded some household help. The workweek is often 7 days for prison laborers.

d. *Minimum Age for Employment of Children.*—The legal minimum age for employment is 16, but there is no enforcement of this law. Children younger than 16 commonly assist rural families with agricultural production and in town in street vending.

e. *Acceptable Conditions of Work.*—There is only a small industrial sector in the country. Most salaried employment is provided by the Government, construction companies, businesses providing retail goods and services, and the plantation agricultural sector.

A sliding scale of minimum wages was established in 1990. Entry-level positions begin at approximately $47 (CFA 14,000) per month. However, the minimum wage law is not widely enforced, and agricultural workers frequently receive less than prescribed by law. Government employees are explicitly exempted from the minimum wage law's provisions. The minimum wage by itself does not provide a worker and family with a decent living, and most of those with regular salaried income have to supplement their earnings with income from other sources or by farming.

The law limits the regular workweek to 48 hours and guarantees employees 1 24-hour rest period per week, plus regularly scheduled national holidays. The Labor Code offers comprehensive protection for workers from occupational hazards, but the Ministry of Labor does not effectively enforce the standards. Safety and health committees which are explicitly sanctioned by the Code do not function, and employees who protest unhealthy or dangerous working conditions risk losing their jobs.

ERITREA

Following a U.N.-supervised referendum in April—in which Eritreans voted overwhelmingly for independence from Ethiopia—Eritrea became an independent State on May 24 with a single party. The dominating political and military force in the long struggle for independence and in the Government is President Isaias Afwerki and the Eritrean People's Liberation Front (EPLF). The Government, formerly known as the Provisional Government of Eritrea, has actually been in de facto control of the country since May 24, 1991, when EPLF forces entered Asmara in the culminating battle against the Ethiopian army of then dictator Colonel Mengistu.

The EPLF Government has announced that it intends to introduce a democratic, multiparty system, embodied in a new constitution, in approximately 4 years. It has begun to develop interim institutions, including a National Legislative Assembly (see Section 3). In 1993 it held local elections in all provinces—involving multiple candidates but no parties, established local legislative bodies based on those elections, and in October formed a commission to begin work on preparing a new constitution. There is no interim constitution.

The EPLF forces, which in 1992 comprised over 100,000 regulars, continued to serve as the main internal security force in 1993 and also served as the recruiting ground for the new police force being organized. A striking feature in 1993 was the virtual absence of security forces in the main cities. There were no reports of human rights abuses by these forces.

The Eritrean economy, decimated by years of war, is based on subsistence agriculture, in which 95 percent of the population is engaged. Poor rains and insect infestation produced a notably bad harvest in 1993. The commercial (wage) sector is small and largely centered in Asmara, the capital, and the Red Sea ports of Massawa and Assab, through which most of Ethiopian imports and exports pass. With donor assistance, one of the Government's major reconstruction efforts is to rebuild the port of Massawa, which was badly damaged by Mengistu's air force in the war. As Ethiopia is now landlocked, the Government assured—as part of an understanding with the Transitional Government of Ethiopia—that it would not impede Ethiopian access to these ports.

The Government generally respected human rights in 1993. The April referendum process was free and fair. During the year, the Government began to release many of the persons it had been holding for months for alleged human rights violations committed during the Mengistu period. In September it amnestied 260 prisoners in this category and reduced sentences for others. At the end of the year, it continued to hold approximately 137 persons for alleged past violations. It also held in detention about 50 persons who were being investigated for association with radical Islamic political elements or terrorist organizations.

RESPECT FOR HUMAN RIGHTS

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

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

b. *Disappearance.*—There were no reports of disappearances in 1993. However, there was international concern for the whereabouts of several officials of the armed opposition Eritrean Liberation Front-Revolutionary Council (ELF-RC) who were alleged to have been abducted from Sudan in April 1992 and secretly detained in Eritrea.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There have been no reports of torture and other cruel, inhuman, or degrading treatment, including in prisons, where physical conditions appear to be acceptable, and families have good access to prisoners. As far as is known, the political detainees mentioned in Section 1.d. were not mistreated.

d. *Arbitrary Arrest, Detention, or Exile.*—The Criminal Code presently in force is the Code used by previous governments of Ethiopia. Criminals are generally held without bail until their cases are heard, which usually is within 60 days of arrest.

Since its advent to power in 1991, the EPLF has detained, without charge or trial, several categories of people: Those associated with the past Mengistu regime in Eritrea who are suspected of human rights violations; persons associated with Muslim fundamentalism; and non-Eritreans who have been detained by internal security forces for association with political or terrorist organizations. There was very little information available on the latter category.

In the first category, the Government initiated in September an amnesty program, releasing over 260 persons suspected of violations during the Mengistu regime in Eritrea. At the end of the year, the Government still held approximately 137 persons for past violations and gave no indication when these persons would be brought to trial. According to credible reports, the Government released some ELF-RC members. Although it is possible that additional ELF-RC members are being held, none of those released reported the names of others being held, nor did they report physical abuse.

The Government is carefully balanced to reflect the virtually even composition of the population between Muslims and Christians and is sensitive to outside efforts to influence this even division. For most of 1993, it detained without charge three Eritreans who returned from neighboring countries sponsored by religious or political entities in those countries to propagate political Islam. These persons were still detained at year's end.

e. *Denial of Fair Public Trial.*—The current civil law system, borrowed from Ethiopia, is derived from the Napoleonic Code. Serious crimes are brought before a panel of three judges in a public trial, where defendants have access to legal counsel. If the defendant is found guilty and wishes to appeal, he or she may appeal to the next highest court, the Court of Appeals. This Court, from which there is no further appeal, is composed of five judges. Crimes committed by members of the military are handled by military courts. Security cases, of which there are few, were not brought to trial.

There are magistrate courts in the major cities. There are no special courts. The system suffers from a lack of trained personnel, legal resources, and infrastructure. The judiciary appears to be independent of the Government in most regular civil and criminal cases.

Since the population is largely rural, traditional "courts" play a major role in the life of the citizens. Many local issues, e.g., property disputes, and most petty crimes are adjudicated by local elders according to custom or, in the case of Muslims, the Koran. These traditional courts have not given sentences involving physical punishment.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Under the Criminal Code, warrants are required to monitor mail, telephones, or other means of communication. While this restriction in the past has often been imperfectly observed, there were no reports in 1993 of such surveillance or of entering of homes to conduct searches. Technical limitations on security services and lack of necessity for such operations also contribute to the absence of surveillance activities.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—People spoke freely in 1993, and, in open public meetings with President Isaias, persons expressed concern over various issues, including increased taxes, bureaucratic slowness, and return of refugees from Sudan. The President responded verbally at that time and in print over a period of weeks thereafter.

The small press, consisting of a biweekly newspaper (in Tigrinya and Arabic), is government financed and controlled and covers such subjects as government policies and the return of property confiscated by the former regime. It does not criticize the President or his Government. At the end of the year, the Government was still preparing a press law in concert with the drafting of the constitution. The question of a privately owned, independent newspaper did not arise in 1993, largely because it was not yet commercially feasible. Foreign newspapers and publications entered the country without hindrance.

b. *Freedom of Peaceful Assembly and Association.*—No permits are required for public meetings or demonstrations. There appear to be no restrictions on the formation of nongovernmental organizations, although the Government's permission is required, and there are long bureaucratic delays in granting these permits.

c. *Freedom of Religion.*—There is religious freedom throughout Eritrea. All denominations and faiths are permitted to practice. There is no state religion, and no religion is supported over another. Religious groups may train clergy and children of the laity and may and do produce their own religious periodicals in their own language.

Previous regimes did not allow the Jehovah's Witnesses to practice publicly. However, under the present Government, they are allowed full freedom of worship. There is still some animosity between members of the population and Jehovah's Witnesses over the latter's refusal to recognize certain state symbols and functions. This animosity surfaced in May after Witnesses publicly stated that, on religious grounds, they would not vote in the independence referendum. In several incidents, small crowds verbally attacked and stoned Jehovah's Witnesses.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—By law, all persons, Eritrean and foreign, may travel freely within Eritrea and abroad without interference or permit. However, in practice, the Government maintained a restrictive policy concerning the return of up to 400,000 Eritrean refugees from Sudan, based on its asserted need for large-scale donor assistance to facilitate organized repatriation. The Government claims that some tens of thousands of such refugees have returned spontaneously. By year's end, it appeared the Government was considering a pilot repatriation and reintegration project for some 10,000 refugees in Sudan, using funds pledged at a July donor's conference.

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

While the Government has promised to introduce multiparty democracy within 4 years, citizens did not have this right in 1993. Under President Isaias, the EPLF controls the Government, and in 1993 it began to develop interim political institutions. To this end, the Government held local elections—involving multiple candidates but no parties—in all 10 provinces each for local legislatures. In turn, the provincial legislatures sent three members, one of whom had to be a woman, to the National Legislative Assembly. Those elected in the provinces were, in general, elders and notables from the region. Voting in all provincial elections was by secret ballot. Senior government officials expressed disappointment regarding the lack of women and young candidates and the low voter turnout of approximately 55 percent.

The National Legislative Assembly is composed of approximately 137 members and met for the first time in September. In addition to the female members of the regional delegations, 10 additional places for women are reserved in the National Assembly, thus assuring 20 seats for women (see also Section 5.a.). To date President Isaias and the EPLF wield full power, although the National Assembly ostensibly is to be responsible ultimately for the passage of laws.

The Government is almost equally divided between Muslim and Christian with Muslims holding at year's end seven Ministries, including that of Foreign Affairs, and many sensitive provincial governor positions. In addition to the positions in the new legislative bodies, women hold senior positions in the Government, including in the Ministry of Justice, as well as certain senior positions in the military.

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

There is a local human rights organization, the Regional Committee for Human Rights Development, which was in the process of obtaining recognition at the end of 1993. This organization is independent from the Government, but it was too early to tell how effective it would be in publicizing human rights abuses. The Ministries of Foreign Affairs and Interior handle human rights inquiries.

The Government responds quickly to international inquiries about alleged human rights abuses, maintaining that it has not committed such abuses. During a trip to

Eritrea in August, former President Carter presented the Government with a list of names of alleged detainees. The Government responded the next day.

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

There were no reported instances of official discrimination against any Eritrean because of race, religion, sex, disability, or social status.

Women.—The Government has taken a consistently strong stand in favor of improving the status of women and including them in the political process (see Section 3). In part, this stems from the important role Eritrean women played in the war (one-third of the EPLF fighters were women). In 1991 the then Provisional EPLF Government codified a broad range of rights for women, including guarantees of equal educational opportunity, land ownership, equal pay for equal work, legal sanctions against domestic violence, and other economic and legal rights. A part of the EPLF, the National Union of Eritrean Women, has been in the vanguard in campaigns against such traditional practices as female genital mutilation (see Children below).

Despite the strong policy positions of the Government, there are some elements of traditional discrimination against women in Eritrean culture. Women perform significant amounts of farm labor and almost all child-rearing. In schools, females are less obvious in lower grades than are males. This disparity is even more visible in predominantly rural Muslim areas. Notwithstanding strong pressure from Muslim clergy, the Government supports school attendance by Muslim females. Exact figures are not available, but a countrywide ratio of two boys in class for each girl is approximately correct.

Domestic violence is not widespread. Wife-beating is the exception, not the rule, according to health officials and doctors. Police rarely intervene in such instances, and formal court cases are rare. Incidents of domestic violence are usually resolved through traditional processes at village level.

Children.—There is little formal government commitment to children's human rights and welfare, as expressed in laws or established programs. Child welfare is not generally looked on as a serious social problem. There are few government funds devoted to this issue.

The Government has taken a strong stand against female genital mutilation (circumcision) which is condemned by international health experts as damaging to both physical and psychological health. Nevertheless, it continues to be practiced in Eritrea and is usually performed at an early age. Health officials suggest that the experiences of the civil war, in which many young women left their families to serve in the Eritrean forces, have contributed to educating women against this practice. (Before the separation of Eritrea, an internatiional health expert estimated that 90 percent of the girls/women in Ethiopia had undergone this procedure.)

People with Disabilities.—As a result of the recent extremely bloody civil war, there are thousands of disabled male and female former fighters. The Government expends large amounts for their care. Most physically disadvantaged Eritreans are viewed as heroes and are widely assisted by other citizens, as are those disabled for other reasons. There are no laws mandating access for the disabled to public buildings, although assistance is generally provided for those who need it. There is no discrimination in employment or education against people with disabilities.

Section 6. Worker Rights

a. *The Right of Association.*—Under Proclamation Number 8 of the transitional labor laws of Eritrea, workers have the legal right to form unions. There are no government restrictions on this right, and indeed the Government encourages labor association, but worker organization is only in its earliest stages. Approximately 95 percent of the population is involved in subsistence agriculture, and only a minuscule number of people work in commercial or government enterprises. The Government is the largest employer, including in the few state-owned enterprises. There have been few pressures for unionization, given the heavy competition among the large number of unemployed and still larger number of underemployed workers for the few wage jobs available.

The most important "union" in Eritrea is a government-dominated union which seeks to represent worker rights in such areas as illegal firings and nonpayment of wages. It does not generally become involved in such traditional labor union issues as wage negotiations and working conditions.

There were no strikes in 1993. The proposed new labor code will allow strikes. Eritrea became a member of the International Labor Organization (ILO) in 1993.

In view of the limited state of worker organization, the question of Eritrean labor affiliation with international labor organizations has not yet arisen. None of the Eritrean unions has joined the Organization of African Trade Union Unity.

b. *The Right To Organize and Bargain Collectively.*—While labor has the theoretical right—but not yet the legal right—to organize and bargain collectively, such collective bargaining does not take place as a practical matter. The Government sets wages and working conditions. Because of the relative weakness of the organized labor movement and the high rate of unemployment, collective bargaining and similar legal protections, such as protection against antiunion discrimination, have yet to be established.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—While there is no legal prohibition in place, there is no forced or compulsory labor in Eritrea.

d. *Minimum Age for Employment of Children.*—The legal minimum age for employment is 18, although apprentices may be hired at age 14. While the Commission on Social Welfare is responsible for enforcement, there is no random inspection of factories and shops for compliance. The number of children under 18 years old working in commercial enterprises is small, given the high rate of adult unemployment. However, children at an early age help on family farms, and there are a few children selling small wares on the street, such as cigarettes.

e. *Acceptable Conditions of Work.*—The free market determines the level of wages, and there is no legal minimum wage in Eritrea. While there is no legal provision, all employees receive at least 1 day of rest per week, and most receive 1½ days of rest per week. There are no occupational health and safety laws or standards currently in force.

ETHIOPIA

The Ethiopian People's Revolutionary Democratic Front (EPRDF) took power in 1991 at the conclusion of a lengthy civil war with the dictatorial regime of Mengistu Haile Mariam and established the Transitional Government of Ethiopia (TGE). The EPRDF also organized a National Conference which approved a National Charter to function as the Constitution during the transitional period. The TGE, headed by President Meles Zenawi, pledged to oversee the establishment of Ethiopia's first multiparty democracy, based on a constitution still being drafted in 1993. The TGE projects elections in 1994 for a constituent assembly and a new national government.

The Council of Representatives, comprising 65 members, is dominated by the four constituent parties of the EPRDF and serves as a quasi-legislature. The EPRDF and, by extension, the TGE are dominated by the Tigray People's Liberation Front (TPLF), whose members include the President and most key officials dealing with national security. The accession of Tigrayans and a policy promoting ethnic identity and regionalism have engendered animosity from Amharas who have traditionally held centralized power in Ethiopia. In 1993 the TGE continued to implement its planned devolution of authority to regional governments and its planned establishment of an independent judiciary comprising regional and central courts. The TGE has developed warm relations with Eritrea, which formally became independent of Ethiopia on May 24, 1993.

The EPRDF domination of the Government and the Council of Representatives increased following the departure of the major non-EPRDF partner in the TGE, the Oromo Liberation Front (OLF), in June 1992. The OLF withdrew over the Government's handling of the regional elections—which were flawed by numerous irregularities, including fraud, harassment, intimidation, and political assassination—and the OLF forces took up arms against the Government. In subsequent clashes, the EPRDF forces defeated the OLF units and, at the beginning of 1993, the TGE held more than 20,000 OLF prisoners in several camps (see Section 1.d.). During 1993 most of these detainees were released; the remaining 1,200 are to face criminal charges. The OLF remains outside the Government; much of its senior leadership is abroad.

The EPRDF military wing serves as both the national armed forces and an internal security force during the transitional period, although the Government is slowly reconstituting police forces to assume internal security responsibilities. Progress was made in improving the professionalism and effectiveness of the regional police forces, although not all regions benefited equally. In 1993 there were credible reports that EPRDF security personnel—often from the Oromo People's Democratic

Organization (OPDO)—were implicated in beatings of detainees and arrests alleged to be of a political nature.

The Ethiopian economy is based on agriculture, with more than 85 percent of the population living in rural areas in very poor conditions. Coffee accounts for 60 percent of Ethiopia's export revenue. The TGE is implementing an internationally supported economic reform program designed to undo 17 years of Marxist rule. This program includes an important role for the private sector, which in 1992–1993 helped stimulate positive economic growth for the first time in many years.

In contrast to the Mengistu years, the human rights situation in Ethiopia has improved. The TGE's actions did not match, however, its announced respect for human rights. In the face of opposition, it showed increasing intolerance of political dissent. Following the departure of the OLF in 1992, the TGE expelled in 1993 four non-EPRDF parties from the Council of Representatives. Opposition political parties made credible allegations that they had been intimidated by the authorities, for example, by having their offices closed and their staffs harassed. Further, the TGE circumvented the 1992 press law by invoking the Criminal Code to harass and intimidate the independent press; interfered with peaceful assembly; detained briefly officials of the Ethiopian Human Rights Council (EHRC); and infringed academic freedom with the firing of 42 university professors.

The TGE also continued to deny fair public trial to hundreds of detainees. However, in the course of 1993, the Special Prosecutor's Office (SPO) released on bail about 1,300 of the 2,400 detainees held for crimes committed under the previous government. Although the cases are subject to judicial review, none had come to trial by year's end.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of officially sanctioned political or other extrajudicial killings by TGE security forces or by opposition groups during 1993. However, there were many unconfirmed reports of sporadic, low-level fighting between EPRDF forces and various opposition groups in the countryside. There was no indication of the number of casualties, civilian or military, but reports confirmed that government forces took prisoners during those exchanges.

There were also reports of killings, some of which involved errant members of the security forces in unclear circumstances. For example, in April TGE troops killed Tesfaye Meja, the brother of a leading member of an opposition party, and placed his body on public display in the town of Sodo. According to the TGE and local sources, Tesfaye was a bandit who had recently escaped from prison. According to the TGE and the EHRC, there was no official investigation into the circumstances of Tesfaye's death.

Security forces used excessive force on several occasions in 1993. The TGE overreacted in containing a demonstration for which the students had not given prior notification, as required by Ethiopian law. TGE troops encountered the students as they emerged from the university grounds, and, in the ensuing melee, at least one student was killed. Unofficial accounts by university students, supported by an international human rights organization, put the number at about seven. The Ethiopian Human Rights Council confirms one death but believes other deaths may have occurred. A commission to investigate this incident was created in March, and, although mandated to report its findings within 3 months, the TGE had not made public the commission's findings by the end of the year.

In September TGE security personnel used excessive force to quell a disturbance at the Gondar municipality, resulting in 13 confirmed deaths (see Section 2.c.). The protagonist in the incident, Amha Yesus, was subsequently arrested in Addis Ababa. The Gondar police Department was conducting an investigation into the matter; the results of this investigation were pending at year's end.

b. *Disappearance.*—Since the TGE came to power in 1991, its constituent political parties have traded charges and countercharges regarding politically motivated violence and disappearances throughout the country. An Ethiopian human rights organization alleges that dozens of people arrested when the TGE took power are still unaccounted for. According to the TGE, these arrestees were included among the thousands of war prisoners taken by the EPRDF, most of whom were released after rehabilitation. Those still held are under investigation and awaiting trial accused of crimes committed against the civilian population.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The National Charter prohibits torture and mistreatment, and in July the Council of Representatives ratified the U.N. Convention Against Torture. Under the TGE,

there have been no allegations of systematic torture of EPRDF opponents. Nevertheless, there were credible reports that in some instances security forces, often OPDO, beat suspects believed to be associated with the OLF while they were detained at local administrative buildings. As far as is known, no members of the security forces had been punished for these offenses by year's end. There was no evidence of beatings or torture at the detention camps where OLF forces and supporters are detained.

In the latter half of 1992 and early 1993, the TGE detained large numbers of Oromo militants and former Mengistu officials in special centers (see Sections 1.d. and 1.e.). According to firsthand reports, a small number of persons incarcerated in these centers—notably the OLF centers—died of endemic diseases. International inspection of the Didessa and Hurso centers in October indicated that conditions were not inferior to the living conditions of the local population. However, conditions at the Korea camp near Didessa and at some local prisons were poor. The detention centers were also used for the political reeducation of opponents. The curriculum focused on the mechanics of the transition, the merits of the National Charter, and the virtues of the EPRDF.

d. *Arbitrary Arrest, Detention, or Exile.*—The National Charter and both the Criminal and Civil Codes prohibit arbitrary arrest and detention as well as exile. Nevertheless, there were credible reports of persons being detained for expressing anti-TGE views. In particular, there were many reports of harassment and detention of political activists in the rural areas. There were no confirmed reports of detentions for political reasons.

At the beginning of 1993, the TGE held approximately 20,000 OLF soldiers and about 2,400 former officials of the Mengistu regime (see Section 1.c.) in several detention camps around the country. For the most part, the OLF soldiers and supporters had been arrested in 1992 after taking up arms against the TGE. In the spring, the TGE released most of these soldiers but subsequently rearrested about 4,000, ostensibly for resuming military activity.

At the end of 1993, according to the TGE, the detention camp at Hurso contained about 2,000 people, most of whom were members of the OLF. Of this number, some 800 were accused of serious crimes against civilians, while the remainder, many of whom were former OLF detainees at Hurso, were accused of possessing weapons. The 1,600 detainess at Didessa were released in October and November. There remain about 400 detainees awaiting trial at the nearby Korea camp who are suspected of having committed serious crimes while serving in the OLF military.

The Government does not practice political exile. It continued to welcome back to Ethiopia exiles from the Mengistu years.

e. *Denial of Fair Public Trial.*—The TGE is currently restructuring its judicial system along decentralized lines. Each of Ethiopia's regions will administer local (Woreda), district, and regional courts. Each will also have a Supreme Court which can hear both original cases and appeals. A federal high and Supreme Court system has also been created to hear cases involving federal law, transregional issues, or national security. The lack of trained personnel in many regions (some have no trained attorneys or judges), the serious financial constraints, and the absence of a clear demarcation between federal and regional jurisdiction have delayed effective implementation of this system.

Under the Criminal Procedure Code, any person being held for trial is to be appropriately charged and informed of the charges against him within 48 hours and be offered release on bail. Those believed to have committed capital offenses, such as murder and treason, may be detained for 4 weeks while the police conduct an investigation and for 15 days while the prosecutor prepares and brings charges against the suspect. Trials are public, and defendants have the right to a defense attorney. Ethiopian law does not grant the defense access to accusatory material before trial. Until regional legislatures are established to pass laws particular to their region, the Criminal Code will remain the same at both the regional and federal levels.

Ethiopia also has Shari'a (Islamic) courts which hear religious and family cases involving Muslims. Some traditional courts still function in remote areas but are not sanctioned by law.

In 1992 the Council of Representatives issued a proclamation declaring the independence of the judiciary from the executive branch. In 1993 Ethiopia's Supreme Court appeared to enjoy judicial independence, as evidenced by its reversal of a high court decision in a labor case. The judge who presided over the initial case had close associations with the TGE. There were no known cases in 1993 of judges being dismissed or transferred for political reasons. However, there were credible reports that Ethiopian courts, particularly in the regions, were subject to executive branch political interference, especially when EPRDF members were on trial in lower

courts. In one region, the administrator convoked high court judges and instructed them to be lenient towards EPRDF members who might stand trial in their court.

In August 1992, the Government established the Special Prosecutor's Office (SPO) to create a historical record of the abuses of the Mengistu regime and to bring those criminally responsible for human rights violations and corruption to justice. The SPO is investigating the cases of about 2,400 persons detained on suspicion of having committed serious crimes during the previous government's campaigns, including the "red terror" campaign and forced resettlement and villagization. In February the Government lifted the suspension of the right of habeas corpus, which had been in effect since the change of government, and, as a result, all these cases became subject to judicial review. The authorities released about 1,300 of the detainees, either on bail or on condition that they not leave the country. None of the 2,400 had been formally charged or brought to trial by year's end.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Judicial search warrants are required by law, but they are rarely utilized. There have been credible reports of people being summarily, and illegally, evicted from their residence by security forces who possess neither a court order nor the consent of the housing authority. Many ethnic Oromos believe that they have been under surveillance. The TGE admits that it monitors the movements of some people suspected of breaking the law. Since the arrival of the TGE to power, forced political membership and forced resettlement have been terminated. As in 1992, the TGE continues to search private and commercial vehicles, as well as private homes, for unlicensed firearms and weapons.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Although by May as many as 65 private publications (weekly tabloids and monthly magazines) were being sold on the streets of Addis Ababa and to a lesser extent elsewhere, the TGE sometimes used the controversial Press Law (Proclamation 34/1992) to curtail press freedom. The Law purports to support press freedom, stating, inter alia, that "censorship ("prior investigation" in Amharic) and restrictions . . . are hereby prohibited." However, the Press Law also gives the Government strong prosecutorial powers to ensure that any printed material is free from "any criminal offense against the safety of the State . . . any defamation or false accusation against any individual, nation/nationality, people, or organization; any criminal instigation of one nationality against another or incitement of conflict between peoples; and any agitation for war."

Against this background, the TGE undertook a number of actions that had the effect of curtailing press freedom. In May the police called in the editors of six leading politically oriented magazines to discuss the sources of much of their material. In June the authorities seized and destroyed selected magazines. At midyear the Ministry of Information prohibited the managements of private publications from advertising in the official media, the principal source of public information. In August and September, the police again summoned editors for questioning, presumably about articles critical of the Government. In some of these cases, the Government did not bring formal charges but warned press officials against undertaking "activities against the Press Law."

Invoking the Criminal Code, the TGE launched prosecutions in August against publishers of what it deemed "pornographic" magazines. Late in the year, the authorities confirmed that legal proceedings had been instituted against 19 people affiliated with 11 publications for violations of the Criminal Code. In some cases, the courts required editors or publishers to post bail equivalent to 3 years' salary. Such harassment and intimidation of the private press led to a considerable degree of self-censorship by press officials.

Radio, the most influential medium in reaching the rural population, and the sole television station are government owned and operated and reflect TGE policies in their programming. The official media devote little coverage to the activities of opposition groups and, when given, coverage is either negative or neutral, such as reporting on party conferences.

The TGE also acted to restrict academic freedom. In April it discharged 42 professors from their positions at Addis Ababa University, informing them that their services were no longer needed due to reorganization. Another 38 professors were placed on probation. The Government dismissed the professors without an investigation by relevant university departments or the administration as dictated by custom and, in the case of tenured professors, by law. The professors were also denied severance pay, and some may lose their pensions. Credible reports indicated that some of the professors were fired for expressing antigovernment views. TGE officials admitted as much by stating that some professors were dismissed for inappropriately using their classrooms for political purposes. The manner of the dismissals has raised

questions of procedural fairness and academic freedom and has had a chilling effect on campus debate.

b. *Freedom of Peaceful Assembly and Association.*—The National Charter endorses peaceful assembly, freedom of association, and the right to engage in unrestricted political activity, including the right to organize political parties. There are allegations, however, that the TGE and regional governments have employed social and economic pressures and existing provisions of law to make it more difficult for opposition parties to organize.

The TGE Proclamation of August 12, 1991, requires organizers to inform authorities of peaceful demonstrations or public political meetings 48 hours in advance. The authorities may, and on occasion do, require that the demonstration or meeting be held at another location or time for reasons of ensuring public order. Failure to seek authorization was the reason given by the TGE for declaring a demonstration by university students against the Eritrean referendum in January to be illegal.

The authorities from region 14 (Addis Ababa) withheld permission for the All-Amhara People's Organization (AAPO) to demonstrate in Meskal Square in July on the grounds that such a rally would interfere with traffic and another scheduled demonstration (a hunger strike by laid-off maritime authority workers demonstrating against the Government). The AAPO rejected as unsatisfactory the alternative sites proposed by regional authorities, including the nearby stadium, and ultimately decided not to hold the demonstration.

In December local authorities in Region 14 issued a permit for an opposition-sponsored gathering called the "Peace and Reconciliation Conference" to meet at the government-owned Ghion Hotel in Addis Ababa. About 165 persons assembled for the conference, whose conclusions and press conferences presented criticisms of the TGE. Eight conference attendees or supporters were arrested by TGE officials after arriving in Addis Ababa from abroad. The arrestees were charged with supporting violence against the Ethiopian Government, based on their status as leaders of groups allegedly advocating or participating in political violence. The TGE soon released three arrestees, two of whom had issued personal statements disavowing violence; five arrestees were still detained at year's end.

The TGE permits the existence of independent organizations but requires associations to have government-issued permits. The Ethiopian Human Rights Council (EHRC) did not receive a permit, and the Ethiopian Teachers Association had its permit revoked.

Credible reports from many sources indicated that harassment of opposition political parties took place during 1993. These reports indicated that government officials closed some of the regional and local offices of opposition groups, often monitoring their activities or arresting local members. Opposition political groups have encountered many difficulties, including fear of government intimidation, in propagating their policies anywhere in Ethiopia, especially in the countryside where 85 percent of the population lives. Much of this fear stems from the June 1992 elections, which were marked by irregularities, harassment, intimidation, and political assassination by both government and opposition parties. Even in the larger cities, including Addis Ababa, political activity by opposition parties is minimal, although this reflects the inexperience and disorganization of opposition parties as much as government efforts to curtail opposition political activity.

c. *Freedom of Religion.*—The National Charter provides for freedom of religion, including the right of conversion, and TGE officials have advocated complete freedom of worship. There is no state religion. Roughly one-half of the population claims to belong to the Ethiopian Orthodox Church (EOC). Most of the remainder are Muslims who, for the first time in Ethiopia's history, have been able to participate fully in Ethiopia's political, economic, and social life. The TGE recognizes both Christian and Muslim holidays.

In 1993 the Orthodox Church enjoyed greater autonomy of decisionmaking since it no longer had any state-sanctioned role. However, the installation in 1992 of a new Patriarch from the same ethnic group as the President has generated much internal controversy within the EOC along ethnic lines. This controversy was reflected in physical harassment—including attacks with rocks and other missiles and disruption of church services—of the Patriarch, Abune Paulos, by Amharic-speaking dissidents during his trip to the United States in late 1993.

There were no reports of official discrimination against Muslims, non-Orthodox Christians, or Jews. Nevertheless, tensions mounted in 1993 between Muslims and Protestants on the one hand, and the Orthodox community on the other. A hermit (an Orthodox prophesier unsanctioned by the EOC) drew a large following in Gondar in September by protesting incursions by Protestants and Muslims into this traditionally overwhelmingly Orthodox region. His followers ultimately clashed with security forces, resulting in deaths and casualties on both sides (see Section 1.a.).

The hermit was subsequently arrested and at year's end awaited trial in Gondar. The authorities arrested another hermit, Bahatawi Gebre Meskel, twice in March, ostensibly for unlawfully entering the grounds of St. George's Church. Unofficial observers have suggested he was arrested for preaching against the EPRDF and against Eritrean secession.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The National Charter recognizes freedom of movement, including the right to foreign travel and emigration. Nevertheless, Ethiopian citizens and residents of Ethiopia are required to obtain an exit visa before departing, which is issued in most cases. There are exceptions in the cases of persons with pending court cases and persons with debts; there are no reports of denial of exit visas for political reasons. Travel within Ethiopia is unregulated. Citizens may freely change their residence or workplace. There are no restrictions on travel for women or minority groups.

Virtually all remaining Ethiopian Jews (Falashas) who wished to emigrate from Ethiopia did so during 1993. Almost all of them went to Israel. Some Falash Mora, a group of Ethiopians who claim Jewish heritage but have not been accepted as Jews by the Israeli Rabbinate, have begun emigrating to Israel under family reunification provisions of Israeli law.

In July the TGE deported from Ethiopia a lay group of eight Americans and one Israeli for violations of Ethiopian immigration law. They had been operating without a permit, educating the Falash Mora in the tenets of Judaism and teaching them Hebrew. The TGE maintained that this conformance with Ethiopian law rather than a restriction on religious observance. In November the group was again directed to leave Ethiopia, after their application to register as a nongovernmental organization was denied because of TGE concerns that the group was engaged in sectarian activities (i.e., trying to recruit Ethiopians to go to Israel).

Citizens who have left the country are guaranteed the right of return. According to the United Nations High Commissioner for Refugees and foreign diplomatic officials, the TGE is fair in its treatment of asylum seekers and cooperative on issues concerning the repatriation of Ethiopian refugees. However, the TGE has refused to issue valid travel documents to Ethiopian citizens living abroad who are facing deportation proceedings in their countries of residence. No problems were reported with treatment of refugees.

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

The right of citizens to change their government has yet to be exercised in Ethiopia. The TGE is preparing for a transition to multiparty democracy in 1994, but the Constitutional Commission charged with drawing up a draft constitution was far behind schedule at year's end. The new constitution will be subject to ratification in 1994 by an elected constituent assembly.

Former members of the Workers' Party of Ethiopia will not be allowed to vote in the constituent assembly elections, but it is expected that they will be enfranchised thereafter. An election to choose a new national government is planned for late 1994. Voting is expected to be by secret ballot.

The EPRDF, which is actually a coalition of four parties, dominates the TGE. The EPRDF itself is dominated by the TPLF, whose members include the President; senior officials in the Ministries of Foreign Affairs, Defense, and Internal Affairs; and virtually the entire leadership of the armed forces.

The TGE quasi-legislative Council of Representatives comprises 65 members representing 25 parties and ethnic groups. In April the TGE expelled five parties belonging to the southern coalition from the Council; one was later readmitted. The TGE claimed that these parties had violated the National Charter by signing and not repudiating the Paris communique which claimed, inter alia, that "at present there is not (a) legitimate government in Ethiopia." The EPRDF, which controls 32 seats in the Council of Representatives and has strong ties with a number of other parties, completely dominates Council debate. No other political party has more than three seats.

The TGE is establishing stronger regional political and administrative organs of government. This devolution of power, if completed successfully, would be a radical departure from the tradition of strong central government led by an authoritarian ruler, usually an Amhara. The TGE claims that regionalization will give people more direct responsibility for the decisions affecting their lives. The regions will be responsible for devising and maintaining numerous public services, including the judiciary, primary education, and the police. These functions will operate in the language chosen by that region, not necessarily Amharic as in the past. While the regionalization policy appears to have widespread support, the delimitation of regional

boundaries along ethnic lines has aroused concern among many people, particularly the Amharas, that ethnic tensions will be aggravated (see Section 5).

There are no restrictions in law or practice on the participation of women or minorities in politics. Women hold 3 of the 20 Cabinet seats; 3 additional women hold ministerial rank.

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

There are two active human rights monitoring groups in Ethiopia: The Ethiopian Human Rights Council (EHRC) and GADADO, Oromo Ex-Prisoners For Human Rights. Both are independent of the Government. The EHRC has criticized the TGE on a number of issues and operates relatively freely. However, the TGE claimed the EHRC is politically biased against the EPRDF, refused to grant the EHRC a permit, and arrested the EHRC Secretary General in May on unspecified charges. Subsequently, the TGE released the Secretary General upon presentation of a guarantor and, at year's end, had not brought charges against him. According to the EHRC Secretary General, the TGE arrested two other members of the EHRC in 1993: one was released on bail, the other remained in prison, yet neither had been formally charged.

The Ethiopian Human Rights and Peace Center (EHRPC) was established as an autonomous and neutral body at Addis Ababa University in 1993. It is affiliated with the law faculty. The EHRPC's goals are to educate the public about human rights and to be a research and documentation center. The Ethiopian Congress for Democracy, Forum–84, and the InterAfrica group conduct civic education programs on human rights subjects.

The TGE was willing to discuss human rights concerns with diplomatic missions, international, and nongovernmental organizations. The EHRC received an official reply from the Government to its fifth report on human rights. The All-Amharic People's Organization received a reply from the Addis Ababa police commission to accusations in a press release. International human rights groups are welcomed by the TGE and enjoy good relations, access, and freedom to travel where they wish. Amnesty International was granted access to prisoners during its visit in 1993. The SPO actively courts and accepts assistance from foreign governments and legal and forensic experts.

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

The National Charter does not explicitly address discrimination on the basis of race, sex, religion, disability, language, or social status. The Charter does, however, incorporate the Universal Declaration of Human Rights of the United Nations.

Women.—The TGE took a number of steps to improve the position of women. In September it launched a national policy to promote through legislation the equality of women and the inclusion of women's concerns in the Government's development planning. The TGE also established a national committee on traditional practices considered harmful to women, including female genital mutilation, tattooing, and child marriage. The national committee, composed of representatives of various ministries and NGO's, is Ethiopia's liaison to the Inter-African Committee on Traditional Practices, which is composed of representatives from 28 African countries. It has developed a program whereby employees of rural-oriented institutions are trained to educate rural populations on the harmful effects of some traditional practices. The Ethiopian Government established a women's rights section in the Ministry of Justice in 1992; however, this office still was not organized by the end of 1993. Women played a prominent role, including in combat, during the rebellion by the TPLF which ended when it and its allies in the EPRDF took power in 1991.

Nevertheless, women do not enjoy equal status with men. Since men are considered head of the household and representative of the family, rights of land tenure and ownership of property are registered in their names. In the rural areas, where 85 percent of the population lives, women work over 13 hours a day fulfilling household and farming responsibilities. In urban areas, women have fewer employment opportunities than men and are considerably less well remunerated.

Domestic violence, including wife beating, remains pervasive. While women in theory have recourse to police protection and official prosecution in cases of domestic violence, societal norms inhibit many women from seeking legal redress. The media do not cover rape because of the stigma attached to the crime. There has been media coverage of domestic violence but not on a routine basis.

Children.—Governmental expenditures on children's welfare are minimal. In 1993 the TGE shifted increased resources from the military to social services which should benefit children. The 1993–94 allocation for education will exceed the mili-

tary budget for the first time in many years. Many of the few social services that exist are operated by private organizations, but their resources are limited, and an increasing number of children are seen selling goods and begging in urban areas.

The vast majority of Ethiopian women have undergone some form of female genital mutilation, which is usually performed at an early age. According to an independent expert in the field, the percentage of Ethiopian females who have undergone genital mutilation may be as high as 90 percent.

National/Racial/Ethnic Minorities.—Ethiopia comprises more than 80 different ethnic groups. At various times in the past, one or another (usually the highlanders) of these groups has predominated in the political, cultural, and economic life of the country. Some ethnic groups, such as the Oromos, claim to have been dominated for centuries by the highlanders. The declared aim of the TGE is to promote the interests of all ethnic groups through a decentralized, federal system of government. The TGE delimited regional boundaries in 1992 to encompass an entire ethnic group or a multitude of ethnic groups more completely. Regions are now free to use their local language in public services. As implementation of this plan proceeds, it has aroused opposition from some groups, notably the Amharas, who warn against the disintegration or Balkanization of Ethiopia.

The plan has also raised difficulties for people who do not know the newly selected language of the region. For example, many teachers and judges, including some ethnic Oromos, in region 4 (Oromia) do not speak Orominya. Many people fear being expelled from the region in which they currently reside and the possibility of not being able to practice their profession. While some overt discrimination of this sort occurred in 1993, the TGE tried to combat it.

People with Disabilities.—There is no officially condoned or legally sanctioned discrimination against people with disabilities. Nevertheless, cultural attitudes towards the disabled are often negative. The TGE, with international support, established a commission for rehabilitation to provide ex-servicemen and civilians injured in the civil war with vocational training, assist them in finding employment, and provide them with physical rehabilitation. An official at the rehabilitation agency, a semi-autonomous institution under the Ministry of Labor and Social Affairs, estimates that there are 5.3 million disabled persons in Ethiopia out of a population of 53 million. Limited resources restrict assistance to an estimated 20,000 beneficiaries. Ethiopia has no legislation mandating access for the disabled. Legislation addressing other problems of the disabled was under consideration at the end of 1993. As in many other areas, Ethiopia's extreme poverty is both a cause of the problem and an obstacle to its solution.

Section 6. Worker Rights

a. *The Right of Association.*—Only a small percentage of Ethiopia's 53 million people is involved in wage labor employment, which is largely concentrated in the capital. Some 80 to 85 percent of the work force lives in the countryside, working as subsistence farmers.

Under the National Charter and the Labor Law promulgated in January, most workers are free to form and join unions.

Employees of the civil and security services, judges, and prosecutors are not allowed to form unions. Workers who provide an "essential service" are not allowed to strike. Essential services include air transport and railways, city cleaning and sanitation, urban and interurban bus services, gas stations, electricity generating plants, police and fire services, post and telecommunications, banks, pharmacies, and water supply.

Unions are not affiliated with the Government or political parties. Workers are free to form as many federations and confederations as they wish. The Confederation of Ethiopian Trade Unions (CETU) was established in November 1993. CETU is organized by industrial and service sector rather than by region. The elected leadership will take over and transform the existing Ethiopian trade union, whose senior level management is expected to be released. The TGE did not interfere in the process. The Ethiopian Teachers Association (ETA), which is not affiliated with the National Confederation, claims it was subject to governmental interference in 1993. ETA alleged that the TGE closed 133 of ETA's 137 branch offices, blocked its bank accounts, and fired 22 of its officers.

The 1993 Labor Law explicitly gives the workers the right to strike to protect their interests. Many restrictions on the right to strike apply equally to an employer's right to lockout. Both must make efforts at conciliation, provide at least 10 days' notice, and provide the reasons for the action. In cases already before a court or labor board, the party must provide at least 30 days' warning. Strikes must be supported by a majority of the workers affected by the decision. It is unlawful to strike

against an order from the Labor Relations Board (LRB). The Labor Law prohibits retribution against strikers.

If an agreement between unions and management cannot be reached, the case may be arbitrated by a Labor Relations Board (LRB). One or more LRB's will be created in each region and at the national level. The Minister of Labor and Social Affairs will appoint each chairman. The Board's four members are composed of two each from trade unions and employers associations and serve 3-year terms. Where more than one union or employers association exists, the organization with the most representative membership will appoint the member to the LRB.

There were no strikes organized by unions in 1993. There were, however, numerous actions taken by former employees of state agencies who had been laid off in the process of economic restructuring or had lost their jobs in May when Eritrea gained its independence from Ethiopia. In most cases, the TGE offered the employees a severance package, but this was not always accepted by the affected employees. Some former employees of the Ethiopian Maritime Transport Authority conducted a hunger strike for several months in the central square of Addis Ababa to protest what they believed to be inadequate compensation.

Independent unions and those belonging to the National Confederation are free to affiliate with and participate in international labor bodies.

The International Labor Organization's (ILO) Committee of Experts noted with satisfaction the issuance of Labor Proclamation No 42/1993 repealing the imposition of a single, official trade union system and recognizing the right of workers and employers to establish and join trade unions and employers' associations respectively, in order to represent their members in collective bargaining.

b. *The Right to Organize and Bargain Collectively.*—Under the Mengistu regime, employees were guaranteed total job security regardless of performance or productivity; no worker could be fired, and no manager was ever discharged because of low productivity. Collective bargaining had no place in this scheme because the government dictated the terms. The result of these and other measures was a labor force with little or no motivation to perform on the job.

The TGE undertook to create a new labor culture. Collective bargaining is now protected under the Labor Law and is practiced freely throughout the country. Collective bargaining agreements concluded between 1975 and January 1993 are covered under the 1975 Labor Code and remain in force. During 1993 many unions throughout Ethiopia reorganized themselves in accordance with the new guidelines and registered with the Ministry of Labor and Social Affairs. Both the Vice Minister of Labor and the Representative of the African-American Labor Congress stated unequivocally that a considerable amount of collective bargaining occurred in Ethiopia during 1993. Such activities did not occur exclusively in Addis Ababa. For instance, workers at the Wonji Sugar Plantation near Nazret negotiated an 11-percent wage increase in September. Labor experts estimate that as many as 90 percent of unionized workers in Ethiopia are covered by collective bargaining agreements. Wages are now being bargained at the plant level.

The law prohibits antiunion discrimination. Grievance procedures are in place to hear allegations of discrimination brought by individuals or unions. Employers found guilty of antiunion discrimination are required to reinstate workers fired for union activities.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Slavery was officially abolished in Ethiopia in 1942. The TGE's National Charter proscribes slavery and involuntary servitude. Activity which inhibits a person's freedom of contract or is deemed a restraint of liberty is illegal. Forced or compulsory labor is virtually nonexistent in the modern wage sector and in those areas affected by the modern sector. The Criminal Code specifically prohibits forced labor unless instituted by court order as a punitive measure.

Local TGE officials outside of Addis Ababa continue to call on residents to "volunteer" for uncompensated community work projects, such as road building and emergency road repair. In 1993 industries were operating at less than half capacity; in those state-owned factories still functioning, workers were still sometimes compelled by factory managers to "volunteer" labor in order to meet quotas, which may result in cash bonuses.

d. *Minimum Age for Employment of Children.*—Under the new Labor Law, the minimum age for wage or salary employment is 14. Children between the ages of 14 and 18 are covered by special provisions in the Labor Law. Workers in this category may not work more than 7 hours per day, work between the hours of 11 p.m. and 6 a.m. or on public holidays, or perform overtime. The Ministry of Labor and Social Affairs, which is charged with enforcement, may proscribe children from working in dangerous vocations such as transport, electric power generation, mines,

sewers, and digging tunnels. Large numbers of children perform agricultural work in the countryside and work as street peddlers in the cities.

e. *Acceptable Conditions of Work.*—Ethiopia has no statutory minimum wage. However, since 1985 a minimum wage has been set and paid to public sector employees, who are by far the single largest group of wage earners. This public sector minimum wage is $19.40 per month (105 birr) effective as of November 1993. Although studies have not been done, the private sector usually pays at least as much as the Government.

According to the Office for the Study of Wages and Other Remunerations, which calculates the annual minimum consumption basket, a family of five requires a monthly income of $79.48 (430 birr) to maintain a bare minimum standard of living. Thus, even with two family members earning the public sector minimum wage, the family receives only about 50 percent of that needed for healthful subsistence. Many workers earn less than the minimum wage.

The legal workweek is 48 hours, 6 days of 8 hours each, with a 24-hour rest period. The 48-hour workweek is widely respected.

The TGE, private industry, and unions negotiate to set occupational health and safety standards. These are enforced by the Inspection Department of the Ministry of Labor and Social Affairs. However, a lack of human and financial resources prevents this office from effectively monitoring or enforcing health and safety standards. Workers have the right to remove themselves from dangerous situations without jeopardy to continued employment.

GABON

President Omar Bongo has ruled Gabon since 1967, but internal pressures beginning in late 1989 forced him to acquiesce to sweeping political reforms, including the promulgation of a new Constitution providing for many basic freedoms and explicitly abolishing the former system of one-party rule. However, the National Assembly is still controlled by Bongo's former party (the Cabonese Democratic Party, or PDG), which won a majority of seats in multiparty legislative elections in 1990. Although the PDG supported independent candidate Bongo in the 1993 Presidential elections, Bongo had relinquished all formal ties with the PDG before the electoral campaign. There are also deputies from eight other political parties.

President Bongo's current 7-year term expires in February 1994. In keeping with the 1991 Constitution and the recommendations of the 1990 National Conference, presidential elections took place in December. In an election marked by administrative chaos and attempts by supporters of several candidates to influence the outcome illegally, Bongo received 51.18 percent of the vote. Following the proclamation of the election results, opposition presidential candidates filed suit with the Constitutional Court on December 20 to have the election annulled. The Court, which is charged with verifying the results of all elections, must render a decision within 3 months from the date the suit was filed. Since the Constitution allows presidents to serve two 5-year terms, President Bongo's term would expire in 1999.

Responsibility for internal security is shared by the gendarmerie (a paramilitary force of 2,700) and the national police (consisting of 2,000 troops). Security forces regularly employ beatings when interrogating suspects. The police and the gendarmerie came under criticism for not protecting opposition political gatherings from potential and actual violence (see Section 2.b.).

Gabon is richly endowed with petroleum, manganese, uranium, and vast timber resources, but it has experienced limited agricultural and industrial development and must import most of its food and manufactured goods. Rain forest covers 85 percent of the country, and approximately half the 1.2 million population lives in rural areas. Gabon's relatively high per capita income ($5,906 in 1992), based largely on oil revenues, belies the underdeveloped nature of the country and its economy. Due to the precipitous fall in revenue from oil exports in the late 1980's and an increasing debt load, the Government imposed limited austerity measures to meet International Monetary Fund program criteria in 1991. Since independence, Gabon's economic policy has followed a free market orientation and welcomed foreign investment.

In 1993 the Government carefully controlled the political process culminating in the December presidential elections. It introduced preelectoral measures, namely, a new Electoral Code, a general census, a voting register, and several commissions to oversee the actual elections. At the same time, it engaged in or facilitated a series of steps during the year which seriously impinged on freedoms of speech, press, assembly, and association and harassed political and human rights critics. Other

human rights abuses included the security forces' mistreatment of illegal aliens, detainees, and prisoners and legal discrimination and societal violence against women.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There was one confirmed report of extrajudicial killing carried out by security forces. During demonstrations that followed the announcement of President Bongo's election victory, members of the Presidential Guard detained, then publicly shot and killed a demonstrator. A soldier was arrested in this case, and both the Government and the military were carrying out investigations at year's end. In the following 2 weeks, there were at least three additional confirmed reports of security forces using lethal force against demonstrators or curfew violators.

In addition, there was an unconfirmed report that one person died in prison when he was deprived of water. An investigation was still ongoing into the death of "Fantomas," a prisoner who died in police custody in 1992.

b. *Disappearance.*—There were no confirmed cases of disappearances or abductions ascribed to government security forces or any other group.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits the use of torture and inhuman or extreme mistreatment. Gabonese security forces and prison guards frequently use beatings, not only to obtain confessions but also simply to exercise authority over prisoners. Credible witnesses visiting imprisoned nationals report such beatings, along with routine strippings and head shavings. In the case of Louis-Venant Makomambasa (see Section 1.d.), in which there were political and security aspects, his relatives reported that he had been beaten and harshly interrogated. However, following his release, the family elected not to press charges and therefore no investigation was carried out.

Conditions in most prisons are abysmal; sanitation and ventilation are very poor, and medical care is almost nonexistent. Only minimal food is provided, and there are reports that prisoners are deprived of water as a further means of punishment.

d. *Arbitrary Arrest, Detention, or Exile.*—The law provides for up to 48 hours of initial preventive detention, after which either a court's judgment must be delivered, or a more lengthy investigation opened. In practice, however, prisoners are often held longer without charge, especially in security-related cases. In a highly publicized case, a member of the gendarmerie, Louis-Venant Makomambasa, was accused of passing military secrets to a leading opposition political party. He was arrested, questioned, then released. One week later, relatives reported that he had again been detained, and that he was held without charge, tortured, and otherwise mistreated. After 3 weeks, he was again released.

There were reports that the authorities called in opposition members and union members for short periods of questioning. There were also occasional, unconfirmed reports from the interior that local officials held people briefly in connection with political activities. As far as known, the Government did not press charges in these cases.

The Government continued to detain frequently—usually for short periods—illegal aliens suspected of violating the law. (see Section 2.d.).

There were no known political detainees or prisoners being held at year's end.

Exile is not used as a punishment or means of political control in Gabon, and there are no opposition leaders currently living in forced exile. Pierre Mamboundou, who was convicted in absentia for involvement in a 1989 coup plot, returned to Gabon in 1993 to present himself as a presidential candidate. Although he experienced some difficulty boarding a plane in Dakar, no action was taken against him upon his return. The conviction against Mamboundou still exists, but there had been no action taken to prosecute him at year's end.

e. *Denial of Fair Public Trial.*—The judicial system includes the normal court system, a Military Tribunal to handle all offenses under military law, a State Security Court, which is a civilian tribunal, and a Special Criminal Court that deals with fraud and embezzlement of funds by public officials. There are no traditional or customary courts, but in some areas family disputes may be taken before a village chief for resolution. However, chiefs' decisions have no legal weight and are not recognized by the Government.

The regular civilian court has three levels: the trial court; the appellate court; and the Supreme Court, which has three chambers. The 1991 Constitution transformed what had been the fourth chamber into the Constitutional Court, an independent body which is devoted solely to constitutional questions.

The right to a fair public trial is provided for in the Constitution and is generally respected in criminal cases. Nevertheless, procedural safeguards are lacking, particularly in state security trials, where the judiciary remains potentially vulnerable to intervention by the executive. In these courts, trials are open to the public, and defendants are represented by counsel, but appeals to the Supreme Court are restricted to raising points of law. The State Security Court is not a permanent body and is called into existence only as the Government determines to hear security cases. It was last convoked in 1990 to hear the coup plot cases of 1989–90.

The new Constitutional Court, invested in February 1992, has demonstrated that it can act independently of the Government. Its decisions were integrated into the 1993 Electoral Code which governed the country's first multiparty presidential elections in December. In November the Court declared unconstitutional several articles of a press decree proposed by the President, including an article which would have required newspaper publishers to submit copy to the Minister of Territorial Administration prior to publication (see Section 2.a.).

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides protection against searches without warrant and surveillance of individuals or other invasions of privacy. Legally authorized searches of private homes may occur only during designated hours. Since the promulgation of the new Constitution, extralegal abuses of this nature have decreased. Nevertheless, search warrants often require minimal justification and may even be issued after the fact. Government authorities have used warrants to gain access to the homes of opposition leaders and their families although there were no confirmed cases of forced entry without warrant. The Government also regularly exercises surveillance of private citizens' movements, correspondence, and telephone conversations. There have been credible reports of government and military personnel being discharged, transferred, or denied promotion because of membership or association with opposition parties.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for the right of free speech and press. People speak freely, including in the National Assembly.

There are nine weekly independent and opposition newspapers in addition to the government-controlled daily, L'Union. In April the first opposition radio station, Radio Liberte, began broadcasting and in September Television Liberte commenced operation. The ruling PDG also began a radio station and part-time television service. During the presidential campaign, media, especially those controlled by political parties, but also L'Union, published numerous allegations of corruption against politicians of all stripes and launched personal attacks on political leaders and their families.

A disturbing trend, however, was the growing tendency by security elements to resort to intimidation and extralegal acts (such as electronic jamming and the confiscation of transmitting equipment) in an attempt to influence the opposition media. In July, in response to opposition press attacks on the Government and the military, the Ministers of Defense and Territorial Administration convoked opposition press leaders and demanded more responsible journalistic practices. Unidentified security elements subjected Radio Liberte, whose legal status was disputed by the Minister of Communications, to electronic jamming on numerous occasions throughout 1993, with the complicity of the Government. In another incident, the Governor of Tchibanga dismantled a Radio Liberte transmitter which was eventually restored to its owners. On December 16, the facilities of another independent radio station, Frequence Libre, were destroyed by an unidentified group of commandos operating after the government-imposed curfew. At year's end, an investigation was pending.

In early September, following the publication of an article in an opposition paper alleging that human sacrifices were taking place at the Presidency, the Prime Minister issued a decree prohibiting the publication of any newspaper not in conformity with a preindependence press code and existing commercial regulations. This measure effectively banned for nearly 2 months the publication of all but a handful of papers controlled by supporters of the President. On October 7, President Bongo, acting under his constitutional powers to pass legislation by decree when the National Assembly is not in session, issued a comprehensive press decree. The National Communications Council and an opposition Deputy immediately challenged this decree, and the Constitutional Court subsequently ruled several of its provisions unconstitutional, including requirements that newspapers register as commercial entities and submit copy to government authorities before publication. With the unconstitutional articles deleted, the National Assembly approved the press decree

before the end of its 1993 session, and the decree will enter into force in February 1994.

International news is rebroadcast by Gabonese stations, and some foreign stations can be picked up via satellite. Foreign periodicals and newspapers are widely available, including a number of sensational exposes of high-level corruption which appeared in the French press. There were no government bans on foreign news.

There are no official restrictions on academic freedom, including research.

b. *Freedom of Peaceful Assembly and Association.*—Recognized organizations (whether political, labor, youth, women's cultural, ethnic, or otherwise) enjoy freedom of assembly and association. A number of political parties held parts of their party congresses in the National Assembly building itself.

Permits are required for all outdoor assemblies, and the police must be notified in advance. By law, unauthorized demonstrations are not permitted, but in practice they often take place and are tolerated. There were no known instances of the authorities prohibiting meetings or demonstrations for most of the year, but the Government imposed a state of alert in mid-December that banned all public meetings, and security forces prevented various opposition gatherings from taking place.

Gabonese authorities normally showed considerable restraint in dealing with demonstrators. During the 2 weeks prior to the elections, police acted quickly and effectively to assure that demonstrations and confrontations between the opposition and the PDG remained peaceful. However, during other times of the year security forces were noticeably absent from potentially troublesome situations, despite advance knowledge. Police failed to defuse riots after an August soccer match that resulted in four deaths. They were also absent from some opposition gatherings which were disrupted by violence attributed to street gangs paid by rival parties.

c. *Freedom of Religion.*—There is no state religion, and the Constitution provides for religious freedom. A significant number of Gabonese in urban areas are Catholic or Protestant, while both Christianity and traditional African religions are practiced in the interior. Less than 1 percent of Gabonese are Muslims, although the President and a significant number of the West African expatriate population—perhaps as many as 200,000—are Muslim. A number of foreign missionary groups engage in both evangelical and social projects with no government interference. In 1970 the Government banned Jehovah's Witnesses, claiming that their activities fostered disunity. This ban has been neither rescinded nor actively enforced.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Although there are no legally mandated restrictions on internal movement, Gabonese nationals and expatriates alike frequently encounter difficulties. Police and gendarmerie officials often stop travelers to examine identity, residence, and registration documents. In May what were thought to be politically motivated groups formed barricades on many of the roads in Gabon's interior, demanding improved government facilities and services. Many of these groups descended into lawlessness, extorting cash from travelers and damaging vehicles, thereby greatly restricting the flow of goods and people. Government authorities eventually sent troops to clear out the barricades, and while there were arrests, there were no reports of serious violence or abuse.

The curfew and the state of alert imposed in mid-December placed limits on freedom of movement. Police detained or fined anyone out after 10 p.m. and frequently stopped vehicles for random searches. Routine identity checks also greatly increased. During the 2 weeks immediately after announcement of election results, the authorities restricted travel of some opposition figures and others associated with the "Second Republic Government" of Paul Mba Abessole; two presidential candidates were barred from traveling to their hometowns, and one was not permitted to board a flight for Europe.

Gabonese nationals often encounter difficulties when they wish to travel abroad. The Gabonese Center for Documentation requires extensive paperwork from Gabonese citizens in order to obtain a passport and often imposes delays of up to a year before granting the document. An exit visa is required to leave the country. Opposition members have complained that they have been subjected to stricter exit visa control than nonpolitically active citizens. Women must have permission to travel from their husbands, which is sometimes denied, in order to obtain this visa.

Foreign nationals must pay the equivalent of $100 for an exit/reentry permit for each trip out of the country, and even with valid documents they often experience difficulties at ports of entry. The authorities turn even documented foreigners away.

The roughly 250,000 African expatriates resident in Gabon encounter the greatest difficulties; residence cards cost over $1,000, and foreigners are often detained even when in possession of valid paperwork. Requests for bribes are commonplace.

Gabon continues to control strictly the influx of foreign workers. The Government has established a program of voluntary departure for illegal immigrants in coopera-

tion with a number of African embassies and consulates, and this has greatly diminished the cases of mistreatment of undocumented immigrants. Between 1992 and 1993, the Government forcibly repatriated approximately 15,000 Nigerians without due process.

Gabon continues to exercise its own control over refugee identification, although coordination with the United Nations High Commissioner for Refugees has improved and statistics are more readily published. There are about 150 refugees in Gabon; there were no reports of mistreatment or forced repatriation of refugees in 1993.

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

The 1991 Constitution provides for this right, including the right of citizens to organize and campaign in the political process. There were serious irregularities in the 1990 multiparty legislative elections, including ballot rigging by the PDG and other parties. In March 1992, the National Assembly adopted an Electoral Code which gave the Ministry of Territorial Administration control of the organization of the 1993 Presidential elections, with political parties and nongovernmental organizations given observer status. Despite a long lead time, grants of material assistance from a number of countries, and offers of technical assistance from others, election preparations were inadequate, especially in Libreville where 40 percent of eligible voters reside. On election day, the combination of inadequate organization and poorly trained election officials facilitated attempts by supporters of several candidates to influence the outcome, in particular through illegal trafficking in voter registration cards and multiple voting. The vote count itself took place under chaotic conditions. At midnight on December 9 when, according to several reports, votes were still being counted, the Minister of Territorial Administration issued results showing President Bongo the winner with 51.07 percent of the vote.

While the Constitutional Court subsequently proclaimed Bongo the winner of the elections, a petition was filed with the Court on December 20 by several other candidates to have the presidential election annulled.

The declaration of election results was followed immediately by the imposition of a state of alert which, under the provisions of a preindependence law, provides for the house arrest of persons judged dangerous to public order and suspension of certain rights, including the right of assembly and freedom from search without warrant. The state of alert also permitted censorship of correspondence, the press, radio, film, and theater, limited the free circulation of persons and goods, and established a curfew. By year's end, the Government had invoked only a few of these sanctions, most notably a ban on travel by opposition presidential candidates and frequent military roadblocks and checkpoints. Citing organizational problems and an unsettled political climate, the Government postponed municipal elections, which had been scheduled for December 26, until March 27, 1994.

There are no legal restrictions on women or minorities in politics. Some women have risen to positions of prominence in the Government. Of the 120 Deputies in the National Assembly, 6 are women, and 3 women head government ministries. The President of the new Constitutional Court is a distinguished female jurist, and women head many of Gabon's human rights and nongovernmental organizations.

Despite constitutional protections, the indigenous Pygmies rarely participate in the political process, and the Government has made only marginal efforts to include them (see Section 5).

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

While the Government handles most investigations of human rights cases directly, it permits local human rights groups to function. Several of these local groups have become increasingly vocal. In the first report of direct government interference, the head of the Gabonese League of Human Rights claimed that he was subjected to official harassment following a broadcast on Radio Liberte in which he attacked the Minister of Communication's decree suspending the independent press.

There have been no active inquiries or participation from foreign groups in recent years, so the Government's attitude toward international inquiries is not known.

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

The 1991 Constitution forbids discrimination based on national origin, race, gender, or opinion, and there are no systematic government-sponsored activities carried out against any specific group.

Women.—Despite the new Constitution, women continue to face legal and societal discrimination. A woman is still required to obtain her husband's permission to

travel abroad, and in the case of her deceased husband's estate, his family has the right to claim large parts of the property. The head of the Constitutional Court—a woman—and the League of Women Jurists are actively contesting these laws.

Urban-based women face much less societal discrimination than those living in rural areas. They enjoy greater access to education, government employment, and private sector business opportunities than rural women, whose roles are determined by tradition and family and who bear the brunt of hard physical labor, both domestic and agricultural. Urban women are more aware of their legal rights, including the right to own property, to associate and invest as they like, and to run businesses. Gabon has a common property law, whereby all property and wealth obtained after marriage is owned jointly by the husband and wife; however, a spouse may not demand half control of anything his or her partner earned or gained before the marriage. Women may also initiate divorce proceedings and women have initiated and won suits against discriminatory employers.

Violence against women, including wife beating, does occur, especially in rural areas. Villagers do not frown upon rural women who leave abusive husbands, and among some ethnic groups, a woman's family may help her seek recourse from the family of the abusive husband. Rape and other violent crimes against women are infrequent.

Children.—The Government has given only limited attention to children's rights. However, there was discussion of the subject in the National Assembly in 1993, and the Assembly gave the Government authority to sign the U.N. Declaration on the Rights of the Child.

Indigenous People.—Several thousand indigenous Pygmies live in the south of Gabon. They exist largely independent of formal authorities, keeping their own traditions in independent communities. In theory, they have the same civil rights as any citizen, although in practice they are often the victims of local discriminatory practices. They have virtually no ability to participate in decisions affecting their lands, culture, traditions, and the allocation of natural resources. When the Government instituted its policy of "regroupment," consolidating several smaller villages into larger ones along main roads, the Pygmies remained in their outlying villages, mostly without electricity, water, or state schools. There are no government programs specifically targeted to assist Pygmies.

National/Racial/Ethnic Minorities.—Credible reports indicate that favoritism in hiring and promotion based on ethnicity occurs on a fairly frequent basis in both the public and private sectors. However, this occurs back and forth across ethnic lines, and neither the Government nor any single ethnic group is able to exercise a systematic denial of privilege or right to any other group. Some ethnic groups maintain that President Bongo carefully allocates key cabinet and government positions to members of his ethnic group, and they complain that there is no legislative check on certain appointments, such as to the Supreme Court. However, individuals from all ethnic groups occupy prominent positions within the Government, the military, and the private sector.

People with Disabilities.—There are no laws prohibiting discrimination against persons with disabilities, and there are no laws providing for accessibility for the disabled. In August members of the National Association of Handicapped People in Gabon (ANPHG) staged a protest at the Presidential Palace, demanding accessible housing and revision of their social security benefits. In response to the ANPHG protests, the President's wife initiated a campaign to provide wheelchairs to the handicapped.

Section 6. Worker Rights

a. *The Right of Association.*—The 1991 Constitution recognizes the right of citizens to form associations of all kinds, including trade and labor unions. According to the Constitution, there are no restrictions on this right of association. Unions, in order to be officially recognized, must register with the Government. A 1992 law also allowed public employees to organize, although their right to strike is limited in areas pertaining to public safety. Under single-party rule, all workers were required to belong to a single union, the Gabonese Labor Confederation (COSYGA), to which they contributed a mandatory 0.4 percent of their salaries. In 1992 a new law allowed for the creation of unions independent from COSYGA and abolished the mandatory contribution.

Among some 70,000 union workers in the modern wage sector, COSYGA continued to represent about 30,000, according to its statistics. COSYGA is strongest in the construction, commerce, and state-owned sectors, while CGSL is strong among teachers and foreign workers. The petroleum sector is also strongly unionized by smaller independent unions.

A revision of the Labor Code, which dates back to 1978, has been repeatedly delayed. It would grant government recognition to the new Gabonese Confederation of Free Trade Unions (CGSL). The revised code had still not been officially published by year's end, but the CGSL has been recruiting members and organizing actively for nearly 2 years. The CGSL has greatly expanded membership and representation for foreign workers in Gabon, who make up at least 30 percent of the work force. The CGSL has also been active in attempting to organize among civil servants, but labor leaders report that civil servants have remained reluctant to do so.

According to the Labor Code, unions remain free from Government and political interference, although they are permitted to associate themselves as their members choose. During the presidential campaign, CGSL openly associated itself with the opposition (although not with a specific party), while COSYGA supported President Bongo.

Under the 1978 Code, strikes are illegal if they occur before compulsory arbitration takes place. The International Labor Organization and the CGSL have strongly criticized this provision, and the revised code holds provisions to change it. The Government has announced, but has not yet carried through, its intentions to liberalize the right of workers to strike in the new code. In practice, the Government has allowed labor to strike without fear of arrest or other reprisal since the official liberalization that followed the National Conference in 1990.

The Labor Code prohibits direct government action against strikers who have abided by the compulsory arbitration provision. It also prohibits the Government from pressing charges against a group as a whole for criminal activities on the part of an person during a strike. In 1993 the Government did not punish strikers, including those who did not follow the provisions of the Labor Code. There were a number of short, wildcat strikes in 1993: Postal and Telecommunication workers struck occasionally, including on one occasion in support of Radio Liberte, which at the time was being jammed (see Section 2.a.); and university teachers also went on strike in June, refusing to give exams until the Government granted them a greater role in governing the National University. These strikes all took place with no government reprisals against strikers.

Unions and confederations are free to affiliate with and participate in international labor bodies. The COSYGA is affiliated only with the Organization of African Trade Union Unity, although it participates with other international bodies. Even though the Government still had not granted CGSL legal recognition in 1993, CGSL has affiliated with the International Confederation of Free Trade Unions.

b. *The Right to Organize and Bargain Collectively.*—The Labor Code provides for the right of collective bargaining. Labor and management meet to negotiate differences, with a representative from the Ministry of Labor present only as an observer. When an accord is reached, the ministry representative is called upon to draft an agreement document and witness the parties' signatures. Unions in the petroleum sector and banking sectors, for example, have effectively engaged collective bargaining provisions to reach agreements with employers.

Unions in each sector of the economy negotiate with management without government interference over specific pay scales, working conditions, and benefits, and the agreements reached apply to nonunion workers. While there are no specific laws which prohibit antiunion discrimination, decisions against employers found guilty of antiunion discrimination are handled on a case by case basis; the law does not specifically require employers to reinstate workers, but compensation, as decided by the court, must be made. In one case in 1993, a woman who was fired for becoming pregnant twice in a 2-year period won a suit against her employer. She informed the court that she did not wish to be reinstated, and a different form of compensation was stipulated.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is prohibited by law and not practiced.

d. *Minimum Age for Employment of Children.*—Children below the age of 16 may not work without the express consent of the Ministries of Labor, Education, and Public Health. These Ministries rigorously enforce this law, and few people in the modern wage sector are under the age of 18. In rural areas, however, children work in agriculture and other traditional activities.

e. *Acceptable Conditions of Work.*—The 1978 Labor Code and the 1982 General Convention of Labor govern working conditions and benefits for all sectors and provide broad protection to workers. Each year representatives of labor, management, and government meet to examine economic and labor conditions; they recommend a minimum wage rate within government guidelines to the President, who then issues an annual decree. Currently, the minimum wage for unskilled workers is ade-

quate to support workers and their families. The minimum monthly wage is $219 (FCFA 64,000).

Gabon's oil and mineral wealth and its developed modern wage sector allow foreign and local firms to pay competitive wages and grant generous fringe benefits, including paid maternity leave and 6 weeks of paid annual vacation. Union leaders have stated that in many cases adequate conditions of work exist.

The standard legal workweek mandated by the Labor Code is 40 hours, and work over 40 hours a week must be compensated by overtime. A minimum rest period of 48 consecutive hours must be allowed.

The Ministry of Health establishes occupational health and safety standards, but does not enforce these standards effectively. Application of labor standards varies greatly depending on company policy, and government regulation is largely ineffective.

Conditions for foreigner workers in Gabon, both documented and undocumented, are often especially harsh. Employers often stipulate longer hours and allow poorer working conditions, and they often hire only on a short-term basis in order to avoid paying social security taxes or benefits. Increased labor activities and worker education programs have improved some situations, but abuses still exist.

THE GAMBIA

The Gambia is a parliamentary democracy with an elected President and Parliament. Except for a coup attempt in 1981, The Gambia has had a history of political stability under the leadership of its only President since independence in 1965, Sir Dawda Jawara. His ruling People's Progressive Party (PPP) has dominated the unicameral Parliament, but several opposition parties, as well as independent politicians, participate in the political process.

The Gambia police force is responsible for maintaining law and order. It is firmly under civilian control. There have been some reports of police beating prisoners or detainees, but abuse of prisoners is not systematic, and reported incidents are investigated swiftly, with perpetrators punished as appropriate.

The Gambia's population of just over 1 million consists largely of subsistence farmers growing rice, millet, maize, and groundnuts (peanuts), the country's primary export crop. The private sector, led by reexporting, fisheries, horticulture, and tourism, has begun to flourish.

The Government has made particular efforts to promote observance of human rights, which are constitutionally protected and generally observed in practice. The primary human rights problems include pretrial detention for lengthy periods, due to administrative inefficiences, and societal discrimination against women.

RESPECT FOR HUMAN RIGHTS

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

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

b. *Disappearance.*—There were no reports of disappearance.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture and other cruel, inhuman, and degrading punishment. Although there is no systematic abuse of prisoners or detainees, beatings of detainees by police or prison officials have occurred. When they occur, government officials usually have responded swiftly, investigating the incident, and, if warranted, pressing charges.

Prison conditions are severe, even after the Government implemented reforms following the death of several inmates in 1988 from beri-beri. The press continued to report that inmates in local prisons received inadequate medical care and nutrition. In response to the newspaper articles, the Government commissioned a study of the health and nutrition of prisoners: the nongovernmental African Centre for Democracy and Human Rights Studies (ACDHRS) found that medical care and food hygiene were unsatisfactory but that there was no malnutrition. The Government allows prison visits by local Red Cross representatives and close family members.

Recognizing that some police officers abuse citizens' rights in the execution of their duties, the new Inspector General of Police (IGP) initiated a training program to improve the quality of service provided by his officers and to raise police awareness of human rights, especially the rights of the accused. The IGP also formed a community affairs unit to review and act on complaints about police behavior.

Parliament in April voted to abolish the use of capital punishment.

d. *Arbitrary Arrest, Detention, or Exile.*—Based on British legal practice, well-developed constitutional and legal procedures govern the arrest, detention, and public trial of persons accused of crimes. Under these procedures, an arrested person must not be held more than 24 hours before being presented to a magistrate or granted bail and must be promptly informed of charges. A detained person must be brought to trial within 1 week of arrest, but this waiting period may be extended twice, making 21 days the maximum period of detention without bail before trial. If released on bail, an accused person may face charges indefinitely since there is no maximum time limit for completing the investigation and bringing the case to trial.

In practice, because of overcrowded court schedules and administrative inefficiencies, the detention period before trial can be prolonged. The press reported several incidents in 1993 in which arrested Gambians were denied their rights under the Constitution. In one instance, the Gambian Supreme Court freed a man, suspected of murder but never formally charged, who had been detained in Mile Two Prison for 17 months. He was subsequently rearrested and remanded for custody at Mile Two Prison. In another case, the Supreme Court granted bail to a man charged with murder who had been held without trial at Mile Two Prison for almost 4 years. A third case came to light in which a young man had been detained for 20 days without charge.

To help guard against a reccurence of such cases, the Inspector General has delegated to the arresting officer the authority to grant bail or order the release of an arrested person who cannot be charged.

As far as is known, there were no political or security detainees or prisoners held by the Government at year's end.

The Government does not practice political exile. The leader of the failed 1981 coup, Kukoi Samba Sanyang, remained abroad.

e. *Denial of Fair Public Trial.*—There are three kinds of law in the Gambia: general, customary, and Shari'a (Islamic). Shari'a law is observed in Muslim marriage and divorce proceedings. Customary law covers marriage and divorce for non-Muslims, inheritance, land tenure and utilization, local tribal government, and all other traditional civil and social relations. General law, based on the English system but modified by Gambian practice, governs criminal cases and trials and most organized business practices. If there is a conflict between general law and Shari'a, general law prevails.

Appeals normally proceed from the Supreme (trial) Court to the Court of Appeals, the country's highest tribunal. Judges are appointed by the Government, but the judiciary operates independently and is free of government interference.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution contains provisions (which are generally respected) against arbitrary search of person and property. It does permit a search to which a suspect submits voluntarily or if the search is reasonably required in the interest of national defense or public welfare. Under the Criminal Code, search warrants based on probable cause are issued by magistrates upon application by the police.

The Code also specifies that police may conduct a search of a private residence while a crime is in progress. There are a few checkpoints in the country where the police and military periodically stop and search drivers and vehicles.

The rights of family are of great importance in the Gambia's conservative Muslim society. Marriage, the rearing of children, and religious instruction are regulated primarily by personal preference and ethnic and religious tradition; the Government does not normally intrude in family matters. There is no effort to censor or control personal correspondence or communications.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and press. Ordinary citizens openly criticize government policies during public meetings or in private conversations. During the 1992 election, opposition political parties freely criticized the Government's record. In 1993 a third major newspaper, a monthly, began publication.

There is no television in the Gambia, although Senegalese broadcasts can be received with standard television antennas, and international broadcasts can be received via satellite dishes, which are becoming more common. The government radio station, Radio Gambia, provides the only daily local news coverage, which is also broadcast by the two commercial radio stations. During the 1992 elections and 1993 by-elections, opposition parties had access to Radio Gambia, although there were some complaints in this respect. Foreign magazines and newspapers are available in the capital. There is no university in the Gambia.

b. *Freedom of Peaceful Assembly and Association.*—The Government does not interfere with freedom of assembly and association, which is provided for in the

Constitution. The Government almost always grants permits for peaceful assembly but requires that these meetings be open to the public. Permits for assembly are issued by the police and are not denied for political reasons. No organization is currently proscribed in the Gambia. The law on proscribed organizations has been amended so that future bans will require a judicial decision rather than a presidential decree. The State must now apply to a court for a proscription order, citing specific grounds for the request.

c. *Freedom of Religion.*—Constitutional provisions of freedom of conscience, thought, and religion are observed in practice. The State is secular, although Muslims constitute over 90 percent of the population. The schools provide instruction in the Koran for Muslim students. Christians, both Catholic and Protestant, freely practice their religion. There is a small Baha'i community in Banjul. Missionaries are permitted to carry out their activities freely.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of movement, subject to conditions protecting public safety, health, and morals. There is no restriction on freedom of emigration or freedom of return. Because of historic and ethnic ties with the inhabitants of Senegal, Guinea-Bissau, Mali, Sierra Leone, and Mauritania, people tend to move freely across borders, which are poorly marked and difficult to police.

The Gambia continued to host refugees from Liberia and Senegal. However, during 1993 the arrival of Liberian refugees into the Gambia virtually ceased, and many Liberians living in the Gambia departed voluntarily. At year's end, some 250 Liberians remained in The Gambia. Refugees from southern Senegal's Casamance region also began returning home in 1993, following the July cease-fire between the Casamance separatist group and the Government of Senegal. The Casamancais refugee population in The Gambia decreased from some 3,500 at the beginning of 1993 to 2,000 by the end of the year. The Gambia maintained its tradition of hospitality towards refugees and worked with the United Nations High Commissioner for Refugees, the Gambian Red Cross, and other nongovernmental organizations to provide assistance and protection to refugees.

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

Citizens have the right to change their government through peaceful means. The President and Members of Parliament are popularly elected, as are the district councils and the chiefs who exercise traditional authority in the villages and compounds. Presidential and parliamentary elections are held every 5 years. Citizens must be at least 18 years of age to vote. Balloting is secret, and measures are employed to assure that illiterate voters understand the choices and voting procedure.

A functioning multiparty system exists, even though the Peoples' Progressive Party (PPP) under the leadership of President Jawara has been in power since independence. All opposition parties contest general elections, and some contest district elections. In the April 1992 presidential and parliamentary elections, candidates from the five political parties as well as independent candidates campaigned vigorously. Observers as well as most participants declared the election free and fair. President Jawara was reelected President, but his PPP lost six seats in Parliament. The overall distribution of elected parliamentary seats was 25 for the PPP, 6 for the National Convention Party (NCP), 2 for the Gambian People's Party (GPP), and 3 independents.

In accordance with election law, seven defeated parliamentary candidates filed petitions at the Supreme Court challenging the results in their districts. The Court dismissed petitions of two NCP candidates, but the Chief Justice heard five petitions from PPP candidates. Of the five cases, the Chief Justice heard one in 1992, ruling against the petitioner, and four in 1993, ruling against the petitioners in two cases and for the petitioners in the other two. In the latter cases he declared the parliamentary seats vacant and ordered by-elections. In the June by-elections, citizens overwhelmingly elected the same candidates they had chosen in the general election. Again, independent press observers deemed the elections free and fair.

While women are represented in the political process, there are no women in the 14-person Cabinet, and only 4 women in the 51-seat Parliament.

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

In 1989 the Government established an independent, nongovernmental organization, the African Centre for Democracy and Human Rights Studies (ACDHRS), to promote greater respect for human rights in Africa. The Centre publishes a newsletter and relevant international human rights materials, organizes regional human rights forums and workshops, conducts research on human rights and democracy in

Africa, and sustains a training and internship program for local and international participants. The ACDHRS was also active in inspecting prison conditions in 1993 (see Section 1.c.) There are no other local human rights organizations active in the Gambia.

International human rights organizations may visit to observe the condition of detainees and the trial process. The Gambia is also home to the Organization of African Unity's Commission on Human and Peoples' Rights, the organization charged with protecting and promoting human rights in member countries under the African Charter on Human and Peoples' Rights.

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

The Constitution states that all persons in the Gambia are entitled to "fundamental rights and freedoms," regardless of "race, place of origin, political opinions, colour, creed, or sex." There is no officially sanctioned discrimination based on race, sex, religion, disability, language, or social status.

Women.—Despite Constitutional provisions, women face extensive discrimination. Traditional views, especially about the role of women in society, are changing but very slowly. Marriages are usually "arranged," and Muslim tradition allows for polygyny. Women are disadvantaged educationally, with females comprising one-third of primary students and one-fourth of high school students. The Government has encouraged parents to send their daughters to school. The Women's Bureau in the Office of the Vice President conducts an ongoing campaign in both the rural and urban areas to make women aware of their legal rights in respect to divorce and custody of children, property matters, and in cases of assault. It also publishes a quarterly magazine on women's issues, which it distributes throughout the country.

Domestic violence, including wife beating, occurs but is rare, according to health officials. Police intervene when they receive reports of beatings, and the authorities prosecute when the victim or others file complaints. The media covers such court cases, reporting newsworthy incidents.

Children.—The Government of The Gambia is committed to the human rights and welfare of all Gambians. Care and welfare of The Gambia's children are considered to be primarily familial, rather than governmental, responsibilities, but authorities intervene when cases of abuse or maltreatment of children arise and are reported.

Female genital mutilation (circumcision) which has been condemned by health experts as damaging to physical and psychological health, is practiced, usually at an early age. According to an independent expert, the percentage of Gambian females who have undergone this procedure may be as high as 60 percent. The Womens Bureau holds workshops on female mutilation to inform women of its negative effects and to discuss the religious and traditional ties to the practice.

Some young boys, known as almudos, experience severe hardship, deprivation, and degradation. They are given by their parents to Koranic scholars to learn the Islamic holy book. In return for their education, they must work for their scholars, almost always by begging in the street. Reports indicate that these boys often sleep 20 or 30 to a room, have hardly any clothing, eat barely enough to survive, and endure serious health problems. Many are beaten by their teachers if they do not bring home enough money and by other adults they encounter on the streets. Reports indicate that as many as 60 percent of almudos are not Gambian. The Government has recognized the problem, and the Ministry of Health and Social Welfare, assisted by the United Nations Children's Fund, is conducting a study into the plight of the almudos and other street children in the Gambia. The study, begun in 1993, was still in progress at year's end.

People with Disabilities.—There are no statutes or regulations currently in force requiring accessibility for the disabled.

No legal discrimination against the physically disabled exists in employment, education, and other state services. Most severely handicapped individuals subsist through private charity; less severely handicapped persons are fully accepted in society and encounter no discrimination in employment for which they are physically capable.

Section 6. Worker Rights

a. *The Right of Association.*—The Labor Act of 1990 applies to all workers except civil servants. The Act specifies that workers are free to form associations, including trade unions, and provides for their registration with the Government. Police officers and military personnel, as well as other civil service employees, are specifically prohibited from forming unions and going on strike.

Approximately 20 percent of the work force is employed in the modern wage sector of the economy, where unions are normally active. The Gambian Workers' Con-

federation (GWC) and the Gambian Workers' Union (GWU) are the two main independent and competing umbrella organizations. Both are recognized by, and have good working relationships with, the Government but are independent of the Government and political parties.

The Labor Act of 1990 authorizes strikes, but it specifies that a union must give the Commissioner of Labor 14 days' written notice before beginning an industrial action (28 days for essential services). Retribution is not permitted against strikers who comply with the law regulating strikes. However, upon application by an employer to the Supreme Court, that body may prohibit an industrial action that is ruled to be in pursuit of a political objective. The Court may also forbid an action that is in breach of a collectively agreed procedure for the settlement of industrial disputes that has not been exhausted.

Because of these provisions, government conciliation efforts, and the weak bargaining position of the unions, few strikes actually occur. In June the Gambia suffered its only minor industrial action of the year. In a wildcat action, sanitation workers stopped work for 24 hours because they had not been paid on time. The strikers were successful in obtaining payment of salary arrears.

Unions exercise the right to affiliate internationally, and there are no restrictions on their members' ability to participate in international activities.

b. *The Right to Organize and Bargain Collectively.*—The Labor Act of 1990 provides workers the right to organize and bargain collectively. Although trade unions are small and fragmented, collective bargaining does take place. Each recognized union has specified guidelines for its activities. Prevailing wages exceed minimum wages and are determined by collective bargaining, arbitration, or market forces. The Labor Department registers the collective bargaining agreements reached between the unions and management, after ensuring that the agreements do not violate the Labor Act. There are no reports of denial of registration. The Act also sets minimum standards for contracts in the areas of hiring, training, terms of employment, wages, and termination of employment. The Act states that "any term of a contract of employment prohibiting an employee from becoming or remaining a member of any trade union or other organization representing workers . . . shall be null and void." Employers are not permitted to fire or otherwise discriminate against members of legal unions engaged in legally permitted union activities. Otherwise, the Government does not interfere in the bargaining process.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Criminal Code prohibits compulsory labor, and it is not practiced.

d. *Minimum Age for Employment of Children.*—The minimum legal working age is 16. There is no compulsory education legislation, and, because of the paucity of secondary school opportunities, most children complete their formal education by age 14 and informally enter the work force. Employee labor cards, which include a person's age, are registered with the Labor Commissioner, but enforcement inspections rarely take place because of lack of funding and inspectors. Children at early ages perform customary chores on family farms or engage in street trading.

e. *Acceptable Conditions of Work.*—By law, minimum wages and hours of work are determined by six Joint Industrial Councils (commerce, artisans, transport, the port industry, agriculture, and fisheries), which have representation from employees, employers, and government. The lowest minimum wage is $0.95 (9 dalasi) per day for unskilled labor. Minimum wages do not provide for a decent standard of living for a worker and his family. Moreover, only that 20 percent of the total labor force, i.e. those in the wage sector, are covered by minimum wage legislation. The remainder are privately employed, chiefly in subsistence agriculture. Most Gambians do not live on one worker's earnings and rely on the extended family system, usually including some subsistence farming.

The standard legal workweek is 48 hours within a period not to exceed 6 consecutive days. Allowance is made for half-hour lunch breaks. For the private sector, the 6-day, 40-hour workweek includes 4 8-hour days with half days on Fridays and Saturdays. Government employees are entitled to 1 month's paid annual leave after 1 year of service; private sector employees receive between 14 and 30 days of paid annual leave, depending on their length of service.

The Labor Act provides a list of occupational categories and specifies safety equipment that an employer must supply to employees working in these categories. The Factory Act gives the Minister of Labor authority to regulate factory health and safety, accident prevention, and dangerous trades and to appoint inspectors to ensure compliance. However, enforcement is less than fully satisfactory because there are too few trained inspectors. Workers may refuse to work in dangerous work situations. Workers in hazardous working environments are entitled to protective equipment and clothing.

GHANA

On January 7, Flight Lieutenant (retired) Jerry John Rawlings, who had seized power from an elected government on December 31, 1981, became the first President of the Fourth Republic, a nascent constitutional democracy. This transformation ended 11 years of authoritarian military rule by the Provisional National Defense Council (PNDC), under Rawlings' chairmanship, but it did not end controversy over the legitimacy of the new Government. Flight Lieutenant Rawlings won the November 1992 presidential election with 58 percent of the vote as the head of a three-party coalition led by his own National Democratic Congress (NDC). Despite irregularities, most notably an inaccurate voters' register, the international groups monitoring the election accepted the validity of the outcome. However, four opposition parties claimed massive fraud in the presidential election and boycotted the December 1992 parliamentary elections, leaving the President's coalition in full control of the Parliament and the Government.

The new Constitution, which went into effect January 7, provides for a system of checks and balances, with an executive branch headed by the President, a unicameral Parliament, an independent judiciary, and several autonomous commissions, such as the Commission for Human Rights and Administrative Justice.

The several security organizations report to various departments of government. The police are responsible for maintaining law and order and come under the jurisdiction of an 8-member Police Council. The Bureau of National Investigation (BNI), under the Minister of Interior, handles most cases of a political nature.

Although Ghana is attempting to rebuild its industrial base after years of economic mismanagement, more than 60 percent of the population still draws its livelihood from subsistence agriculture. Gold, cocoa (and cocoa products), timber, and energy are major traditional sources of export revenues. Annual economic growth has averaged 4.5 percent since the inception of an economic recovery program in 1983, but there has been slow progress in privatizing the 181 state-owned enterprises.

While it was too early to judge whether the rule of law and democracy would flourish in Ghana after 11 years of authoritarian rule, the human rights situation improved in 1993. The Government began a dialog with the main opposition party and there was widespread acceptance of and support for the new Constitution. It contains particularly strong provisions in support of human rights, and the independent press, human rights monitoring groups, opposition parties, and the judiciary acted as vigilant constitutional watchdogs during the year. The Supreme Court, in particular, demonstrated independence from the executive in four cases involving opposition party grievances. Except for the journalist, Gershon Dompreh, who continued to serve a prison sentence for "economic sabotage," there were no known political detainees or prisoners being held by the authorities at year's end. Societal discrimination and violence against women remained significant problems.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There was one report of an extrajudicial killing. On July 6, the authorities arraigned a police inspector and a constable from Elmina police station on a charge of murder for the June 7 death of a prisoner who allegedly died as a result of a beating. The police officials were released on bail pending trial, which at year's end had still not taken place.

At the urging of journalist and political activist Kwesi Pratt (see Section 1.e.), the police expressed willingness to investigate allegations of extrajudicial killings in the early years of PNDC rule. Pratt was invited by the Commissioner of Police to assist in the investigations, and he agreed to provide the police with lists of names of victims and the circumstances of their murder. At year's end, however, Pratt was still insisting upon the establishment of an independent committee of inquiry.

b. *Disappearance.*—No politically motivated disappearances were reported.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution states that the dignity of all persons shall be inviolable and that no one shall be subjected to torture or other cruel, inhuman, or degrading treatment or punishment, or any other condition that detracts from his dignity and worth as a human.

There are occasional reports of police beating detainees. In the case noted above, a police inspector and a constable allegedly beat a suspect until he became unconscious; the suspect later died in the hospital.

Prisons in Ghana are antiquated and seriously overcrowded. There were no reports of deaths caused by prison conditions.

d. *Arbitrary Arrest, Detention, or Exile.*—The new Constitution provides protection against arbitrary arrest, detention, or exile and states that an individual detained shall be informed immediately, in a language he understands, of the reasons for his detention and of his right to a lawyer and to an interpreter, the latter at state expense. The detainee shall be arraigned within 48 hours.

The court has unlimited discretion regarding the setting of bail. It may refuse to release prisoners on bail and instead remand them without charge for an indefinite period, subject to weekly review by judicial authorities. However, the Constitution requires that a detainee who has not been tried within a "reasonable" time shall be released either unconditionally or subject to conditions necessary to ensure that he appears at a later date for court proceedings.

As far as is known, after the release of many political detainees in 1992, the Government held no political detainees at the end of 1993.

The Government does not practice forced exile. In recent years, the Government has quietly encouraged Ghanaians, including dissidents with valuable skills, who are living abroad to return; in some cases the Government has offered amnesty. Some former government and PNDC officials have returned and resumed careers and political activities without difficulty.

e. *Denial of Fair Public Trial.*—The judiciary is in transition as the former public tribunals are being phased out as they finish pending cases. The Constitution establishes two basic levels of courts: superior and lower. The superior courts include the Supreme Court, the Appeals Court, the High Court, and regional tribunals. Parliament may decree lower courts or tribunals. The regional tribunals have not been created yet. The Constitution requires that the chairman of a regional tribunal be qualified to be a High Court judge, whereas the public tribunals depended largely on chairmen with little or no legal experience. A decision by a regional tribunal may be appealed to the Court of Appeal; whereas no appeals were permitted from the public tribunal until 1985, when the National Appeals Tribunal was created.

Legal safeguards are based on British legal procedures. Defendants are presumed innocent, trials are public, and defendants have a right to be present, to be represented by an attorney, to present evidence, and to cross-examine witnesses.

The Constitution provides for a Commission for Human Rights and Administrative Justice to investigate alleged violations of human rights and take action to remedy proven violations. The Human Rights Commission was sworn in in October. By year's end, it had begun hiring legal and investigative staff and recruiting for branch offices in all 10 regions of Ghana, and for some district offices in each of the 10 regions. The Commission has subpoena power. When the Commission finds evidence of a human rights violation or administrative injustice, it can seek resolution through negotiation, by making its findings known to the superior of an offending person or to the Attorney-General or Auditor-General, or by instituting court proceedings.

The traditional courts will continue to operate alongside the regular courts. The Chieftaincy Act of 1971 gives village and other traditional chiefs powers in local matters, including authority to enforce customary tribal laws dealing with such matters as divorce, child custody, and property disputes.

In the past, there were grave doubts about the independence of the judiciary. The PNDC summarily dismissed judges, thereby reminding them that they served at the PNDC's sufferance. However, in the first year of the Fourth Republic, the judiciary exhibited the independence provided for in the Constitution. The Supreme Court ruled in favor of the major opposition party, the New Patriotic Party (NPP), in 4 of 5 cases that it brought against the Government. A Supreme Court judge also granted the NPP an injunction ordering the Electoral Commission to delay the elections of district chief executives pending a decision in another suit brought by the NPP.

As far as is known, the Government had released most of its political prisoners by year's end. However, when Christian Chronicle editor George Naykene was released in May, following 12 months in prison for criminal libel, he raised the case of journalist Gershon Dompreh, who he said had served 6 years of a 20-year prison sentence for "economic sabotage." According to Naykene, Dompreh's crime was publishing information about a treaty between Ghana and Saudi Arabia.

On December 17, 1992, the authorities arrested Kwesi Pratt and Professor Albert Adu-Boahen, leader of the New Patriotic Party, and charged them with obstructing a public tribunal for refusing to testify on the grounds that they did not consider the tribunal to be independent of government influence. Adu-Boahen and Pratt remained free awaiting trial, and in July the case was moved from the public tribunal to a regular court. At year's end, it was still pending.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Citizens engaged in activity deemed objectionable by the Government are subject to surveil-

lance. In the past, this included monitoring of telephones and mail. The Constitution provides that persons shall be free from interference within the privacy of their home, property, correspondence, or communication "except in accordance with the law and as may be necessary in a free and democratic society for public safety or the economic well-being of the country, for the protection of health or morals, for the prevention of disorder or crime or for the protection of the rights or freedoms of others." At year's end, it remained uncertain how the Government and the courts would interpret this broad article in practice.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech is provided for in the Constitution, and this right has been used by the opposition parties, the Ghana Bar Association (GBA), the National Union of Ghanaian Students (NUGS), and other nongovernmental organizations (NGO's). Since the beginning of the Fourth Republic, there have been no credible reports of government attempts to interfere with free speech, although government-run media have experienced some pressure for conformity.

The State dominates the print and electronic media. It owns the radio and television stations and the two daily newspapers. The official media accentuates the positive aspects of government policies, although it also covers selected instances of corruption or mismanagement in government ministries and state-owned enterprises. In general, the state-owned media do not criticize government policies or President Rawlings. Four journalists with the government-owned media were transferred in 1993 to jobs that were seen as demotions. Many journalists and others believe the transfers resulted from governmental displeasure with stories the journalists had written or produced. As a result of this perceived practice, self-censorship is a pattern in the official media, and writers, editors, and commentators recognize and rarely cross the boundary of acceptable reporting and commentary. There were occasions when the government-owned media carried editorials critical of the Government, but no personal attacks were made on top officials.

Most Ghanaians obtain their news from the government-run electronic media and British Broadcasting Corporation radio. Under the Constitution, individuals are free to own radio and television stations. There have been several applications for licenses to operate private radio stations. However, no licenses have been issued to date, and the electronic media remain a government monopoly.

The independent press has multiplied with scores of new independent newspapers and magazines outspoken in their criticism of the Government, including personal attacks on the President, his wife, and his close advisers. However, the continued existence of the criminal libel law casts a shadow over freedom of the press, and the independent newspapers and magazines are small, poorly financed, and not widely distributed outside the capital. Most are weeklies or appear sporadically. While he was never charged, the editor of the Free Press was questioned by the police concerning possible criminal libel charges resulting from an article accusing the Minister of Information and the First Lady of misusing government funds.

Foreign periodicals are sold in Accra and other major cities. Issues containing articles critical of the Government circulate freely.

The new Government has not suppressed freedom of speech, press, or academic freedom on university campuses. The NUGS, one of the more vocal critics of the Government, is allowed to organize and hold meetings (see Section 2.b.).

b. *Freedom of Peaceful Assembly and Association.*—Freedom of peaceful assembly and association are provided for in the Constitution. In the past, demonstrations were generally allowed, but the organizers had to obtain a police permit, which was sometimes denied. In February police broke up a demonstration to protest the Government's budget due to the organizers' failure to obtain a permit. The Supreme Court later ruled in a case brought by the NPP that no police permit is needed for demonstrations, parades, rallies, and other peaceful assemblies. The Government made significant efforts to publicize this ruling, and some demonstrations took place without permits.

There were several student demonstrations critical of the Government, but the police generally reacted with restraint. The exception was when the police reacted with excessive force to a student demonstration in March. One student was shot, but not seriously wounded, and several others were beaten. The police inquiry into the incident, while noting that the actions of the students were illegal, concluded that it was difficult to justify the use of force by the police. Releasing the report, the Minister of the Interior announced that all those who suffered injury during the violence would receive compensation from the Government. At year's end, however, no compensation had been paid, nor had any police been charged.

c. *Freedom of Religion.*—There is no state-favored religion and no apparent advantages or disadvantages attached to membership in any particular sect or religion.

Just before the inauguration of Rawlings as President, the PNDC repealed the law requiring religious organizations to register with the Government. The law had been opposed by the Christian Council and the Catholic Secretariat, the two largest religious organizations in Ghana, and had been suspended for over a year pending review.

Foreign missionary groups have generally operated throughout the country with a minimum of formal restrictions, although some churches continue to have difficulty obtaining visas and residence permits for some of their expatriate missionaries.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Ghanaians and foreigners are free to move throughout the country without special permission. Police checkpoints exist countrywide for the prevention of smuggling. However, following PNDC orders in 1992, most checkpoints are routinely left unmanned during daylight hours. After a series of unresolved bombing incidents following the November 1992 presidential elections, the police stepped up daytime monitoring of checkpoints. Roadblocks and car searches are a normal part of nighttime travel in Accra.

As members of the Economic Community of West African States (ECOWAS), Ghanaians may travel without visas for up to 90 days in member states. Ghanaians are generally free to exercise this right, and nationals of other member states are free to travel to Ghana. Ghanaians are also free to emigrate and to return from other countries.

Ghana has been faced with a growing refugee population since Liberians fleeing civil war began to arrive in August 1990. By June Ghana was hosting some 20,000 Liberian refugees. Most of the new refugee population, as well as many transiting third-country nationals also fleeing Liberia, were housed by the Government with assistance from the United Nations High Commissioner for Refugees (UNHCR) in a camp 20 kilometers west of Accra. An undetermined number of refugees voluntarily returned to Liberia. The estimated camp population was 13,000 at year's end.

During periods of increased tension in Togo in 1993, as many as 150,000 Togolese fled their country to seek refuge in Ghana. They generally were received by relatives, and many moved back and forth repeatedly across the border. Most are expected to return to their country voluntarily when the tension eases.

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

Ghanaians exercised their right to vote in 1992. The election outcomes were highly controversial. The Commonwealth Secretariat, the Carter Center, the Organization of African Unity, Canada, and members of the European Community sent observers to the presidential elections in November. The observers noted significant problems with the electoral process (especially involving the voter registration list) but felt that the irregularities did not affect the outcome of the election. Rawlings won approximately 58 percent of the vote and the four opposition parties won roughly 42 percent.

However, the opposition parties claimed that the presidential elections had been fraudulent, and, insisting that any subsequent election conducted under the same conditions would be equally unfair, the four opposition parties boycotted the December parliamentary elections. As a result, there are no opposition party members in Parliament. Two seats were won by independent candidates; the three parties in the coalition supporting President Rawlings won the remaining 198 of the 200 parliamentary seats, with the President's party winning 188.

Thus, the Rawlings Government, while firmly in power, still faced a significant political problem of dealing with a large, bitter, extraparliamentary opposition. To help bring the opposition into the political process, the Government promised to reform the electoral system, especially the voters' register, prior to the 1996 elections. The NPP agreed to a dialog with the Government, and meetings took place in November. At year's end, it was not clear whether the Government would follow through to meet the opposition parties' concerns.

The Constitution prohibits discrimination on grounds of gender and there are no de jure obstacles to women or minorities participating in government. There are several female ministers, and several women are on the Council of State. Women make up 8 percent of the Parliament.

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

Human rights organizations grew more numerous and vocal in 1993. Several, including the Committee on Human and People's Rights and the Ghana Bar Association Human Rights Committee, opened branch offices. A Human Rights Study Center was created at the law faculty at the University of Ghana at Legon, and human rights law took a more prominent place in the school's curriculum. Seminars were frequently held by various organizations to discuss human rights issues and often resulted in public criticism of the Government. The Government did not interfere with the activities of these groups.

In the past, the PNDC frequently expressed displeasure at criticism of its human rights record from Ghanaian religious organizations and international human rights advocates. In 1992 it permitted international observers to monitor the elections. The Government permits prison visits by the International Committee of the Red Cross.

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

The Constitution prohibits discrimination on the basis of gender, race, color, ethnic origin, religion, creed, or social and economic status. The courts are specifically empowered to enforce these prohibitions.

Women.—Although the PNDC promulgated in 1985 four laws that overturned many of the customary, traditional, and colonial laws that discriminated against women, Ghanaian women remain subject to societal discrimination. Women in urban centers and those with skills and training encounter little overt bias, but resistance to women in nontraditional roles persists. Women in the rural agricultural sector remain subject to traditional male dominance and bear the brunt of difficult labor conditions.

Violence against women (including rape and wife beating) is a significant problem. Police do not normally intervene in domestic disputes, and such cases seldom come before the courts. In an effort to reduce the incidence of rape, the Government increased the minimum penalty for rape from 1 year to 3 years plus a fine or an additional 3 years' imprisonment.

The media sometimes reports cases of women who have been beaten, raped, or otherwise assaulted. Women's rights groups are active in educational campaigns and in programs to provide vocational training, legal aid, and other support to women. The Government is also active in educational programs in support of women's rights.

Children.—The Government has established a National Commission on Children which has instituted several programs, including efforts to improve the nutritional value of food for children, literacy courses, and establishment of parks and libraries for children. There are many NGO's that are active in health care and education for children.

There is little or no discrimination against females in education, but girls and women frequently drop out due to societal, cultural, or economic pressures. Statistics show an equal male/female ratio in school enrollments in grade 1, but the ratio shifts to 2 to 1 against girls by grade 6, 4 to 1 at the secondary level, and 9 to 1 at the university level. The Government is testing programs to make it easier for girls to stay in school despite outside pressures to drop out.

There are traditional discriminatory practices against females which are injurious to their health and development. In particular, the practice of female genital mutilation (circumcision) remains a serious problem. The Government has discouraged the practice in public educational campaigns but has not made it illegal. Although there are no precise statistics available, one independent expert estimates that as many as 30 percent of Ghanaian females have undergone this procedure. Local health officials, however, believe the percentage is much lower. Such mutilation normally takes place at an early age and is practiced mostly in the far northeastern and northwestern parts of the country.

Found primarily in the Volta (eastern) region, the tro-kosi, fetish slave, or "vestal virgin" system is a traditional practice whereby a young girl is made a virtual slave to a fetish shrine and priest for offenses committed by a member of the girl's family. While there is much secrecy surrounding the practice, the belief is that if someone in a family has committed a crime, such as stealing, members of the family may begin to die in large numbers unless a young girl is given to the local fetish shrine to atone for the offense. The girl becomes the virtual property of the fetish priest and may become his wife. The girls are seldom allowed to go to school and must work on the priest's farm and perform other labors for him. When the fetish slave dies or reaches maturity, the family is expected to replace her with another young girl for the fetish shrine. The practice is clearly against Ghanaian law. It persists,

however, because of traditional practice and deep-seated belief that families will suffer if the girls are not handed over. Several NGO's and the National Commission on Children have programs to provide education for the girls, and there has been some minimal success in encouraging the substitution of sacrificial animals in place of girls. One estimate is that there may be 1,000 fetish slaves bound to various shrines.

National/Racial/Ethnic Minorities.—Although ethnic differences are played down by the Government, its opponents occasionally complain that it is dominated by the Ewe ethnic group from eastern Ghana. However, while President Rawlings and a number of his close advisers are Ewe, many ministers have other ethnic origins. The leaders of the National Democratic Congress sometimes claim that the other parties are "ethnic" parties and are attempting to arouse ethnic rivalry. Although the main opposition party has strong support among the Ashanti, overall the charges have little credibility.

People with Disabilities.—The Constitution prohibits discrimination against the disabled. The Government has not enacted any legislation mandating accessibility for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—This right is restricted as the Trades Union Ordinance confers broad powers on the Government to refuse to register a trade union. However, in practice the PNDC did not and the NDC Government to date has not interfered with the right of workers to associate in labor unions. Civil servants are prohibited by law from joining or organizing a trade union. However, on December 30, 1992, the PNDC passed the Public Service Negotiating Committee Law (Law 309, 1992), allowing each branch of the civil service to establish a negotiating committee.

About 10 or 15 percent of workers belong to unions. Trade unions and their activities are still governed by the Industrial Relations Act (IRA) of 1965. The Trades Union Congress (TUC) is the only existing confederation, though it has no legal monopoly. In recent years, it has been led by experienced union leaders who, aided by a revised union constitution and bylaws, continued to define an autonomous role for the TUC within the PNDC regime. During 1993 the TUC took a somewhat more confrontational stance vis-a-vis the Government and was quite critical of some of its economic policies.

The right to strike is recognized in law, but a legal strike may be called only if negotiations and mediation fail. Because no union has ever gone through the complete process, there have been no legal strikes in Ghana since independence. University teachers and Volta Aluminum Company workers staged major strikes in 1993. The IRA prohibits retribution against strikers, and this is enforced. There has been no progress in implementing the Government's declared intention to establish labor tribunals to arbitrate industrial disputes certified as deadlocked.

The TUC is affiliated with the Organization of African Trade Union Unity, headquartered in Accra. In December 1992, the TUC was accepted as a member of the International Confederation of Free Trade Unions.

b. *The Right to Organize and Bargain Collectively.*—The IRA provides a framework for collective bargaining and some protection against antiunion discrimination as well. Ghana's trade unions engage in collective bargaining for wages and benefits with both private and state-owned enterprises without government interference. However, the Government, labor, and employers negotiate together through a tripartite commission to set minimum standards for wages and working conditions. Employers found guilty of antiunion discrimination are required to reinstate workers fired for union activities.

There are no functioning export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The law prohibits forced labor, and it is not known to be practiced. However, the International Labor Organization (ILO) continues to urge the Government to revise various legal provisions that permit imprisonment with an obligation to perform labor for offenses that are not countenanced under ILO Convention 105, ratified by Ghana in 1958.

d. *Minimum Age for Employment of Children.*—Labor legislation in Ghana sets a minimum employment age of 15 and prohibits night work and certain types of hazardous labor for those under 18. In practice, child labor is prevalent, and young children of school age can often be found during the day performing menial tasks in the market or collecting fares on local buses. Observance of minimum age laws is eroded by local custom and economic circumstances that encourage children to work to help their families. Violators of regulations prohibiting heavy labor and night work for children are occasionally punished. Inspectors from the Ministry of Labor and Social Welfare are responsible for enforcement of child labor regulations.

They visit each workplace annually and make spot checks whenever they receive allegations of violations.

e. *Acceptable Conditions of Work.*—In 1991 the PNDC government convened a tripartite commission of representatives of government, labor, and employers which administratively set minimum standards for wages and working conditions. The minimum wage rate combines wages with customary benefits, such as a transportation allowance. However, the existing daily minimum wage of roughly $0.95 (790 cedis) is insufficient for a single wage earner to support a family. In most cases households are supported by multiple wage earners, some family farming, and other family based commercial activities.

The maximum workweek, by law, is 45 hours, with one break of at least 36 consecutive hours every 7 days. Through collective bargaining, however, the basic workweek for most unionized workers is 40 hours.

Occupational safety and health regulations are in effect, and sanctions are occasionally applied through the Labor Department of the Ministry of Health and Social Welfare. However, safety inspectors are few in number and poorly trained. They will take action if matters are called to their attention but lack the resources to seek out violations. Workers have the right to withdraw themselves from dangerous work situations without jeopardy to continued employment.

GUINEA

President Lansana Conte and an appointed Transitional Committee for National Recovery (CTRN)—two-thirds civilian, one-third military—continued to direct the pace of political reform. Guinea held its first multiparty presidential elections in more than three decades on December 19 and planned to hold legislative elections in 1994. In a highly controversial election, Conte was elected President, gaining 51.7 percent of the vote in the final official count. Although all 42 political parties participated in the election, the Government controlled the electoral process from start to finish, and the opposition was denied any significant role. The Government insisted on holding the elections, notwithstanding considerable pressure for postponement from outside observers, religious leaders, and the Electoral Commission itself. The results of the election were contested by opposition party observers, who were excluded from the final hours of the vote-counting. The Supreme Court, in reviewing the opposition's claim that the election results had been achieved by fraudulent means, upheld the first round victory of Lansana Conte.

Military and paramilitary forces number around 17,000. Responsibility for internal security is shared by a Gendarmerie, the Republican Guard, the National Police, and the Presidential Guard. Both military personnel and police committed human rights abuses.

Over 80 percent of the population of 7 million people is engaged in subsistence agriculture, and per capita gross domestic product is about $430. Guinea's major exports are bauxite, gold, and diamonds. The World Bank and the International Monetary Fund continued to contribute to Guinea's economic restructuring program, which involved, among other things, a sharp reduction in the size of the public service. This austerity program created a pool of unemployed civil servants who continued to be a source of civil unrest.

Human rights remained circumscribed despite holding presidential elections involving 8 candidates and 42 political parties. The Government carefully directed the electoral process and rejected opposition demands for important changes. However, all candidates had access to the media and were able to organize political rallies. Against a background of sporadic outbreaks of ethnically based violence and recourse to vigilante justice by a citizenry beset by increasingly violent criminal activity, major human rights abuses included torture and extrajudicial killings by poorly disciplined security forces; government failure to guarantee access by attorneys to clients in prison where much abuse takes place with impunity; the executive branch's influence over the judicial system; the Government's continued neglect of the prison system and poor treatment of prisoners; and its inability to prevent vigilante justice.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of political killings, but there were a number of extrajudicial killings. Security forces used excessive force in responding to peaceful demonstrations, notably on May 25, when 31 political parties staged a largely peaceful, unauthorized march of more than 100,000

people in Conakry. Official reports indicated that 2 people were killed and more than 200 injured in this confrontation. Opposition leaders stated that it was only after the march officially ended that local authorities instigated violence by deploying local toughs, some of whom looted and destroyed stores owned by members of the same ethnic group that played an active role in organizing the rally. No one was arrested, charged, or disciplined in connection with either the killings or injuries.

Police again used excessive force on September 28 in dispersing a crowd at a demonstration organized by various political parties demanding a transitional government of national unity and an independent electoral commission. Officials admitted that security forces killed two persons and and wounded nine during the violence. The official casualty report for the violence and ensuing ethnic conflict was 63 dead, hundreds wounded, and scores arrested. The opposition claimed that mayors of the local municipalities had paid progovernment Party for Unity and Progress (PUP) members to disrupt the September 28 demonstration as a pretext for intervention by security forces.

On February 8 in Faranah, the military authorities sent soldiers to control a demonstration by disgruntled youths who had paid to be recruited into the army and then were rejected by army recruiters, allegedly for their opposition sympathies. One soldier fired directly into the crowd, killing 3 women and injuring 20 other demonstrators when the youths began destroying the property of local officials. Military authorities investigated and transferred the soldier to another part of the country.

On June 4, security forces fired into a crowd of protesters in Dinguiraye, killing Ousmane Ba and another man and injuring 15 others. Although an investigation was opened by the local prosecutor, no charges were filed or arrests made.

In August Conakry police tortured several detainees and beat one person to death in a case in which the son of a prominent businessman had been murdered. The police reportedly tried to cover up the incident by forcing a doctor to issue a false death certificate listing heart failure as the cause of death. The authorities suspended and detained the police official in charge of the station where the torture reportedly occurred. Authorities arrested two officers. They remain under detention, pending a review of the case by a court of first instance.

b. *Disappearance.*—There were no reports of disappearances. There was no progress in resolving the disappearance of 63 people arrested in the wake of the April 1984 seizure of power and the July 1985 coup attempt, despite a suit filed in 1992 by the Association of Victims of Repression (AVR) against present and former government officials involved in the arrests.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The 1965 Penal Code and the 1990 Constitution prohibit torture and cruel, inhuman, and degrading treatment. However, the police are often responsible for brutality against suspects and, in at least one case, beat to death a detainee (see Section 1.a.). The use of beatings to extract confessions is common.

Prison conditions, including those in the women's prison, are primitive and unhealthy.

d. *Arbitrary Arrest, Detention, or Exile.*—The Penal Code requires that detainees must be charged within 72 hours before a magistrate. Once charged, the accused may be held until the final outcome of the case, including during the period of any appeals. Release on bail is at the discretion of the magistrate who has jurisdiction in the case. The Constitution proscribes incommunicado detention. The law guarantees attorneys access to their clients, but this provision is often not respected.

In practice, administrative controls over the police are ineffective, and security forces rarely follow the Penal Code; arbitrary arrest remained a persistent threat to Guineans. During the election campaign security forces detained and tortured a bodyguard of one of the opposition candidates. The authorities never brought charges against those involved, even after public disclosure of the incident.

In April security forces arrested two members of the Air Force, Lieutenant Madice Keita and Lieutenant Souleymane Dayan Diallo, and held them for 15 days, ostensibly for involvement in a coup plot. During the election campaign, the military held several junior officers incommunicado for questioning; they were released within a week.

At year's end, there were no known political or security detainees being held by the Government. The authorities freed Amadou Diallo, who was arrested in 1992 for allegedly plotting to kill the President.

e. *Denial of Fair Public Trial.*—The Constitution affirms the judiciary's independence. However, magistrates are civil servants with no guarantee of tenure and are susceptible to influence by the executive branch. Judicial authorities often defer to central authorities in politically sensitive cases. In addition, the administration of justice is plagued by numerous other problems, including a shortage of magistrates

(who generally are poorly trained) and lawyers (there are 45 in all), and an outdated and overly restrictive Penal Code. There are also allegations of corruption and nepotism in the judiciary, with relatives of influential members of the Government being virtually above the law.

The Penal Code provides for the presumption of innocence of accused persons, the independence of judges, the equality of citizens before the law, the right of the accused to counsel, and the right to appeal a judicial decision. Although the Government in principle provides funds for legal defense in serious criminal cases, in practice these funds are rarely disbursed; the lawyer frequently either receives no payment or provides no services to defend the accused.

The judiciary includes courts of first instance, two Courts of Appeal (one in Kankan and one in Conakry), and the Supreme Court, the court of final appeal, which heard its first case in April. There is also a State Security Court, but it has not met since the trial of those allegedly involved in the coup attempt of 1985. A military tribunal prepares and adjudicates charges against accused military personnel. Since 1988 all judgments regarding violations under the Penal Code have been rendered by civilian courts. There is a traditional system of justice at the village or urban neighborhood level at which litigants present their civil cases before a village chief, neighborhood chief, or council of wise men. If a case cannot be resolved to the satisfaction of all parties in the traditional system, it may be referred to the formal system for adjudication.

Guinea did not have any known political prisoners at the end of 1993.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for inviolability of the home. In public statements, the Government also stressed the inviolability of the home, and judicial search warrants are required by law. However, these procedures are frequently ignored or not strictly followed, and interference in citizens' lives continued, primarily through police harassment. Police and paramilitary police often ignore legal procedures in the pursuit of criminals and frequently detain private civilians at night roadblocks in order to extort money to supplement their low salaries. It is widely believed that security officials monitor mail and telephone calls.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Government has stated publicly that it supports free speech and a free press, and the new Constitution provides freedom of expression, subject to certain limitations. The Government introduced in 1992 a new Press Law and a National Communications Council (NCC), ostensibly to assure impartiality in the media. While proclaiming freedom of the press and communications, the Press Law gives the Government a sufficiently broad range of possible restrictive actions as to vitiate any real protection. It prohibits seditious talk or chants uttered in public, establishes defamation and slander as criminal offenses, and prohibits communications that offend the President, incite violence, discrimination, or hatred, or disturb the public peace.

The Government owns and operates the electronic news media, with national and rural radio being the most important outlet in reaching the public. It also publishes the official newspaper, Horoya. Reporters for the official press, who are government employees, practice self-censorship in order to protect their jobs. The Ministry of Communication continues to act as overseer of state-owned media.

In May the NCC granted free air time—only 5 minutes on television and 10 minutes on radio per month—to all political parties. During the fall presidential election campaign, candidates expressed their views freely and had alloted access nightly to the television and radio network. Of the total of 240 broadcasts prepared by the candidates, the Communications Commission rejected one broadcast because it used an unofficial language (the candidate did not protest) and rejected another due to alleged slanderous content (this candidate's banned remarks were soon printed and distributed throughout Conakry.)

A vocal and active opposition press has grown since 1992 and is widely read by politically active Guineans, mainly in the capital. Its reporters do not practice self-censorship, and its articles harshly criticized the President and the Government. At least one new independent journal, L'Horizon, was launched. The approximately 25 existing publications, many launched in 1992, continued to publish despite continuing technical and financial difficulties. Some newspapers are linked with opposition parties while others offer news and criticism of both the Government and the opposition.

Many political tracts, both signed and unsigned, circulated widely throughout Conakry and other regions, and included specific criticisms of the President and high officials. Foreign publications, some of which include criticism of the Government, circulated freely.

There were no known attempts to interfere with foreign radio broadcasts. However, the Government showed its sensitivity to its image abroad by harassing several journalists involved in international reporting. The radio authorities on March 15 officially suspended Ben Daouda Sylla, a journalist at the state-owned national radio station and correspondent for Africa Number One, ostensibly for his portrayal of a "truncated image of Guinea," but presumably for his more critical accounts transmitted outside the country. He was allowed to resume his duties for Africa Number One in May. The police interrogated Serge Daniel, a journalist from Benin working as the Radio France correspondent, ostensibly because his visa papers were not in order, but allegedly due to his reporting on the political situation.

The Ministry of Higher Education exercises limited control over academic freedom through its influence on the faculty hiring process. In general, teachers are not subject to classroom censorship.

b. *Freedom of Peaceful Assembly and Association.*—Freedom of association is protected by law, but there are legal restrictions on assembly. The Penal Code bans any meeting that has an ethnic or racial character or any gathering "whose nature threatens national unity." A September 1992 statute allows public gatherings only with prior notification to the Government.

Pursuant to this statute, local administrative authorities may cancel a demonstration or meeting if they have grounds to believe that public order will be threatened. Event organizers may be held criminally liable if there is violence or destruction of property. Local officials declared opposition parties liable for the destruction of property after the May 25 march (see Section 1.a.), but the Government did not press charges, and the case was eventually dropped. In late September, the Government reported that 63 people died in interethnic violence following political marches in Conakry. The Government did not charge the march organizers with responsibility for the violence. The Government suspended the right to march in the streets in response to this outbreak of violence. During the election campaign, the Government permitted political parties to hold mass demonstrations throughout the country.

Political parties must provide information on their founding members and produce internal statutes and political platforms which are consistent with the Constitution before the Government will recognize them. The 43 parties that applied for official recognition received it.

c. *Freedom of Religion.*—The Constitution declares Guinea to be a secular State, and religious groups enjoy religious freedom. An estimated 85 percent of the population is Muslim. The Government observes major Christian and Muslim holidays. Foreign missionaries, both Catholic and Protestant, operate freely.

The Government and the quasi-governmental National Islamic League have spoken out against the proliferation of "pseudo-sects generating confusion and deviation" (within Guinean Islam) but have not restricted these groups. The Constitution provides religious communities the freedom to administer themselves without state interference.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Guineans are generally free to travel within the country and to change their place of residence and work. Travelers face periodic harassment by police and military roadblocks, particularly at night. Citizens commonly pay bribes to avoid police harassment. Foreign travel is not restricted; many Guineans travel widely.

The Government restricted movement on election day. Also, at the height of the election campaign, the Minister of Defense issued an order, without specified time limit, closing Guinea's land borders. The Government had not rescinded this order at year's end, although cross-border movement of people and goods soon resumed.

There were two incidents of travel restrictions for political reasons. On election day, paramilitary police at a checkpoint outside Conakry did not allow opposition presidential candidate Jean Marie Dore to pass, thereby preventing him from voting. A few days later at the same checkpoint, security forces denied passage to opposition presidential candidate Mamadou Ba. The order was reversed within 8 hours.

Guinea currently hosts approximately 580,000 Liberian and Sierra Leonean refugees. An additional 80,000 Guinean residents of Liberia and Sierra Leone fled violence and returned to Guinea, where they received relief assistance. The Government continued to work closely with the United Nations High Commissioner for Refugees and many other international and nongovernmental organizations to provide food and shelter to those designated as refugees.

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

Throughout 1993 President Conte, his Cabinet, and the presidentially appointed legislature (CTRN) wielded full powers of government. On December 19, Guineans had their first opportunity in over 30 years to change their government by demo-

cratic means. However, the Government controlled the electoral process, and Lansana Conte was elected President in a disputed outcome. A former military officer, Conte first came to power in 1984 in a bloodless military coup d'etat.

Following the vote, opposition candidates claimed serious electoral irregularities and, in particular, protested the unilateral annulment by the Minister of Interior and Security of results from Siguiri prefecture, which voted heavily for an opposition candidate. They also pointed out that the provisional results announced by the Minister of Interior and Security on December 23, which gave President Conte a majority of 50.93 percent, were inconsistent with the preliminary results that they and independent observers had noted at the National Vote Counting Commission. Subsequently, the opposition petitioned the Supreme Court to nullify the results that had given President Conte a first-round victory. On January 4, 1994, the Court annulled the results of Siguiri prefecture and the city of Kankan and declared candidate Lansana Conte the winner with 51.7 percent of the vote.

The Government postponed the first elections for the National Assembly, scheduled for 1992, until 1994 pending, among other things, the completion of a national census upon which voter rolls could be based. The Government completed that census in November. The opposition alleged that the Government manipulated the voter census in Conte's favor, but international observers stated the census was acceptable.

The presidential party, the Party for Unity and Progress (PUP), held a preeminent position going into the December election. Throughout the year, the opposition made credible claims that the Government provided the PUP with state resources to support its campaigns, refused to modify preelection procedures, and pressured civil servants to support, or not to oppose openly, the PUP. The Government rejected opposition political groups' demands for the establishment of a transitional government of national unity prior to the election. Although the Government established a National Electoral Commission as demanded by the opposition, it was an advisory panel without authority to direct the elections.

PUP's strength also rested on the fragmentation of the opposition. The three leading opposition parties are the Malinke-based Assembly of the Guinean People, the Peuhl (Fulani)-based Union for the New Republic, and the Party of Renewal and Progress.

While women are poorly represented in the Government, they voted overwhelmingly in the presidential election on December 19. All voters, male and female, were able to vote in secret and were treated equally.

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

Local nongovernmental organizations primarily interested in human rights issues included: the Guinean Organization for Human Rights (OGDH); the Guinean Association for the Defense of Human Rights; the Children of the Victims of Camp Boiro; the Association of Victims of Repression (AVR); and the Committee for the Defense of Civic Rights formed in 1993. These groups, especially OGDH and AVR, were vocal in calling attention to human rights abuses but had to be cautious in criticizing the Government. Following an appeal by the president of the International Federation for Human Rights, in March the Interior Minister withdrew his August 1992 suspension of OGDH and AVR for taking part in a political march in July 1992.

The Government does not welcome commentary or investigation by outside groups of its human rights practices, which it sees as strictly an internal matter.

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

The Constitution states that all persons are equal before the law regardless of gender, race, ethnicity, language, beliefs, political opinions, philosophy, or creed.

Women.—Although the Constitution provides for equal treatment of men and women, women face discrimination, particularly in rural areas, where opportunities for women are limited by custom and the demands of child-rearing and arduous subsistence farming. The Government has affirmed the principle of equal pay for equal work, but in practice women receive less pay than men in most jobs. In education, according to a United Nations Development Program report for 1991, females receive only 20 percent as much schooling as males.

Violence against women, including wife beating, is common, although social workers differ as to the extent of the problem. Wife beating is a criminal offense and constitutes grounds for divorce under civil law; however, police rarely intervene in domestic disputes. The issue received some exposure in locally produced television dramas but is rarely mentioned in the press or given governmental attention.

Children.—The Constitution provides that the Government has a particular obligation to protect and nurture the nation's youth. The Government devotes a significant percentage of its annual budget to primary education.

Female genital mutilation (circumcision), which has been condemned by international health experts as damaging to both physical and mental health, is performed at an early age and is practiced among Muslims and animists in Guinea. According to an independent expert, about 60 percent of Guinean females have undergone this procedure. Grandmothers frequently insist on the circumcision of a granddaughter, even when the parents are opposed. The most dangerous form of circumcision, infibulation, is not practiced. The Government has recently made efforts to educate health workers on the dangers of this procedure, and at the World Health Organization Assembly in May cosponsored a resolution calling for a plan of action for eliminating the harmful traditional practice worldwide.

National/Racial/Ethnic Minorities.—While racial or ethnic discrimination is prohibited by the Constitution and the Penal Code, ethnic identification is strong, and mutual suspicion affects relations across ethnic lines, in and out of government. The Cabinet includes representatives of all major ethnic groups. A disproportionate number of senior military officers are Soussou, the ethnic group of President Conte. In March there were incidents of interethnic violence between Soussou and Peuhl, including in Forecariah, where houses were looted and destroyed in the wake of a political rally, and in Conakry, where a minor incident escalated into fighting that resulted in two deaths. In late September, interethnic violence between Peuhl and Soussou in Conakry led to 63 deaths. During the election season, Malinke supporters of presidential candidate Alpha Conde clashed with mainly Soussou supporters of President Conte in different areas of Upper Guinea. Presidential voting often divided along ethnic lines.

People with Disabilities.—The Constitution declares that all persons are equal before the law. There are no special constitutional provisions for the disabled. The Government has not mandated accessibility for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for the right of employees to form labor unions and protects them from discrimination based on their union affiliation. Only an estimated 5 percent of the workforce is unionized. Most union members are government employees or employees of the national utilities (electric, water, and telephone companies.)

Guinea's Labor Code, drafted with the assistance of the International Labor Organization (ILO) and promulgated in January 1988, states that all workers (except military and paramilitary) have the right to create and participate in organizations that defend and develop their individual and collective rights as workers. The Labor Code requires elected worker representatives for any enterprise employing 25 or more salaried workers.

While the new Labor Code ended the previously existing trade union monopoly system, most union workers still belong to the former sole confederation, the National Confederation of Guinean Workers (CNTG). The CNTG is indirectly funded by the State, although officials seek to increase the Confederation's freedom from government control. Independent unions and confederations are rapidly gaining popularity, such as the National Organization for Free Trade Unions of Guinea and the Free Union of Teachers and Researchers of Guinea.

The Labor Code grants salaried workers, including public sector civilian employees, the right to strike 10 days after their representative union makes known its intention to strike. In sectors affecting "essential services" (e.g., hospitals, schools, media, and bakeries) some provisions for a minimal level of service may be required, though it is not clear how this principle is to be applied.

In 1993 workers increasingly resorted to strikes and threats of strikes to achieve their demands. In April and May union leaders at the state-owned electric utility, Enelgui, led two successful strikes demanding salary increases. Workers in Guinea's six banks went on strike for 1 week in May and threatened to do so again in June, seeking compliance with bank regulations on salaries and other issues applicable in surrounding Francophone countries.

Unions may freely associate with international labor groups. The Government continued to designate the CNTG to represent Guinean workers in the ILO Conference in 1993.

b. *The Right to Organize and Bargain Collectively.*—Under the Labor Code, representative workers' unions or union groups may organize the workplace and negotiate with employers or employer organizations. Collective bargaining for wages and salaries without government interference is protected by law. Work rules and work hours established by the employer are to be developed in consultation with union

delegates. The Code also prohibits antiunion discrimination. Union delegates represent individual and collective claims and grievances with management. Individual workers threatened with dismissal or other sanctions have the right to a hearing before management with a union representative present and, if necessary, to take the complaint to the Conakry Labor Court which convenes weekly to hear such cases. In the interior, civil courts hear labor cases.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Labor Code specifically forbids forced or compulsory labor, and there is no evidence of its practice.

d. *Minimum Age for Employment of Children.*—The minimum age for employment under the Labor Code is 16 years. However, apprentices may start at 14 years. Workers and apprentices under the age of 18 are not permitted to work at night, for more than 12 consecutive hours, or on Sundays. The Labor Code also states that the Minister of Labor and Social Affairs must maintain a list of occupations in which women and youth under 18 may not be employed. In practice, enforcement by Ministry inspectors is limited to large firms in the modern sector of the economy; children of all ages work on family farms and in small trades. No minimum years of schooling are required; fewer than one-third of school-age children attend school.

e. *Acceptable Conditions of Work.*—The Government has not yet enacted minimum wage legislation, but the Labor Code provides for the eventual establishment by decree of a guaranteed minimum hourly wage. There are also provisions in the Code for overtime and night wages which are fixed percentages of the regular wage. According to the Labor Code, regular work is not to exceed 10-hour days or 48-hour weeks, with a 40-hour workweek being the norm, and at least 24 consecutive hours of rest each week, usually on Sunday. Every salaried worker has the right to an annual paid vacation, accumulated at the rate of at least 2.5 workdays per month of service. In practice, these rules are enforced only in the relatively small modern urban sector.

The Labor Code contains provisions of a general nature respecting occupational safety and health, but the Government has not yet elaborated a set of practicable workplace health and safety standards. Neither has it as yet issued any of the ministerial orders laying out the specific requirements for certain occupations and for certain methods of work that are called for in the Labor Code. The Ministry of Labor and Social Affairs is responsible for enforcing labor standards, and its inspectors are empowered to suspend work immediately in situations hazardous to health. However, enforcement remained more of a goal than a reality. Labor inspectors acknowledge that they cannot even cover Conakry, much less the entire country, with their small staff and meager budget.

GUINEA-BISSAU

The Republic of Guinea-Bissau is led by General Joao Bernardo Vieira, who serves as Head of State, President of the Council of State, Commander in Chief, and General Secretary of the previously sole legal political party, the African Party for the Independence of Guinea-Bissau and Cape Verde (PAIGC). In elections held in June 1989, Vieira, the only candidate, was elected for a second 5-year term as President. Effective power and day-to-day decisions rest in the hands of the President and the Council of State. The Government controls the pace of political reform and in 1993 formed a National Elections Commission charged with organizing legislative and presidential elections in March 1994. In accordance with the 1991 Constitution, it legalized 12 political parties, including the PAIGC, which are expected to participate in these elections. Only the PAIGC is represented in the National Assembly.

The national police forces have primary responsibility for internal security, while the armed forces (FARP) provide for external security and may be called upon to assist with internal security in case of emergency. Both institutions are under the control of the Government and were responsible for human rights abuses.

The population of 1 million is engaged largely in subsistence agriculture. There are some exports of cashews, peanuts, and fish. Following the Government's failed postindependence efforts to exercise central control over the economy, the PAIGC started liberalizing the economy in 1986. International Monetary Fund stabilization and World Bank restructuring agreements led to some improvement in the economic situation. However, the economy remained weak due to the lack of monetary and fiscal control, a small and inexperienced private sector, and a heavy debt burden.

Although progress was made, notably in legislation providing for legislative and presidential elections, human rights remained circumscribed. The Government continued its practices of arbitrary detentions, physical mistreatment and other forms

of harassment, occasionally targeting supporters of opposition political parties. Preferring indefinite detention in many instances, it rarely brings cases before the courts; and thus is often responsible for the denial of fair trial. Controversy still surrounds the assassination of a key military commander, an incident which the Government claims was part of a coup attempt on March 17. Members of the police and security forces were rarely tried or punished for abuses.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—In March the commander of the rapid reaction forces, Major Robalo, was murdered, allegedly by a man named Amadu Mane. Security forces captured Mane, who remained in prison awaiting trial at year's end. Government and military officials alleged opposition party support for the killing, while opposition leaders accused the Government of instigating it. The Government detained some 49 persons for involvement in the killing (see Section 1.d.).

In August the authorities freed seven police officials jailed in 1992 for involvement in beating to death Dassumane Quade, a military officer, even though their trial had not concluded. The Government announced that Quade had committed suicide but refused to return his body to relatives for burial.

b. *Disappearance.*—There were no known cases of disappearances.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the Constitution prohibits cruel and inhuman punishment, and evidence obtained through torture or other coercion is invalid, these constitutional provisions are rarely enforced. Security and police authorities systematically employ torture and abusive interrogation methods, usually in the form of severe beatings, and are rarely punished. Prison conditions are poor but not life threatening. There were no reported deaths as a result of imprisonment during 1993. Women are kept in separate areas within prisons. There were no reports of rape in prison in 1993.

d. *Arbitrary Arrest, Detention, or Exile.*—In the aftermath of the March 17 case, 49 persons were detained without charge or trial for 2 months while a military commission of inquiry investigated. Among the detainees were the president of one opposition political party and an active member of another.

In June, following the commencement of closed trials by the Supreme Military Tribunal, 10 of the detainees, including those from the opposition, were released from prison, pending the outcome of charges—not yet specified—placed against them. Ambiguity surrounded the Tribunal's legal right to detain the suspects and conduct a commission of inquiry investigation. During the first 2 months of the detainees' imprisonment, the Government denied the defendants access to lawyers and family members, but authorized medical care and visits by the International Committee of the Red Cross and the Human Rights League of Guinea-Bissau (LDH).

The legal system provides for procedural rights, such as the right to counsel, the right to be released if charges are not brought within a short period of time, and the right to a speedy trial. However, the judicial system generally fails to provide adequate protection of these rights.

Security and police forces continue to have the administrative power to detain suspects without reference to judicial authority or warrants, occasionally through the device of house arrest. Once detained, the Government holds persons without charge or trial for extended periods of time, sometimes incommunicado. Bail procedures are not routinely observed.

The number of political detainees (pretrial) and prisoners held at year's end was unknown. Human rights monitors estimated that 90 percent of the prison population are pretrial detainees arrested without warrants and imprisoned without charges filed against them. There were no known cases of exile.

e. *Denial of Fair Public Trial.*—Traditional law still prevails in most rural areas, and many urban dwellers bring judicial disputes to traditional counselors to avoid the costs and problems associated with the official legal system. With some exceptions, the official judicial system is based on the Portuguese model, which does not use juries, and courts are usually composed of three judges, two assistants, and a presiding officer for a tribunal of six. Because of low salaries and a lack of training, judges are sometimes subject to political pressures and corruption. Defendants have the right to private counsel or may choose to be represented by a court-appointed attorney who generally receives no pay. Judges' determination as to who is given access to accusatory material and witnesses is sometimes arbitrary.

Trials involving state security are conducted by the Supreme Military Tribunal and are usually not open to outside observers. Military courts try all cases involving members of the armed forces as defendants or accused. The Supreme Court is the

final court of appeal for both civilian and military cases, except those involving national security matters. In this instance the Council of State reviews all decisions.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The 1991 Constitution provides for the inviolability of domicile, person, and correspondence, but these rights are not always respected. Judicial search warrants are seldom utilized. International and domestic mail may be subject to surveillance, and police sometimes force entry into private homes. Membership in the PAIGC, while not required, plays a role in government appointments and promotion opportunities, particularly in the interior.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and press. It states that citizens have the right to express themselves freely and make public their views by all means available, as well as having the right to be informed and to inform without hindrance or discrimination. This right cannot be limited or hindered by any form of censorship. Citizens openly debated the attributes of the 12 legalized political parties and their candidates.

On August 2, by order of the Supreme Military Tribunal, the authorities arrested opposition leaders Joao Da Costa and Tagne Na Waie for having violated the conditions of their earlier release by engaging in political activities, notably by appearing on a television show and discussing various political subjects. They were released on August 6 after a brief appearance before the Supreme Military Tribunal's prosecutor.

The television, radio, and newspapers continue to provide a relatively balanced selection of public opinion, and opposition political parties took advantage of their access to television and radio air time.

All media are owned and controlled by the Government, with the exception of several opposition party monthly publications and one irregularly appearing newspaper. Strong criticism of the Government occurs only in the opposition papers. The Government's PAIGC party tended to receive greater media coverage than other political groups. Journalists continued to practice some self-censorship. One opposition party unsuccessfully tried to establish its own radio station; it is not clear whether this initiative failed because of political or economic considerations.

Academic freedom is observed in schools and research institutions.

b. *Freedom of Peaceful Assembly and Association.*—Although the Constitution provides for freedom of assembly and association, government approval is required for all assemblies and demonstrations. Most opposition parties, including several fledgling political and labor groups, held legal political rallies. The opposition jointly organized and received government authorization for a demonstration in February which was closely supervised but not disturbed by security forces. There were continued credible reports of the local authorities verbally harassing opposition elements during rallies in the interior.

Several new professional, religious, and regionally oriented associations formed. One new political party was legalized, bringing the total to 12.

c. *Freedom of Religion.*—Religious freedom is provided for in the Constitution and respected in practice. Christians, Muslims, and animists worship freely, and proselytizing is permitted. Religious groups must be licensed by the Government, but there were no reports of groups being refused licenses.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—In connection with the March 17 case, the authorities ordered opposition political party members Joao Da Costa and Tagne Na Waie to remain within the Bissau area unless their travel to other areas was authorized by the Supreme Military Tribunal.

Foreign travel and emigration are generally not restricted. Citizens have the right to return and are not subject to political revocation of their citizenship. There are no provisions for asylum.

The number of refugees from the Casamance region of southern Senegal, where Senegalese troops have been fighting Casamance rebels, increased dramatically between the end of 1992 and mid–1993, with estimates of at least 14,000 persons, not including those who remained following fighting in 1990 and 1991. The Government cooperated with international relief efforts and continued its policy of placing no pressure on refugees to return to Senegal.

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

Although citizens are not free to change their government, slow progress was made towards democratic and multiparty presidential and legislative elections, now scheduled for March 27, 1994. The National Assembly approved changes in the elec-

toral law, including provisions for secret balloting and universal suffrage, and named several independent members to the National Elections Commission which began preparations for an electoral census and a civic education program.

While the Government consulted opposition parties to a greater degree than in the past, the Government continued to control the pace of reform, and the PAIGC-dominated National Assembly rejected some of the measures unanimously approved by the multiparty Transitional Commission established in 1992.

Some citizens are disqualified as presidential candidates because of a controversial new law requiring all candidates to have parents and at least one grandparent on both the maternal and paternal sides of the family born in Guinea-Bissau.

Women are inadequately represented in the political process. Two of 17 Cabinet ministers are women (one is head of the Ministry for the Advancement of Women). In the National Assembly, 19 percent of the members are female.

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

The Human Rights League of Guinea-Bissau (LDH) claims over 3,000 members throughout the country and is the leading organization for advancing human rights. It is funded by members' dues as well as by assistance from foreign nongovernmental organizations and several countries, including Germany and Sweden. The LDH and international human rights monitors continued to investigate human rights cases without overt government interference until May, when the Government began refusing access to all prisoners on the basis of allegations of LDH involvement in the alleged March 17 coup attempt. Members of the LDH reported occasional verbal harassment by police. The Government did not respond to LDH reports on mistreatment of prisoners and poor prison conditions, or to Amnesty International's call for an inquiry into the death of Ussumane Quade (see Section 1.a.).

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

Women.—While officially prohibited by law, discrimination against women persists. Women are responsible for the majority of the work on subsistence farms and have limited access to education, especially in the rural areas. Women do not have equal access to employment opportunities, largely due to their level of education, and because, among certain ethnic groups, women are prohibited from owning or managing land and inheriting other property.

Physical violence, including wife beating, is an accepted means of settling domestic disputes. While police will intervene in domestic disputes if requested, the Government has not undertaken specific measures to counter social pressure against reporting domestic violence, rape, incest, and other mistreatment of women. Rapes are infrequent.

Children.—Government expenditures on children's welfare are inadequate, but roughly commensurate with total resources available to the State. There are no known patterns of societal abuses directed specifically against children.

Within certain ethnic groups, especially the Fulas and Mandinkas, female genital mutilation (circumcision) is still a widespread practice and occurs at an early age. It continues to take place despite official prohibition and educational campaigns assisted by United Nations organizations which educate the public about the damaging physical and psychological aspects of the practice.

People with Disabilities.—The law does not specifically prohibit discrimination against people with disabilities, and in practice persons with disabilities have unequal access to employment and education. The State has made some efforts to assist disabled veterans through pension programs, but these programs do not adequately address veterans' health, housing, and nutritional needs. There is no legislation mandating accessibility.

Section 6. Worker Rights

a. *The Right of Association.*—The 1991 Constitution grants all workers except military personnel the freedom to form and join independent trade unions, and legislation approved in 1991 enumerates the rights and obligations of new unions. The vast majority of the population is engaged in subsistence agriculture. Only a small percentage of workers are in the wage sector and are organized.

There were 11 individual craft unions registered and operating during 1993. All unions are officially independent of the Government, but seven unions are affiliated with the National Trade Union Confederation (UNTG) which still retains close informal ties to the PAIGC. The four independent unions are comprised of teachers, transport and communications workers, judicial employees, and health workers. The law does not favor UNTG-affiliated unions over others.

The Constitution recognizes the right of workers to strike and in theory, workers have protection from retribution against strike activities. The only legal restriction on strikes is the requirement for prior notice, which must include the reasons for the strike and its expected duration. There were no illegal strikes in 1993. Three legal strikes occurred: two of these resulted in direct negotiations with government employers that satisfied most of the demands of the striking employees. A third strike carried out by the Teachers' Union was not resolved, and despite laws prohibiting such practices, retribution against strikers took place. Several teachers supporting the strike lost their jobs or were transferred to positions of lesser responsibility. Several other labor disputes were resolved via nonbinding arbitration conducted by unions or by the Ministry of Public Works, Civil Service, and Administrative Reform.

All unions legally have and exercise the right to affiliate freely with national confederations and international labor organizations of their choice. Unions cultivate contacts with a wide range of labor organizations worldwide. UNTG is affiliated with the Organization of African Trade Union Unity.

b. *The Right to Organize and Bargain Collectively.*—The Constitution does not provide for or protect the right to bargain collectively, and in practice there were no instances of genuine collective bargaining. Most wages are established in bilateral negotiations between workers and employers, taking into consideration the minimum salaries set annually by the Government's Council of Ministers. Because of the shortage of wage-paying jobs, however, the employer in many cases is free to set salaries.

The Government's provision for the protection of workers against antiunion discrimination has very little effect where union membership is very low. Despite pressure from the International Labor Organization, no laws were adopted to establish penal sanctions against employers practicing such discrimination.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is not permitted by law and not known to exist.

d. *Minimum Age for Employment of Children.*—The General Labor Act of 1986 established a minimum age of 14 for general factory labor and 18 for heavy or dangerous labor, including all labor in mines. These minimum age requirements are generally followed in the small wage sector, but there is minimal enforcement by inspectors from the Ministry of Administrative Reform, Civil Service and Labor in other sectors. Children in the cities are often involved in street trading, and those in rural communities do domestic and field work for no pay. The Government does not attempt to discourage these traditional practices.

e. *Acceptable Conditions of Work.*—Although not consistently enforced, the Government's Council of Ministers establishes minimum wage rates for all categories of work, the lowest of which is the monthly wage of $13.95 (150,000 Pesos), set annually. This wage is inadequate to maintain even a minimum standard of living, and workers must supplement their income through other work, reliance on the extended family, and subsistence agriculture. Although not enforced, the maximum number of hours in a normal workweek is 40.

Legal health and safety standards for workers are established through the cooperation of the unions and the Ministry of Administrative Reform, Civil Service, and Labor; they are then adopted into law by the National Assembly. However, these standards are not enforced, and many persons work in conditions which endanger their health and safety.

KENYA

Kenya reintroduced multiparty democracy in 1991, but President Daniel Arap Moi continued to control a governing system in which power is centered in the office of the President and the President's party, the former single party, the Kenya African National Union (KANU). Under the 1963 Constitution the President has extensive powers over the legislature and the judiciary. Nevertheless, while KANU holds a majority in the unicameral National Assembly, it no longer has the two-thirds majority required to pass constitutional amendments. In 1993 the ruling party applied extensive pressures to entice or coerce opposition Members of Parliament (M.P.'s) to defect to KANU.

After 2 years of inaction, the Government finally took some action to curb the ethnic violence centered in the Rift Valley. On September 3, the Government announced the establishment of security zones in the hardest hit areas. Citing the Preservation of Public Security Act, the Government outlawed the possession of

weapons, movement of livestock at night, and the publication of any information on the areas of violence without government consent. The Government prevented opposition M.P.'s, domestic and international human rights figures, and journalists from entering the areas. The Government made little effort to investigate credible allegations of the involvement of government officials in instigating the clashes or in shielding fighters from prosecution.

Kenya has a large internal security apparatus that includes the police Criminal Investigation Department (CID), the paramilitary General Services Unit (GSU), and the Directorate of Security and Intelligence (DSI or Special Branch). The CID and Special Branch investigate criminal activity and also monitor persons the State considers subversive. The internal security apparatus has been used to intimidate and harass politicians, opponents of the Government, and dissidents, sometimes employing torture or other mistreatment. The Government gave security forces special dispensation from prosecution for actions in the security zones, though human rights groups received no evidence of abuses in the zones.

Kenya's economy, despite the dominance of public and state-owned enterprises, includes a well-developed private sector for trade and light manufacturing as well as an agricultural sector that provides food for local consumption and substantial exports of coffee, tea, and other commodities. The tourism industry leads coffee and tea exports as the top foreign exchange earner but suffered reduced growth in 1993, due in part to the worldwide recession. The economy plummeted in 1993 as excess growth of the money supply fueled inflation, shortages of goods, and labor unrest. Although it has decreased over the last several years, the high population growth rate continued to contribute to a serious and growing problem of unemployment.

Although the controversial December 1992 general elections brought about a modest strengthening of democratic institutions, the KANU-led Government has yet to reconcile itself to a new era of multiparty politics. The year witnessed serious setbacks in the Government's commitment to human rights, ethnic and political tolerance, and the rule of law. The Government failed adequately to respond to the continuing ethnic violence which has claimed over one thousand lives, or to stop many of its officials from inflaming this violence in other areas through war-like statements. In 1993 the Government used the security forces to intimidate its political critics, arresting 36 of the 85 opposition M.P.'s and many journalists and labor leaders. Security forces also broke up peaceful demonstrations and political meetings and disabled two privately owned printing presses. The Government abridged worker rights in facilitating a "coup" to replace the top union leadership with party loyalists. Societal discrimination and domestic violence against women, especially rape and female genital mutilation, remained serious and widespread problems.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reported instances of specifically targeted political killings by government forces, but there was one clear example of an extrajudicial killing. In mid-September three truckloads of plainclothes security police forced their way into the compound of Central Organization of Trade Unions Secretary General Joseph Mugalla in Kakamega. Mugalla was absent, but the police harassed his wife and beat up his nephew, who had attempted to question the police. He died the following day from the beating. As of the end of 1993, the Government had taken no action to prosecute those responsible.

Substantial evidence exists of the complicity of high-level government officials instigating and promoting the ethnic clashes, which have so far claimed over 1,000 lives and displaced 250,000 people (see Section 1.g.).

While most of the many deaths in prison resulted from disease and lack of medical care (see Section 1.c.), some may have resulted from beatings or other use of excessive force by police or prison guards. On the night of November 2, police shot Jackson Mutonye Ndegwa in the leg and arrested him following a raid on Ndeiya Chief's Camp, an arsenal near Nairobi. Police reported he died of his injuries the next morning, although he was reportedly interrogated the previous night.

Mob violence also continued to be a major problem. As of year's end, 508 people had been murdered in such violence, an increase from 1992. Most victims were either suspected thieves or were accused of being sorcerers. While blame for public executions by civilians cannot directly be ascribed to the Government, Kenyan security forces have not made suppression of mob violence a priority—this in spite of the public statements by President Moi that mob violence must stop. The conduct of security forces was mixed, as some police officers braved violence themselves to rescue would-be victims, while in other incidents there were reports of police turning a blind eye to such activity.

The trial of Jonah Anguka for the February 1990 murder of former Foreign Minister Robert Ouko continued in 1993. The Government produced no more than circumstantial evidence to tie Anguka to the murder, and human rights advocates continued to claim that Anguka was a scapegoat for powerful government officials. As the final arguments in the case were being prepared, the presiding judge, Justice Fidahusseein Abdulla, died of apparently natural causes. The Chief Justice ruled that Anguka would have to undergo a second full trial.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture is proscribed under the Constitution, but credible allegations of torture, police brutality, and abuse of prisoners, often to coerce confessions, continued. Police also used brutal methods to break up unregistered political meetings and even some registered ones (see Section 2.b.).

The police subjected prisoners arrested for "political" offenses, including sitting M.P.'s, to particularly brutal and degrading treatment. The day before the May 20 Bonchari parliamentary by-election, opposition M.P. Ferdinand Obure went to the local police station in Kisii town to demand information about supporters of one of the principal opposition parties, the Forum for the Restoration of Democracy/Kenya (FORD/K), arrested the previous day. After an altercation with a police superintendent, the police arrested and jailed Obure. The M.P. was brought into court on a stretcher later that day, with bruises on the back, chest, and legs, consistent with his testimony that he had been beaten in custody. In court the prosecutor stated that Obure had been injured when he fell to the floor while assaulting the officer. The authorities charged Obure with causing a disruption in a police station and released him on bond. His case had not come up for trial by year's end, and it was expected that the charges would be dropped.

There were other instances of prisoners being brutalized by police, including credible allegations of torture. For example, Stephen Kariuki Muigai, arrested along with Koigi wa Wamwere in November, suffered torture to his knee and ankle joints and under the toenails. Credible medical evidence of the torture was provided to police and the courts. At the end of the year, the Government had taken no action to respond to the allegations. Also, defense council in the Ndeiya Chief's Camp case charged that a private physician could confirm that several of the prisoners had been tortured.

In early January, the authorities prevented the personal physician for the "Treason Four" (including former M.P. Koigi Wa Wamwere) from visiting his patients in detention, although at least one was very ill and allegations of food poisoning had been reported in local newspapers. The physician initiated action in the High Court to gain access to the prisoners as stipulated by Kenyan law. The prisoners were released before the case was decided.

Conditions in prison are life threatening, due in part to inadequate resources and in part to the Government's unwillingness to address deficiencies in the penal system. Standards of food and health care continue to fall short of the basic provisions in the Prisons Act, especially for nursing mothers, who have their infants with them. A lack of quality food and bedding materials and flooded or unheated cells are common. Sexual abuse is also common in Kenyan prisons and rarely punished. Women prisoners are subject to the same harsh prison conditions as men but are subject to even greater sexual abuse.

In April an assistant government minister reported in Parliament that 977 inmates had died in prison in the previous 3 years. (There are approximately 34,000 prisoners in Kenya, of whom approximately 3,000 are women.) Those deaths were attributed chiefly to disease; the assistant minister admitted that Kenyan prisons did not have resident doctors, and only one prison had a doctor permanently assigned to it.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution provides that most arrested or detained persons (other than those detained under the Preservation of Public Security Act or PPSA) shall be brought before a court "as soon as is reasonably practicable," which would be within 24 hours of the arrest or from the start of detention.

The Constitution was amended in 1988 to allow the police to hold persons suspected of capital offenses for 14 days prior to being brought before a court. Capital offenses include such crimes as murder and treason. A legislative amendment passed at the end of the 1993 parliamentary session would exclude weekends and holidays from this 14-day period, potentially a significant increase in the time prisoners can be held without trial. In practice, suspects of all types are often held incommunicado for 2 to 3 weeks before being brought before a court. Often, family members bring law suits to compel authorities to produce "missing" prisoners.

The PPSA allows the State to detain a person indefinitely without charges or trial upon a determination that it is necessary for the "preservation of public security." This includes "prevention and suppression of rebellion, mutiny, violence, intimidation, disorder and crime, unlawful attempts and conspiracies to overthrow the Government or the Constitution," and several other grounds. No persons were detained under the PPSA in 1993, though a number were arrested under the Rift Valley "Security Zones" Regulations announced under the authority of the PPSA (Section 1.g.). Furthermore, the courts evidenced an increased willingness to grant bail in political cases.

On April 28, KANU lawmakers defeated a parliamentary motion which would have suspended detention without trial. In the debate over the bill, the Attorney General said he appreciated the need for a comprehensive review of the Constitution but that the motion was premature. The Vice President promised that the Law Reform Commission would produce a paper on constitutional reform by the end of the year. At the end of July, the Attorney General announced the formation of 11 task forces to examine the Penal Code and some of the more controversial sections of the Constitution. At the end of the year, only two of the commissions had met.

The police continued to arrest and question government critics without provocation, and often without warrant. For example, Central Organization of Trade Unions (COTU) Secretary General Joseph Mugalla gave a Labor Day speech May 1, saying that COTU would proceed with a national general strike if labor demands for a 100-percent wage increase and dismissal of Vice President George Saitoti were not met. The Minister of Labor walked out without giving his speech, and the ceremonies ended abruptly. Security police, without any warrant, tried but were thwarted from picking up Mugalla at a Labor Day luncheon. Later the same day, they arrested him, his deputy Boniface Munyao, and Shoe and Leather Workers Secretary General Joseph Bolo, purportedly for having called a strike. Mugalla was released May 7, the others earlier, but the charges were still pending at year's end.

On May 31, police broke up a licensed Forum for the Restoration of Democracy/Asili (FORD/A) political meeting in Kiambu, after M.P. Martin Shikuku made comments critical of the Government. The police arrested FORD/A M.P. Kamau Icharia and Shikuku the following day, held them overnight, and released them the day after without charges. The arrest of opposition M.P.'s was a frequent occurrence after the August recess, so that in September, more than half of FORD/A's 30 M.P.'s were out on bond at the same time.

On June 9, police attempted to arrest FORD/A M.P. Njenga Mungai inside Parliament, in connection with statements he made earlier on the need for Kikuyus to defend themselves in the Rift Valley. Under Kenyan law, M.P.'s are protected from arrest while "going to, attending at, or returning from a sitting of the Assembly." Assistant Minister of State in Charge of Internal Security Jackson Kalweo issued a statement in Parliament expressing regret over the incident and announced that the Government would investigate fully the police officers involved. No disciplinary or any other action had been announced by year's end.

A number of Kenyans were arrested for incitement, sedition, and other offenses related to their alleged involvement in tribal clashes. On September 22, former detainee Koigi Wa Wamwere was arrested along with six others for possession of seditious literature within one of the announced security zones. Wamwere was found with copies of a broadsheet called The Wailing Molo, which accused the Government of responsibility for the ethnic clashes, and a flyer from the National Democratic and Human Rights Organization (NDEHURIO), an organization which Wamwere founded earlier in the year. On September 24, the presiding judge refused the defendants' appeal to the High Court, holding that there were no substantive constitutional issues at stake, and denied bail pending a hearing on October 6.

At the end of the year, while there were no detainees held under the PPSA, a number of prisoners were held without bail and denied opportunity within a reasonable time to answer government charges, including Koigi wa Wamwere and more than a dozen others held for the attacks on the Bahati and Ndeiya police arsenals. The Government arrested them on criminal charges, though it has yet to present any evidence of their guilt in court. There is reason to believe that some of these prisoners are being held for their political beliefs, associations, or expressions.

e. *Denial of Fair Public Trial.*—The legal system, as defined in the Judicature Act of 1967, is based on the Constitution, laws passed by Parliament, and common law or court precedent. Customary law is used as a guide in civil matters affecting persons of the same ethnic group so long as it does not conflict with statutory law. Kenya does not have a jury system. The court system consists of a Court of Appeals, a High Court, and two levels of magistrates' courts where most criminal and civil cases originate. In 1989 High Court Justice Norbury Dugdale ruled that the courts have no power to enforce the "Bill of Rights," which is a part of the Constitution.

In spite of numerous legal challenges that the ruling effectively subsumes the judicial branch of government under the executive, his decision has not been overruled.

Civilians are tried in civilian courts; verdicts may be appealed to the Kenyan High Court and ultimately to the Court of Appeals. Kenyans do not have a right to government-provided legal counsel except in certain capital cases. Most persons tried for capital offenses are provided counsel free of charge if they cannot afford it. For noncapital charges, however, free legal aid is not generally available outside of Nairobi. In the absence of legal advice from Kituo Cha Sheria ("the law center" in Swahili), poor people sometimes plead guilty to a variety of offenses, including political offenses. Military personnel are tried by courts-martial, and verdicts may be appealed. Attorneys for military personnel are appointed on a case-by-case basis by the Chief Justice. The Chief's Authority Act gives low-level administration officials, called chiefs, wide-ranging powers, including the power to arrest and hold individuals and to restrict a person's movement without trial. Although the Kenya Law Reform Commission has recommended that the law be abolished, no progress has been made in this direction.

The President has extensive powers over the judiciary. He appoints the Chief Justice and the Attorney General and appoints High Court judges with the advice of the Judicial Service Commission. While it has not been tested, he has authority to dismiss judges, the Attorney General, and certain other officials upon the recommendation of a special presidentially appointed tribunal.

The Government's actions often result in the denial of a fair trial. For example, the arrests and prosecutions of journalists accused of sedition have been marked by unwarranted delays and undue harassment of defendants. On May 19, in the face of domestic criticism and international pressure by human rights groups, the Government dropped sedition charges against six editors and employees of Society magazine. Although there had been no action on the charges for a whole year, the editors were still forced to travel to Mombasa every month for court hearings (also see Section 2.a.).

The Government's use of the legal system to prevent its critics from using the courts to stop government harassment was evident in the Fotoform case. Fotoform Limited had been the printer of a number of independent publications. In April the police forced their way into the Fotoform plant and dismantled and confiscated the printing press. Fotoform immediately filed an injunction to compel the Government to return the printing press parts, since the police had not obtained a warrant before seizing them and because Fotoform had not yet been charged with sedition. The Government defended its use of prior restraint with regard to seditious publications. Three months later (despite Government assurances that the case would be expedited), on July 21, the High Court denied Fotoform the injunction, saying it did not want to prejudice the sedition cases filed after the seizure against the Fotoform manager and the editor of Finance magazine. The Government filed the sedition cases ex post facto to meet the legal requirements of the seizure but did not receive the Attorney General's permission to prosecute. On September 24, the Government withdrew all charges against Fotoform but did not issue an order to return the press parts. In the meantime, the Government's various actions had put Fotoform out of business.

The Government has also switched the venue for several controversial cases in order to ensure a hearing before a progovernment magistrate or in a progovernment area. In particular, several of the cases related to the ethnic clashes and the demolition of kiosks in Nakuru were transferred from Kikuyu-dominated Nakuru to Kericho or other towns in the Kalenjin heartland.

Notwithstanding the Government's influence on the judiciary and its use of the legal system to harass its critics, the courts have occasionally acted independently of the executive. The courts rendered several judgments against the Government. For example, in mid-March an appellate tribunal found that the Government unjustly detained and tortured plaintiff Wanyiri Kihoro in 1986. Calling the police action "repugnant," the court awarded Kihoro damages although it was powerless to punish the offending officers absent action by the Government. The court's finding was deemed to be a precedent. A number of other former detainees have filed suit against the Government for unlawful detention or are contemplating doing so.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Searches without warrants are allowed under the Constitution in certain instances "to promote the public benefit," including in security cases. Although judicially issued search warrants are generally obtained, security officials often conduct searches without warrants to apprehend suspected criminals or to seize property suspected of having been stolen. The authorities continue to search homes of suspected dissidents without warrants, and evidence so obtained has been admitted to support convictions. Security forces employ a variety of surveillance techniques, in-

cluding electronic surveillance and a network of informers. In particular, police surveillance of political opponents and some of their visitors is routine. Opposition leaders and human rights monitors also charge the Government with staging or promoting physical attacks on those critical of the Government (see Section 2.b.).

On February 26, a hooded police squad tore apart a pharmacy in Nairobi's Hilton Hotel and arrested proprietor John Makanga, for alleged "incitement" due to his activities on behalf of victims of ethnic clashes. The police had no warrant for his arrest and never filed charges against him. Human rights groups criticized the Government for the brutality of the arrest and the wanton damage inflicted on his place of business. The Kenyan press described the brutal, unlawful arrest perpetrated by hooded police officers, in a very public place, as a politically motivated warning rather than an exercise of criminal justice.

On May 8, police officers and youths alleged to be KANU thugs demolished small, fully stocked market stalls in Nakuru town. Government officials first denied any knowledge of the operation (which involved uniformed administrative police and a municipal bulldozer), then refused permission for the shopowners to rebuild, citing an unexplained "security threat." Human rights groups charged that the demolitions targeted ethnic groups thought to be generally supportive of the opposition. Since that time, market stalls have been demolished in other major cities, including Nairobi and Kisumu. In most cases, no warning was given, and the legal authority to demolish the structures was dubious.

Although Kenyans are, in theory, free to choose their political affiliation, government employees were routinely told to support the ruling party or be fired. At a public rally on February 14, President Moi warned civil servants to be loyal to KANU or face dismissal, since KANU had won the December general election.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.—The so-called ethnic clashes in the Rift Valley, which have largely targeted ethnic groups not supportive of the ruling party, continued to cause numerous deaths and displacements. Substantial evidence exists of the complicity of high-ranking government officials in financing, arming, and then shielding the attackers from prosecution. Only one clash-related case has resulted in a conviction, and that was overturned. According to separate reports by a parliamentary special committee, the Catholic Bishops of Kenya, the National Council of Churches of Kenya (NCCK) (a Protestant umbrella group), the National Elections Monitoring Group (NEMU), the Kenya Human Rights Commission, the Robert F. Kennedy Memorial Center, and Africa Watch, the Government bears primary responsibility for the destruction and loss of lives. Nearly 1,000 people have died and between 150,000 to 300,000 have been displaced since the clashes began in 1991.

On September 3, the Government announced the establishment of security zones in the hardest hit areas around Molo, Londiani, Elburgon, and Burnt Forest. Citing the Preservation of Public Security Act, the Gevernment outlawed the possession of weapons, movement of livestock at night, and the publication of any information on the areas of violence without government consent. Opposition M.P.'s and domestic and international human rights figures were prevented from entering the areas, as were journalists. Human rights groups complained about the security forces' monopoly on information, and the draconian nature of the legislation establishing the zones.

Security personnel were given shoot-to-kill authorization on the mere suspicion that a crime might be committed. Unauthorized entry into or movement within the zones was sufficient to constitute a crime. Security personnel were empowered to requisition private vehicles, prohibit the movement of residents, and demand forced labor, as well as given expanded powers of search and arrest. The regulations also absolve the Government and security forces of any responsibility for death and destruction, specifically prohibiting suits for compensation. At year's end, there were no reports that this new authority had been grossly abused.

Government critics, press and church sources, and human rights groups blame the Government for the violence and claim that it initially sponsored the clashes to prove its oft-repeated assertion that multiparty politics are incompatible with Kenya's multiethnic society. The resulting deaths and destruction have aggravated traditional tribal rivalries, and the clashes now proceed even without active encouragement from the Government. The NEMU report on the clashes stated, "initially, it appeared as if the aim was to curtail the multiparty crusade. However, it has more recently taken the form of ethnic cleansing—the removal of all ethnic groups except the Kalenjin, Maasai, Turkana, and Samburu from the Rift Valley."

High-level government officials continue to make inflammatory statements without government response, and Kenya's security forces seem unable or unwilling to contain the violence. During the eruption of ethnic fighting in Mombasa on November 28, armed police at the scene did not intervene. The Government sought to frus-

trate the hopes of the displaced wishing to return to their homes; it harassed groups offering them legal or financial assistance, allowed insecurity to persist in troubled regions, rejected seemingly legitimate land claims, and allowed members of progovernment ethnic groups to take over farms and property left behind. The promotion of a district commissioner, alleged to be involved in the clashes, to his current post of Rift Valley provincial commissioner was a further disquieting sign.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and press and outlaws discrimination on the grounds of political opinion. However, there are numerous de jure and de facto restrictions and nhibitions on the exercise of free speech. Freedom of speech is often breached by security forces acting without warrant and often undercut by overly broad judicial interpretations of antiquated sedition and libel laws. For example, on January 19, police arrested FORD/K M.P. Paul Muite under Section 66 of the Penal Code, which prohibits "any false statement, rumor, or report which is likely to cause fear and alarm to the public or to disturb the public peace." He had earlier accused the Government of perpetuating a climate of insecurity in Northeast Province in order to exercise greater political control over the Province. In spite of government harassment, however, opposition political and human rights groups continue to present their views to the public.

Radio is the medium through which most Kenyans get their news. The Government controls the single radio station and its affiliate television station, the Kenya Broadcasting Corporation (KBC), which produces both televison and radio news. They typically avoid stories critical of the Government, give a large share of news time to government or ruling party functions, and have consistently failed to give equal and accurate coverage to opposition activities. A second television station, Kenya Television Network (KTN), adheres to self-imposed guidelines. Government influence on its editorial content, both directly and through the chairman of the board, increased markedly, until March, when KTN stopped broadcasting its popular local news program under government pressure. In December KANU, acting on the President's orders, replaced the legal officers of KTN. KANU Secretary General Joseph Kamotho claimed that, in spite of frequent denials during the year, the party was KTN's legal owner.

To protect its radio and television monopoly, the Government has refused to issue any license for a private radio station, though there have been a number of expressions of interest. On September 27, the Government announced a restriction "for security reasons" on receive-only television dishes "until licensing procedures can be worked out."

The print media includes three daily newspapers providing national coverage. The printed press is vibrant and independent, though under government pressure to self-censor. The two independent daily newspapers, the Nation and the Standard, give extensive coverage to political events and often print editorials critical of government policies. The weekly newspapers and magazines, many of which take a more strident tone in their criticism of the Government, also have substantial audiences, though they have borne the brunt of government harassment.

During 1993 the Government used the police force and antiquated colonial sedition laws to arrest editors, dismantle printing presses, harass vendors, and impound magazines (see also Section 1.e.). Among the many instances of government censorship of the press were the following:

—On February 3, the editor of Finance magazine Njehu Gatabaki was charged with three counts of sedition in connection with an issue of Finance which described President Moi's large holdings in British banking institutions. Gatabaki was held several days in jail, then released on bond. On June 14, he was rearrested at the High Court (where he had gone to file a petition for the Government to return his passport (see Section 2.d.), charged with sedition for the sixth time, and jailed for approximately 48 hours. He was then released on bond and surety of approximately $4,400. Gatabaki has never had one of his sedition cases come to trial, and by the end of October all of the charges pending had been dropped.

—On May 30, police impounded 6,000 copies of the Presbyterian Church of East Africa magazine Jitegemea (Kiswahili for self-reliance). The issue accused the Government of genocide for fomenting the ethnic clashes in Rift Valley and for targeting Kikuyu shopowners by demolishing kiosks across the country. The Government charged editor Jamlick Miano with sedition, his third arrest for sedition since the July 1992 inauguration of the magazine. On June 26, the Government withdrew six charges of sedition against Miano originally filed in July 1992, though the latest charges had not been withdrawn by the end of 1993. While Miano remained free on bail, the repeated impoundments of Jitegemea and arrests of Miano have probably resulted in the paper's demise.

—On August 2, plainclothes police raided Colourprint, printer for Finance magazine among others. The police seized negatives and plates along with 10,000 copies of Finance magazine, the sixth time in 14 months that Finance was impounded. Earlier on February 10, police acting without a warrant confiscated plates and other printing materials from Lengo Press, a Christian printing house. Earlier that day, Lengo had distributed a copy of The Watchman, a purportedly religious magazine which is sharply critical of the Government.

The Government does not specifically restrict the activities or reporting of Nairobi's extensive international press corps, though in covering the Rift Valley violence, international reporters are bound by the same security restrictions as Kenyan journalists. A number of books remain banned, including a Kiswahili play based on George Orwell's "Animal Farm" and a number of works by emigre Kenyan author Ngugi wa Thiong'o.

The public universities have become further politicized since the return of multiparty politics. Government, KANU, and university officials attempted to pressure faculty and staff to support the ruling party. Opposition leaders were successfully barred from college campuses, professors thought supportive of the opposition were sidelined, and senior academics who publicly support KANU were rewarded by an entrenched patronage system. A network of police informants continued to monitor both students and professors at the universities, although some observers claim the number of informers may have declined in recent years. The Government maintained its refusal to allow the operation of the Student Organization of Nairobi University (SONU), although that body is called for in the university constitution. Likewise, the Government refused registration to a nationwide union of university professors in late 1993. When the dons went on strike, the universities fired the leaders and halted the paychecks of hundreds more in early January.

b. *Freedom of Peaceful Assembly and Association.*—Freedom of assembly, while provided for in the Constitution, is seriously limited by the Public Order Act, which gives authorities power to control public gatherings. The Act makes it illegal to hold an unlicensed meeting of 10 or more persons without approval from the district commissioner, but it does not in theory apply to persons meeting for "social, cultural, charitable, recreational, religious, professional, commercial, or industrial purposes." In practice, meetings under all those categories fall under the jurisdiction of the Public Order Act.

The Government continued to restrict the right of peaceful assembly by refusing to register meetings and by breaking up both unlicensed and licensed meetings.

In March police prevented human rights advocate Wangari Maathai from holding a seminar on the ethnic clashes in Nakuru town. Cordoning off the Catholic cathedral, which was to be the site of the seminar, armed police with dogs forcibly prevented anyone from entering the compound. After the initial meeting was canceled on March 2, Maathai tried and failed twice more to hold the meeting. The provincial commissioner said that the proposed meeting was a threat to public security and accused Maathai of incitement.

On March 23, a group of opposition supporters stood peacefully outside Parliament demonstrating against the President and KANU parliamentarians attending the state opening of Parliament. They were attacked by youths dressed in traditional Maasai clothing and carrying metal-studded clubs, whips, and machetes. The ample number of security police present took no action to halt the violence. Observers reported that the "Maasai" had military-type haircuts, wore military watches, and in other ways did not resemble Maasai. After widespread accusations that the attack was carried out by members of Kenya's security forces, the Daily Nation reported that Minister of Education and KANU General Secretary Joseph Kamotho admitted at a public function that the "Maasai Moran" were really KANU youthwingers and had been provoked by chants of "Moi must go" into violence. Though an embarrassed Kamotho later retracted the statements, the Nation explained that a senior editor had confirmed the story that same evening with Kamotho and pledged to stand by it.

The authorities routinely denied opposition parliamentarians permission to meet their constituents. For example, on August 18, M.P. Kenneth Matiba was conducting a meet-the-people tour of Murang'a and Embu districts when truckloads of police broke up a short meeting in Murang'a and prevented him from addressing any meetings in Embu.

The Societies Act governs freedom of association; it states that every association must be registered or exempted from registration by the Registrar of Societies. Nongovernmental organizations (NGO's) protested requirements that they register every 5 years as an attempt by the Government to control human rights and charitable activities. Nevertheless, after heavy government pressure, most local NGO's had to

apply for registration in 1993. Koigi wa Wamwere's human rights group, NDEHURIO, was denied registration in 1993.

Since the repeal of Section 2(a) of the Constitution in November 1991, Kenyans have in theory been free to join the political party of their choice, and 10 parties have been registered. Nine registered parties participated in the December 1992 elections: KANU, FORD/Kenya, FORD/Asili, the Democratic Party, the Social Democratic Party, the Kenya National Democratic Party, the Kenya National Congress, the Labor Party Democracy, the Kenya Social Congress, and the Party of Independent Candidates of Kenya. The Government refused to register at least three, including the Islamic Party of Kenya (IPK), the Democratic Movement, and the Socialist Alliance of Peasants and the Proletariats of Kenya. At least 14 other parties applied but did not receive a response from the Government. These included at least 2 environmental parties, which were refused registration by the Attorney General as threats "to the security of the State."

IPK followers on Kenya's coast continued to protest their exclusion, and the party designated a chairman and other officers to press their case. Though the Societies Act nowhere prohibits religion-based political parties, the Attorney General maintained his position that registering sectarian parties would contradict the spirit of the law, which proscribes organizations "incompatible with peace, welfare, or good order in Kenya."

On July 2, uniformed police surrounded the headquarters of the Central Organization of Trade Unions (COTU) to prevent a meeting of the COTU governing council, which had been scheduled in May and announced publicly. The authorities cited "security" reasons for their actions, but the purpose was to install new progovernment labor leadership (see Section 6.a.).

University faculty went on strike at the end of 1993 to protest the lack of action, after 18 months, on their request to register the University Academic Staff Union (UASU). The university management responded in early 1994 by firing more than 24 professors and withholding the salaries of more than 200 others.

c. *Freedom of Religion.*—Kenya has no state religion. Freedom of worship is acknowledged in the Constitution and generally allowed, but churches new to Kenya must obtain government approval to be registered. Many Kenyan Muslims charge that the Government's antipathy towards the IPK is proof of an anti-Muslim bias, though Government officials deny this.

On July 17, President Moi held a KANU political rally in Kapsabet. As is often the case, local authorities instructed students to attend. At the nearby Kapsabet girls' high school, the school's headmistress interrupted a group of Seventh Day Adventist students, who were conducting a religious service, and ordered them to attend the rally. When a number refused (the Government claims there were 12, though area parents claimed 84 students), the school authorities expelled them from school. After an outcry by the press and the National Teachers Union, the local district commissioner instructed the headmistress to readmit the students and stop interfering with their religious freedom. By the end of July, the students had been readmitted to school but were assigned manual labor as punishment.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—By law citizens may travel freely within the country. However, ethnic clashes and the establishment of security zones restricted the ability of many Kenyans to travel, particularly to those parts of the Rift Valley most affected by the violence.

The Government does not generally prohibit emigration of its citizens but in 1993, as in past years, prevented travel abroad by some of its critics. The Government does not regard provision of passports to its citizens as a right and reserves the authority to issue or deny passports at its discretion.

In June the Government denied Finance magazine editor Njehu Gatabaki permission to depart Kenya in order to attend the World Conference on Human Rights in Vienna. Gatabaki had been appointed by the newly formed Association for a Free and Independent Press to deliver a speech on press freedom in Kenya at the Conference. In court, the Attorney General's office argued that Gatabaki's passport could not be released due to pending sedition charges against him and since Gatabaki had not applied 14 days in advance. The chief magistrate accepted that argument, and Gatabaki was prevented from attending the Vienna Conference.

The Government also prevented a former "sedition" detainee, Augustine Kathangu, who is suing the Government for unlawful confinement, from traveling outside the country. Mr. Kathangu continued to petition the principal immigration officer to return his passport seized in 1991 or to issue a new one.

In October security officers boarded a loaded commercial airliner, seized the passport of KTN Director Jared Kangwana, and prevented him from departing on a business trip. Kangwana maintains that the act was part of a government intimida-

tion campaign to force him to relinquish control of KTN to the ruling party. Since the Government took no action to institute criminal proceedings against Kangwana and ultimately succeeded in forcing Kangwana to cede the company to KANU, his allegations appear credible.

The Government has been quick to use its deportation powers against selected foreign citizens it viewed as overly critical. In February it deported Anders Breidlid, a Norwegian citizen, immediately after he landed at Kenyatta airport in Nairobi, apparently in retaliation for his work on behalf of Kenyan political prisoners. In May the Government deported Father Oliver Ryan, an Irish priest living in the Rift Valley, in response to comments he made blaming government officials for condoning tribal conflict in the Rift Valley. Father Ryan was the third expatriate priest to be deported for such comments since the ethnic clashes began.

In 1991 Kenya was inundated by Somali, Ethiopian, and Sudanese refugees, fleeing chaos and conflict in their home countries. Kenya has accepted most asylum seekers, though sometimes entry is delayed, resulting in hardship and denial of assistance. None of these refugees has been granted legal status other than that of asylum seeker. In 1990 there were 14,000 refugees; at the end of 1993 there were about 375,000 refugees residing in camps, and the Government estimated that 100,000 refugees were living outside the camps in cities and rural areas. The United Nations High Commissioner for Refugees (UNHCR) puts the latter figure at about 20,000. Somalis account for about 75 percent of the total.

In July 1,300 refugees being assisted by an Islamic aid organization in Mandera were forcibly expelled, ostensibly for what the Government believed was fundamentalist activity. UNHCR maintained the refugees were not politically active and protested their refoulement.

Africa Watch reported that hundreds of Somali women in the camps in the northeast were victims of rape or violent attack by armed bandits and, to a lesser extent, by Kenyan police officers. The report blamed the Government for failing to recognize the seriousness and urgency of the problem. The UNHCR launched a project at the end of 1993 to assist these women and to improve security in the camps.

Refugees outside the camps are extremely vulnerable to arrest, and those who purchase false identification documents and visas put themselves even further at risk. There is increasing violence in the northeast, where most of the camps are situated and cross-border incursions by armed Somalis occur.

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

The right and ability of Kenyan citizens to change their government through free and fair elections has yet to be demonstrated. The general elections on December 29, 1992, for the Presidency, Members of Parliament, and local government officials, and the preceding campaign period, were marked by violence, intimidation, fraud, and other irregularities. The President, backed by the former single party, KANU, continues to dominate the political system.

However, as a result of the 1992 legislative elections, six opposition parties won seats in the National Assembly and their M.P.'s were able, in Parliamentary debates, to point out instances of government mismanagement and malfeasance. KANU holds 114 seats in the 200-seat Assembly; the six opposition parties hold the remainder.

Nonetheless, the power of the Assembly is limited. The President under the Constitution has the power to open and dissolve Parliament, and the law prohibits the discussion in Parliament of all matters before the courts. This law and its interpretation by the Speaker of the Assembly severely limit the scope of parliamentary debate on most controversial political issues. The Speaker and his deputy consistently ruled in favor of KANU on parliamentary procedure. Speaker Ole Kaparo also ruled that the conduct of the President is not a subject appropriate for debate in Parliament, cutting off opposition allegations of high-level government corruption and malfeasance.

KANU used a variety of pressure tactics to entice opposition M.P.'s to defect to KANU and by year's end, four had done so, and its attempts to attract opposition officials had much greater success among lower level national or branch officials. Opposition figures charged that the defections were the result of a KANU campaign of bribery and blackmail.

By law, the defection of a sitting M.P. requires a by-election in that constituency. On May 20, by-elections were held in Migori and Bonchari constituencies. They were observed by the U.S. International Republican Institute and a number of Kenyan groups, including the National Elections Monitoring Unit. In an election which the observer groups said was relatively fair, though with instances of bribery and intimidation by government officials, an opposition candidate won in Migori. In

Bonchari, the defecting M.P. won on a KANU ticket in an election that observers said was marred by wide-scale intimidation, vote-buying, and polling irregularities.

The Government and KANU harassed opposition parties in two other by-elections on October 12, in Hamisi and Makuyu constituencies. For example, the authorities arrested the FORD/A candidate in Makuyu on September 11, for possession of seditious documents. Although no charges had been filed, the district commissioner canceled all FORD/A political meetings, and police barred the candidate from attending even church services in the area. Shortly before the election (which he won), the Ford/A candidate was allowed to hold several public rallies. The Attorney General had not given his permission to prosecute the case by the end of 1993, and Ford/A did not expect formal charges to be brought against their now-sitting parliamentarians.

There are no legal restrictions on the participation of women in politics, and there have been some limited improvements in the exercise of women's political rights. Nonetheless, their role is restricted by traditional attitudes, and the December election resulted in the election of only 6 women M.P.'s—which was still the highest number ever elected. No women were appointed to the new Cabinet, although one woman serves as an Assistant Minister. In intraparty elections, the Democratic Party elected a woman to the number-three party position, and 25 percent of the party's national office holders are women.

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

Kenya has a vibrant, vocal, and thriving human rights community. A number of domestic human rights organizations exist and often issue statements critical of government officials and policies. The Kenya Human Rights Commission produces a regular series of often critical reports on human rights in Kenya and reacts to specific abuses, without government harassment. The Institute for Democracy, formerly the National Elections Monitoring Unit (NEMU), continues to monitor parliamentary by-elections with generally good cooperation from the Elections Commission. Legal organizations such as the Kenya chapters of the International Commission of Jurists and the Kenya Law Society continue to cover human rights issues as a major priority. A large pool of Kenyan human rights lawyers conduct pro bono representation of defendants and serve as an accurate if informal source of human rights information.

President Moi and his officials do not accept the international community's right to comment on Kenya's internal affairs. They routinely criticize international human rights groups and diplomats resident in Nairobi for "meddling." On August 5, President Moi accused diplomats resident in Nairobi of supporting opposition parties and "subversive activities" by the media. Also in August, the Government criticized visitors Kerry Kennedy Cuomo from the U.S.-based Robert F. Kennedy Center for Human Rights and Lord David Ennals from Britain's House of Lords for their comments on Kenya's human rights scene.

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

Kenya is an ethnically diverse country; the Constitution and laws prohibit discrimination on the bases of race, sex, religion, language, or social status. Nonetheless, both legal and societal discrimination persists against women and some ethnic minorities and religious groups.

Women.—Women's rights are protected by the Constitution and the Government continues verbally to support full equality for women. Nevertheless, women continue to be discriminated against in many legal matters, including inheritance and divorce. The role of women in business, legal, and political life is further limited by cultural prejudices. According to Kenyan human rights monitors, many other problems stem from a lack of awareness of the judicial system and legal rights. Both the Kenya chapter of the International Commission of Jurists and the Kenya chapter of the Federation of Women Lawyers conduct outreach paralegal programs to inform women, especially in rural or poor urban areas, of their rights. Although women are increasingly active in the modern economy—they constitute about 60 percent of the industrial and agricultural work force, the number of women in professional roles is still limited. Female unemployment is double that of men, women sometimes receive lower rates of pay than men performing the same job, and disparities in fringe benefits occur, e.g., some businesses give housing allowances to men but not to married women.

Societal discrimination is most apparent in rural areas, where women account for 75 percent of the agricultural work force. Rural families are more reluctant to invest in educating girls than in educating boys, especially at the higher levels. The num-

ber of girls and boys in school are roughly equal at the primary and secondary levels, but men outnumber women almost two to one in higher education. According to 1990 estimates, only 58 percent of women over 15 can read and write, while 80 percent of the men are literate.

Polygyny is not legal for people married under the Christian Marriage Act, but it is permitted for those who marry under African customary law. Kenya's law of succession, which governs inheritance rights, provides for equal treatment of male and female children, though in practice most inheritance issues do not come before the courts. Women are often excluded from extralegal inheritance settlements, have appointed "guardians," or are given smaller shares than male claimants.

Domestic violence against women is a serious and widespread problem. Wife beating is common, and rape is widespread. The press reported major incidents of domestic violence, especially rape. On January 14, a gang of armed men broke into a school in Siaya and raped 15 girls. The Government and women's groups condemn such violence, and the law carries penalties up to life imprisonment for rape, but the traditional culture permits a man to discipline his wife by physical means and is ambivalent about the seriousness of rape. The police rarely intervene in domestic disputes, and the judicial system has not been an effective means of redress for domestic violence. Most accused are acquitted because courts will not convict without medical evidence and witnesses.

Cultural attitudes toward women were exemplified by the threat of KANU M.P. Paul Chepkok who in February warned environmentalist and human rights advocate Wangari Maathai that he would circumcise her according to Kalenjin (his tribe) tradition if she ever set foot in Rift Valley Province again. Maathai's alleged offense, according to Chepkok, was "tribal incitement" for her efforts to raise money to resettle displaced clash victims. No disciplinary action was taken against Chepkok, and no KANU leader condemned his threat. In rural areas, and often in urban areas as well, many women who are victims of rape, domestic violence, and incest are reluctant to provide information about the crime to police authorities or women's organizations. Cultural prohibitions against going outside clan or ethnic groups with such charges is a major cause of what is probably a significant underreporting of the number of such attacks. Fear of retaliation is another. While antirape organizations and the press now bring a greater number of cases to light, the rate of prosecution remains very low.

Children.—In late 1993, the Attorney General announced the formation of a task force to draft laws related to children's rights, decrying the absence of protective legislation. The commission is expected to announce its findings and the Attorney General is expected to table a draft bill in Parliament in the first half of 1994. Education is the single biggest expenditure in the government budget.

Female genital mutilation (circumcision) remains widespread, especially among Kenya's nomadic peoples, despite the Government's stated opposition. It is usually performed at an early age and has been condemned by international health experts as damaging to both physical and mental health. Neither the Government nor women's groups have reliable information about the extent of the problem, but, according to an independent expert, the percentage of females who have undergone this procedure may be as high as 50 percent. In practice, the Government leaves opposition to such practices to women's groups, and prosecutions are not made. In September, after press reports of a forced genital mutilation of a middle-aged woman in Meru, a government minister denounced the act, but no further action was taken.

National/Racial/Ethnic Minorities.—Kenya is an immigrant country. All of its major ethnic groups arrived within the last thousand years, conquering or assimilating those who were there before. The history of postindependence has been marked by ethnic competition and some conflict, but nowhere near the dimensions of the clashes which began in 1991 following alarmist statements made by government figures. The Kikuyu are the largest ethnic community, comprising approximately 21 percent of the population. The Luhya, Luo, Kamba, and Kalenjin are the next largest communities, each making up over 10 percent of the population.

High level government officials continued to voice strong anti-Kikuyu sentiments, aggravating tribal animosities and sparking anti-Kikuyu violence. For example, KANU M.P. Shariff Nassir warned Kikuyus against extending their business activities to Mombasa.

Though the Government often accuses opposition political groups of preaching "tribalism," government officials are the most vigorous proponents of ethnically based attacks. Minister Ntimama made a point of explaining to reporters the difference between indigenous and native Kenyans—"indigenous" tribes being those like his own Maasai who had a right to live in the Rift Valley, and "native" peoples, including the Kikuyu, Luhya, Kisii, and Luo, who could only live in such areas by the sufferance of the indigenous tribes. A number of KANU Rift Valley politicians

continued verbal attacks on immigrants to those areas, variously demanding obedience to KANU or the Rift Valley's indigenous peoples.

The Government has singled out ethnic Somalis as the only ethnic group in Kenya required to carry an additional form of identification stating that they are Kenyan citizens. Ethnic Somalis must still produce upon demand their Kenyan identification card and a second identification card verifying "screening." Both cards are also required in order to apply for a passport.

People with Disabilities.—Government policy does not discriminate against people with disabilities in employment, education, or other state services. There is no mandated provision of accessibility for the disabled, however. In late 1993, the Attorney General appointed a task force to investigate claims of discrimination and to propose new legislation protecting the rights of the disabled. The commission is expected to complete its work early in 1994.

Section 6. Worker Rights

a. *The Right of Association.*—Except for central government civil servants and academic staff, all workers are free to join unions of their own choosing. As few as seven workers may establish a union, provided that objectives of the union do not contravene Kenyan law and another union is not already representative of the employees in question. The Government may deregister a union, but the Registrar of Trade Unions must give the union 60 days to challenge the deregistration notice; an appeal of the Registrar's final decision may be brought before the High Court.

The Kenya Civil Servants Union was deregistered in 1980 by President Moi. The Central Organization of Trade Unions (COTU) has sought since 1989 to reverse this decision. The ban was lifted theoretically in 1991, but no action ensued while a government committee reviewed options. In August a number of Members of Parliament said the union must be reinstated by October, and on September 13, 16 officials announced formation of their union and demanded registration by the Government. No further action ensued on the civil servants union.

There are at least 33 unions in Kenya representing approximately 350,0000 workers, or about 20 percent of the country's industrialized work force. Except for the 150,000 teachers who belong to the Kenya National Union of Teachers (KNUT) and four other smaller unions, which the Government has registered, all other unions are affiliated with one central body, the COTU.

The Government created COTU in 1965 as the successor to both the Kenya Federation of Labor and the Kenya African Workers Congress. This amalgamation was effected allegedly to eliminate instability and rivalries within the nation's trade union movement.

The 1965 decree establishing COTU gives the President power to remove from office the central body's three senior leaders, and Rule 5 of the COTU constitution accords nonvoting membership on COTU's managing body, the executive board, to a representative of the Labor Ministry as well as of KANU. Until the COTU "coup" of July 2 (see below), however, all secretaries general of unions within COTU, including those who staged the coup, maintained that the COTU-KANU connection was obsolete in the multiparty era.

Early in 1993, COTU Secretary General Joseph Mugalla, a strong supporter of KANU and President Moi, responded to a challenge by some union secretaries general and many shop stewards to address the deterioration in socioeconomic conditions, as the value of the Kenyan shilling had plummeted by some 50 percent. He called for an across-the-board 100 percent wage increase and dismissal of Kenyan Vice President George Saitoti. The call culminated in a walkout by Minister of Labor Masinde during Labor Day ceremonies, the arrest of Mugalla and senior associates on Labor Day, and a 2-day national strike, which was observed in key sectors nationwide, even after the Minister declared it illegal (see also Section 1.d.).

On July 2, security police blocked off a meeting of the COTU governing council at COTU headquarters. Delegates from all over Kenya returned instead to their hotel in the industrial suburb of Ruiru for a briefing and then returned home. A splinter group consisting of a small group of voting members, however, met at KANU headquarters in Nairobi, with the Minister of Labor and other senior ministry officials present, and claimed to elect new COTU leaders, although the next elections were scheduled for 1995. The group was led by KANU stalwarts Johnson Ogendo (textiles) and Ali Mohamed (postal workers). Mohamed later justified the action in a letter to the International Confederation of Free Trade Unions (ICFTU), claiming that the Government could not have interfered in COTU because there was no distinction between the two.

Without waiting the normal 7-day period to verify the elections, and disregarding a legal challenge by the legitimate COTU leadership, the registrar immediately registered the new group. On August 2, a judge lifted a temporary injunction against

the new group on grounds that the registrar is an officer of the Government and that his action could not be challenged through an injunction. On December 27, the High Court ruled that the new group had hijacked a COTU governing body meeting to hold elections and ordered the registrar to delete the new entries from the register. This had the effect of reinstating the old leadership, but the Government claimed instead that all COTU offices were now vacant. An appeal of the High Court ruling by the new group was to be heard in January 1994.

No international group recognized the new COTU leadership. The ICFTU ordered its affiliates to break off contact, and all international bodies ceased giving aid to COTU, canceling conferences and seminars scheduled to take place in Kenya. Mugalla, a member of the International Labor Organization (ILO) governing body, attended its meeting in Geneva in September and remained the internationally recognized Secretary General of COTU. Government harassment of Mugalla and his family as well as those who did not support the July 2 labor "coup" continued (see also Section 1.f.).

The Trade Disputes Act permits workers to strike provided that 21 days have elapsed following the submission to the Minister of Labor of a written report detailing the nature of the dispute. During this 21-day period, the Minister may either mediate the dispute himself, nominate a person to investigate and propose a solution, or refer the matter to the Industrial Court, a body of 5 judges appointed by the President, for binding arbitration. Once a dispute is referred to mediation, fact finding, or arbitration, any subsequent strike is illegal. In 1993 Minister Masinde declared illegal several strikes, including a threatened teachers' strike, even when the required 21-day notice had been given, on grounds that all other means of resolving the dispute had not yet been exhausted. Kenyan labor legislation is silent on the issue of national strikes.

The military, police, prison guards, and members of the National Youth Service are precluded by law from striking. Other civil servants, like their private sector counterparts, may strike following the 21-day notice period (28 days if it is an essential service, e.g., water, health, education, air traffic control). However, the Labor Minister may at any time preempt a strike involving civil servants by referring the dispute to the Industrial Court for resolution. The 2-day national strike of May was the most important strike action of the year. The Islamic Party of Kenya also held a 1-day strike in Mombasa in September, but for political, not socioeconomic, reasons. A strike by 200,000 teachers set for July 15 was narrowly averted when KNUT Secretary General Adongo allowed the issue to go to court, but many teachers stayed home, angry at the KNUT for having acquiesced to the Government.

Internationally, COTU is affiliated to both the continentwide Organization of African Trade Union Unity and the ICFTU. Its affiliates are free to establish linkages to international trade secretariats of their choosing.

b. *The Right to Organize and Bargain Collectively.*—While not having the force of law, the 1962 Industrial Relations Charter, executed by the Government, COTU, and the Federation of Kenya Employers, gives workers the right to engage in legitimate trade union organizational activities.

Both the Trade Disputes Act and the Charter authorize collective bargaining between unions and employers. Wages and conditions of employment are established in the context of negotiations between unions and management. The Government has promulgated wage policy guidelines limiting wage increases to 75 percent of the annual rate of inflation. In 1993 COTU called for the removal of wage guidelines. Collective bargaining agreements must be registered with the Industrial Court for the purpose of guaranteeing adherence to these guidelines. In 1993, 1,875 agreements were registered with the Court, of which 250 were newly signed in 1993. Some 1 million workers (union and nonunion) were covered by these accords.

The Trade Disputes Act makes it illegal for employers to intimidate workers. Employees wrongfully dismissed for union activities are generally awarded damages in the form of lost wages by the Industrial Court; reinstatement is not a common remedy, but in 1993, after the national strike of May 3–4, most workers won reinstatement. More often, aggrieved workers have found alternative employment in the lengthy period prior to the hearing of their cases.

The ILO's Committee of Experts (COE) observed in its 1993 report that the Government, in accordance with Article 10 of Convention 143, should promote equality of opportunity and treatment for migrant workers, including trade union rights.

Legislation authorizing the creation of export processing zones (EPZ's) was passed in November 1990. The EPZ Authority has taken a gradualist approach to their development and has decided that local labor laws will apply generally in the zones, including the right to organize and bargain collectively. In practice, the EPZ Authority grants many exemptions. For example, the Government is waiving aspects of the

law that prevent women from working at night because women prevail in a number of industries in the zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution proscribes slavery, servitude, and forced labor. Under the Chiefs' Authority Act, a local authority can require people to perform community services in an emergency, but there were no known instances of this practice in 1993. People so employed must be paid the prevailing wage for such employment. The COE has found these and other provisions of Kenyan law to contravene ILO Conventions 29 and 105 concerning forced labor.

d. *Minimum Age for Employment of Children.*—The Employment Act of 1976 proscribes the employment in any industrial undertaking of children under the age of 16. This enactment applies neither to agricultural sector, where about 70 percent of the labor force is employed, nor to children serving as apprentices under the terms of the Industrial Training Act. Ministry of Labor officers nominally enforce the minimum age statute. Children often work as domestics in private homes, in the informal sector, and in family businesses and farms. Given the high levels of adult unemployment and underemployment, the employment of children in the formal wage sector in violation of the Employment Act is not a significant problem. Education is not compulsory in Kenya.

e. *Acceptable Conditions of Work.*—The legal minimum wage for blue collar workers in the wage sector varies by location, age and skills, with 12 separate scales. After a May increase, the lowest minimum monthly wages were $12.25 (833 shillings) in rural areas and $21.70 (1,476 shillings) in urban areas. Violations of the minimum wage guidelines are not a recurring problem in the modern wage sector. Despite nominal wage increases, inflation on the order of 25 or 30 percent and a decline in the value of the shilling helped erode workers' living standards during 1993. Most workers continued to lead a marginal existence and had to rely on second jobs, subsistence farming, or the extended family.

The Regulation of Wages and Conditions of Employment Act limits the normal workweek to 52 hours. Nighttime employees, however, can be employed for up to 60 hours a week. As is the case with respect to minimum age limitations, the Act specificially excludes agricultural workers from its purview. An employee in the nonagricultural sector is entitled to 1 day of rest in a week. There are also provisions for 1 month of annual leave and sick leave. Kenyan law provides that the total hours worked (i.e., regular time plus overtime) in any 2-week period for night workers may not exceed 144 hours; the limit is 120 hours for other workers. The Ministry of Labor is tasked with enforcing these regulations, and reports of violations are few.

The Factories Act of 1951 sets forth detailed health and safety standards; the Act was amended in 1990 to encompass the agriculture, service, and government sectors. The 65 health and safety inspectors attached to the Ministry of Labor's Directorate of Occupational Health and Safety Services have the authority to inspect factories and worksites if they have reason to believe that a violation of the Act has occurred, or upon receipt of a complaint from a worker. As a result of the 1990 amendments, the Directorate's inspectors may now issue notices enjoining employers from practices or activities that involve a risk of serious personal injuries. Previously, only magistrates were vested with this authority.

Such notices can be appealed to the Factories Appeals Court, a body of four members, one of whom must be a High Court judge. Factory inspections increased from 3,000 in 1992 to 16,132 in 1993, due to an ILO-funded project. This altered the previous practice of responding only to worker complaints. "Whistle blowers" are not protected by the Factories Act. Kenya's workmen's compensation regulations do not yet comply with provisions of ILO Convention 17.

LESOTHO

Lesotho held democratic elections in March, marking the end of 7 years of military rule and 23 years of unconstitutional rule. The Basotholand Congress Party (BCP) won all 65 seats in the Assembly (lower house) and formed a Government under Prime Minister Dr. Ntsu Mokhehle. The upper legislative house, the Senate, is comprised of the Kingdom's 22 principal chiefs and 10 members nominated by the Council of State. Given the absence in the Assembly of any opposition party representatives, the BCP offered to nominate 4 opposition party members among the 11 appointive Senate seats. Only one clearly identified opposition politician accepted. Several Cabinet members were also appointed from the ranks of the opposition. Coincident with the assumption of power by the BCP Government on April 2,

Lesotho's new Constitution came into force. After the election, controversy over who should rightfully occupy Lesotho's throne died down. King Letsie III continued as monarch despite the presence of his father, ex-King Moshoeshoe II, who returned in 1992 from exile imposed by the military government in 1990. The new Constitution clearly defines the king's role as ceremonial.

The Royal Lesotho Defense Force (RLDF) of about 2,500 troops is responsible for internal and border security. The RLDF is assisted by the Royal Lesotho Mounted Police (RLMP) of about 2,000 men and women. The RLDF is responsible to the Minister of Defense (a portfolio held by the Prime Minister) while the RLMP answers to the Home Affairs Minister. However, both services' actions and policies are under the ultimate control of the service chiefs through the Defense Commission, not under the control of Parliament. Members of both forces occasionally beat or otherwise mistreat detainees.

A landlocked country surrounded by South Africa, Lesotho is almost entirely dependent on its sole neighbor for trade, finance, employment, and access to the outside world. A large proportion of the adult male work force is employed in South African mines. Miners' remittances play a substantial role in Lesotho's balance of payments, accounting for around 40 percent of gross national product in 1992. State-owned organizations predominate in the agroindustrial and agribusiness sectors, but private sector activity dominates in manufacturing and construction. Under Lesotho's traditional chieftainship structure, land is controlled by the chiefs and owned by the kingdom, precluding private ownership of property.

Human rights in 1993 were accorded increased attention by the civilian Government but serious abuses occurred. The elections were peaceful, free, and fair, according to over 130 international observers, and during the election process the freedoms of speech, press, and assembly expanded. However, police brutality continued against detainees, criminal suspects, and trade unionists. No government action to curb police brutality was taken. The Government appeared to condone harsh police measures against legitimate trade union activities. Women's rights continued to be severely restricted. Parliament scaled back but did not completely remove restrictions on freedom of assembly. The Internal Security Act of 1984 (ISA), as amended in 1986, with its draconian limitations on basic civil and political liberties, including provisions for lengthy detentions without trial, remained in force. The Government acknowledged that a number of laws were inconsistent with human rights guarantees of the new Constitution but did not act to repeal them.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reported incidents of political killing in 1993, but local press and parliamentary inquiries identified at least two extrajudicial killings. The Government announced its intention to charge two RLMP troopers with murder in one case. Excesses by law enforcement agencies continued, including fatal shootings of criminal suspects. One person was killed by police during a labor dispute. There were no investigations into any of the dozens of allegations of police brutality, including deaths in custody, suffered prior to 1993 by trade unionists and criminal suspects.

b. *Disappearance.*—There were no reports of politically related disappearances in 1993.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Credible reports of police brutality, including beatings of detainees, continued during 1993. There were continued reports of random beatings of civilians by police and military personnel. On July 2, police attacked and clubbed trade unionists marching peacefully to present a petition; several marchers were hospitalized. There were several other incidents of police brutality against trade unionists, notably those involved in strikes against garment manufacturers. No known investigations or other official measures were launched as a result of these practices. Prison facilities are overcrowded and in need of repair. There was no progress on an investigation into allegations that RLDF Captain Samuel Tumo was tortured during his incarceration on a charge of murder in 1990.

d. *Arbitrary Arrest, Detention, or Exile.*—About a dozen cases of arbitrary arrest of trade unionists for violation of provisions of the ISA came to light in 1993. The General Secretary of the Construction and Allied Workers Union of Lesotho was arrested while leading a peaceful march July 2 for having failed to obtain prior police permission as then required under the ISA. Other arbitrary arrests occurred in the course of demonstrations against various factories by striking garment industry workers. In general, pretrial detainees constitute a significant portion of total prison population; up to one-half, in some locations. Pretrial remand can last several years.

In civil and criminal cases, persons arrested or detained have the right to immediate consideration of habeas corpus appeals as well as the right to legal counsel. The 1981 Criminal Procedures and Evidence Act, as amended in 1984, provides for the granting of bail. Under the Act, the High Court is the only judicial body empowered to grant bail in cases of armed robbery or homicide.

Although it was acknowledged by the Government to be partly inconsistent with human rights guarantees in the new Constitution, the Internal Security (General) Act (ISA) of 1984 remained in force. The ISA provides for so-called investigative detention without charge or trial in political cases for up to 42 days (the first 14 days on order of the police; the second 14 days on order of the Police Commissioner; and the final 14 days on order of the Minister of Defense — a portfolio now held by the Prime Minister). A political case is defined as involving "subversion," defined in the ISA to include "supporting, propagating, or advocating any act or thing prejudicial to public order, the security of Lesotho, or the administration of justice; connection, association, or affiliation with or support for an unlawful organization;" and other similarly loosely defined transgressions, most within the judgment of a police officer. During the second stage of the detention, ministerially appointed "advisers" (all of whom have to date been government employees) are available to report on the health of the detainee, investigate whether the detainee has been involved in subversive activities, and advise the Minister of Defense whether continued detention is needed. Detainees under the ISA may make representation about their own treatment only through the adviser. The ISA also allows for detention of witnesses in security cases. There were no known detentions under the ISA in 1993; legal professionals held that any such attempt to detain persons would promptly be declared unconstitutional by the High Court. The ISA also allows the Minister of Defense to "restrict" a person who, in the opinion of the Police Commissioner, is conducting himself in a manner prejudicial to public order, security, administration of justice, or obedience to the law or lawful authority; there were no known "restrictions" in 1993.

The ISA was used in 1993 to charge trade unionists with illegal assembly, although no unionist was ever brought to trial. Pressure from Parliament and the Lesotho Human Rights Alert Group grew throughout 1993 to scrap the ISA in order to bring Lesotho's Legal Code into compliance with the Constitution. At year's end, Parliament was debating establishment of a law reform commission which would review all laws for consistency with the Constitution and each other.

e. *Denial of Fair Public Trial.*—The judiciary consists of the Court of Appeal (which meets semiannually), the High Court, magistrate's courts, and customary or traditional courts, which exist largely in rural areas to administer customary law. Judges on the High Court are relatively independent; magistrates appear more susceptible to governmental or chieftainship influence. The Court of Appeal's early 1993 release on bail of a royalist army officer convicted of conspiracy to murder, a person greatly feared by the then ruling military council, demonstrated its independence. Court decisions and rulings are respected by the authorities and are generally free of interference by the executive. Accused persons have and use the right to counsel and public trials. The courts have acted to limit infringements of law on numerous occasions in past years, e.g., the April 1988 annulment on procedural grounds of the state of emergency, which, however, the military government then in power quickly reinstituted.

Under the system of Roman-Dutch law applied in Lesotho, there is no trial by jury. Criminal trials are normally adjudicated by a single High Court judge who presides, with two assessors serving in an advisory capacity. In civil cases, judges normally hear cases alone. The High Court also provides procedural and substantive advice and guidance on matters of legal procedure to military tribunals; however, it does not participate in arriving at judgments. Military tribunals have jurisdiction only over military cases.

An inquiry into the 1986 slayings of two former Cabinet ministers and their wives, initiated by the Attorney General in November 1989, resulted in the arrest, trial, and conviction of two military personnel; those convictions were upheld by the Court of Appeal in 1993.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Although search warrants are usually required, the ISA provides police with sweeping powers to enter and search homes and cars without a warrant when the presence of explosives or the "unlawful use of radio transmitters" is suspected. Such searches occurred generally in the context of police operations against criminal activity, primarily theft. The Government is believed routinely to monitor telephone conversations of senior officials and some foreigners on national security grounds.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Prior to March 1993 elections, the government-controlled press continued editorial warnings to royalists and partisans of ex-King Moshoeshoe II against interference in the elections during the weeks leading up to the vote. Political meetings were covered impartially, and all political parties were allotted time by government-controlled media. Following the election, the new Minister of Information and Broadcasting encouraged the independent and government-owned media to report impartially on newsworthy events. Opposition viewpoints were routinely expressed in the independent press, which consisted of Sesotho-language weekly newspapers published by the Roman Catholic Church and the Lesotho Evangelical Church, and two independent English-language weeklies.

The Government controls the official media (one radio station, a 1-hour daily newscast on a local television channel, and two weekly newspapers) and ensures that they faithfully reflect official views. Prior to the elections, however, the Government made available free time on television and radio to each of the 16 contesting political parties. There were charges that government media gave favorable preelectoral coverage to the political activities of the Basotho National Party (BNP).

Academic freedom was generally respected. Political meetings were held on the National University campus during the election campaign.

b. *Freedom of Peaceful Assembly and Association.*—The police prevented several peaceful assemblies of union members in 1993. Prior to the elections, the Government prevented several planned public meetings of supporters of ex-King Moshoeshoe II. However, political party meetings and rallies, particularly those held by the two main parties, the BCP and BNP, occurred regularly throughout the country in preparation for the vote. Nonpolitical organizations and professional groups were freely formed and allowed to hold public and regular meetings.

Under a mid–1993 revision of the ISA, a public meeting, rally, or march no longer requires prior police permission, only advance notification. Police or local authorities may still restrict or prohibit such gatherings on loosely defined "public order" grounds.

c. *Freedom of Religion.*—There is no state religion. Free and open religious practice is permitted and encouraged. Christianity is nominally the dominant faith of the majority of Basotho, and Roman Catholicism has the most adherents, although less than half of the population. A significant Protestant minority is composed of the Lesotho Evangelical Church, the Anglican Church, and a number of smaller denominations. Conversion is permitted. No apparent social or political benefit or stigma is attached to belonging to any particular church. There are no barriers to missionary activity or work by foreign clergy.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens generally are allowed to move freely within the country and across national boundaries. The Government distinguishes between "international" passports and "local" passports. The latter, which are the more readily available, are for use only in travelling to South Africa, as many Basotho do on a regular basis for work or shopping. A refundable deposit of up to $730 (2,500 maluti), depending on the destination, is required to obtain an international passport, in theory to cover the cost of eventual repatriation if necessary. The Government places no obstacles in the way of its own citizens who wish to emigrate. As of late 1993, fewer than 100 refugees, the majority of them South Africans, who were registered with the United Nations High Commissioner for Refugees (UNHCR) had been granted asylum in Lesotho. The local office of the UNHCR also reported over 4,000 South Africans in "refugee-like status;" most have lived in Lesotho for many years. There is no forced resettlement of refugees. The UNHCR closed its Lesotho office in mid–1993, owing to the lack of new refugee cases.

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

Citizens exercised their right to choose their own government in 1993 for the first time in over 20 years. The March 27 multiparty elections were judged free and fair by over 130 international observers. Under its new Constitution, Lesotho has a democratically elected Parliament with universal suffrage for those over 21, an independent judiciary, and a constitutional monarch. National elections are to be held again no later than 1998. The Constitution is based largely on the independence Constitution of 1966, modified by the National Constituent Assembly which met intermittently from 1990 to 1992.

The new civilian Cabinet includes Lesotho's first female cabinet minister. While there are no legal impediments to women's participation in government or politics, many practical impediments exist. As noted in Section 5, married women are considered minors under law, requiring permission from their husbands for basic business

activities (e.g., opening a bank account). Single women face a social stigma that mitigates against their achieving senior positions in the private or public sector (although there are prominent exceptions, including the Ministry of Foreign Affairs chief civil servant.

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

The Government did not hinder the activities of the Lesotho Human Rights Alert Group, the umbrella nongovernmental organization (NGO) formed in 1992, which aimed to bring under its leadership all other NGO's active in human rights issues. Union allegations of worker rights' violations and official anti-unionism were aired by the media, including government-controlled media.

The Government worked closely with the International Labor Organization (ILO) in preparing and implementing a new labor code.

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

Women.—The rights of women are severely limited by both law and custom in such areas as property, inheritance, and contracts. Women have the legal and customary right to make a will and sue for divorce. However, under Lesotho's customary law, a married woman is considered a minor during the lifetime of her husband; she cannot enter into any legally binding contract, whether for employment, commerce, or education, without her husband's consent. A woman married under customary law has no standing in court and may not sue or be sued without her husband's permission. Women traditionally have been the stabilizing force in the home and in the agricultural sector, given the absence of tens of thousands of Basotho men who work in South Africa. More female than male children complete primary and secondary schools, and literacy rates are estimated to be higher among women than among men. No government has seriously addressed the issue of women's rights.

Domestic violence, including wife beating, occurs frequently. Statistics are not available, but the extent of the problem is thought to be great. In Basotho tradition, a wife may return to her "maiden home" if physically abused by her husband; in the common law, wife beating is a criminal offense and defined as assault. A 1976 High Court case reversed a Roman-Dutch legal tradition which recognized a husband's right to chastise his wife at will. Women's rights organizations have formed. The local chapter of the International Federation of Woman Lawyers has taken a leading role in educating Basotho women about their rights under customary and common law and highlighted the importance of women's full participation in the democratization process. Women in Business is an advocacy group that seeks to promote the empowerment of independent businesswomen.

Children.—The Government devotes substantial resources to primary and secondary education, and enrollment rates are relatively high. There is no pattern of societal abuse against children. Young "herdboys" live a rigorous and harsh existence tending their parents' cattle, sheep, or goat herds and often miss formal schooling as a result. This practice constitutes a socially entrenched rite of passage.

National/Racial/Ethnic Minorities.—Most citizens speak a common language and share common historical and cultural traditions. Small numbers of Asians (primarily ethnic Chinese and Indians) and South African whites are active in the country's commercial life. Economic and racial tension between the Chinese business community, specifically textile industry employers, and the Basotho remained an issue in 1993. There was no generalized, ethnically based violence as occurred in 1991, but foreign shop owners remained subject to the 1987 Trading Enterprise Order, which calls on foreign owners to enter into joint ventures with Basotho nationals. Although equity transfers would entail compensation and the program has not been strongly enforced, it remains a concern to non-Basotho businesspeople.

People with Disabilities.—The Government has not legislated or mandated physical accessibility to public buildings for the handicapped.

Section 6. Worker Rights

a. *The Right of Association.*—Workers have the legal right to join or form unions without prior government authorization. A large portion of the active male labor force between the ages of 20 and 44 seeks work in the Republic of South Africa, mainly in gold and coal mines. Most of the remainder are engaged in traditional agriculture. The rest are employed mainly by the Government and in small industries and enterprises in Lesotho. A majority of Basotho mineworkers are members of the South African National Union of Mineworkers (NUM). Because the NUM is a foreign organization, it is not permitted to engage in union activities in Lesotho.

Under a new Labor Code, prepared with the assistance of the ILO and effective in April, all trade union federations were required to seek government registration. The Government has withheld registration from the Congress of Democratic Unions (CDU) since its formation by four recognized independent unions in 1991. The Labor Commissioner maintained in 1993 that the CDU still did not meet registration requirements under the new code, but the authorities took no action to inhibit CDU activities. The Government's refusal to register the CDU was in part an effort to require it to join a rival federation, the officially recognized Lesotho Labor Congress (LLC), composed of 24 affiliated trade unions.

Overall, unionized workers represent only about 10 percent of the total work force. The Lesotho Allied Clothing and Textile Workers Union is the only major industrial union within the LLC. All major unions professed political neutrality in the elections. After the elections, tension increased dramatically between labor and employers, with particularly frequent and violent confrontations occurring in the textile and garment industries. Although the newly elected Government voiced no hostility toward unions, it appeared to condone harsh police measures against wildcat strikers, including teargassing, beatings, and detentions or arrest.

Settlement procedures are so lengthy and cumbersome that no legally sanctioned strike has occurred in Lesotho since independence in 1966. Dozens of strikes occurred in 1993, particularly amid heightened expectations among workers after the March elections, but none was recognized as "legal" by the Government. Legal protection for strikers against retribution has not been enforced in cases of illegal strikes; several hundred workers in the textile industry were dismissed in 1993 following wildcat strikes, and the Government maintained it could not oblige their employers to reinstate them.

Workers engaged in peaceful assembly were in 1993 harassed by police. In one case, members of the Construction and Allied Workers Union of Lesotho (CAWULE) were in early July teargassed, assaulted, and arrested when attempting to march peacefully to deliver a petition to the Minister of Labor. CAWULE members were charged with violating the Internal Security Act of 1984 by failing to obtain permission to march; CAWULE claimed that it had requested such permission but the police never responded.

The ILO's Committee on Freedom of Association noted the Government's 1993 response to a complaint lodged in 1992 concerning intimidation of CAWULE activities at the Lesotho Highlands Water Project construction site. The Committee, however, asked to be kept informed of developments in this case, reflecting an incomplete governmental response to charges made.

There were no instances in 1993 of governmental restrictions on international affiliations or contacts by unions or their members.

b. *The Right to Organize and Bargain Collectively.*—All legally recognized trade unions in Lesotho in principle have the right in law to organize and bargain collectively, but exercise of these rights is often thwarted. There was some minor bargaining between unions and employers to set wage and benefit rates in 1993, although wage rates continued to be set primarily through unilateral action by employers.

Credible reports of government acquiescence to private employers' intimidation of union officials continued. In one case, members of a local executive committee of the Lesotho Amalgamated Clothing and Textile Workers Union (LACTWU) were prevented by police from meeting. An Unfair Labor Practices Tribunal investigates unfair labor practices and charges of antiunion discrimination. Both the LLC- and CDU-affiliated unions charge the Government with maintaining an antiunion bias.

Lesotho has several industrial estates grouping together companies, mostly textile and apparel firms, engaged in manufacturing for export. All national labor laws apply in these industrial zones, but LACTWU officials charge that the Government colludes with industry employers to inhibit union organizational activities in the workplace.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited by the 1987 Employment Act, and there is no indication of its practice.

d. *Minimum Age for Employment of Children.*—The legal minimum age for employment in commercial or industrial enterprises is 15. Persons under age 16 may not work more than 4 consecutive hours without a 1-hour break, nor may they work more than 8 hours per day. In practice, however, children under 14 are employed in family-owned businesses. The employment of minors in commercial, industrial, or nonfamily enterprises involving hazardous or dangerous working conditions is prohibited. Basotho under 18 years of age may not be recruited for employment outside the country. Enforcement of these laws by inspectors of the Ministry of Labor and Employment is lax. In Lesotho's traditional society, rigorous working conditions for the country's young "herdboys" are considered a prerequisite to manhood and a fundamental feature of Basotho culture beyond the reach of labor laws.

e. *Acceptable Conditions of Work.*—Wages are extremely low. The Government, following the recommendation of a tripartite wages advisory board, last raised the statutory minimum wage rates for various types of work in 1992. Monthly minimum wage rates in the established categories range from the equivalent of $75 for a messenger to $144 for a heavy-vehicle driver. At the low end, wages at these rates are insufficient for a minimum decent standard of living for a worker and family. Most wage earners supplement their monthly income through subsistence agriculture or remittances from relatives employed in South Africa. Many employers in Lesotho now pay more than minimum wages in an effort to attract and retain motivated employees.

The 1993 Labor Code spells out basic worker rights, including a 45-hour workweek, a weekly rest period of at least 24 hours, 12 days' paid leave per year, and paid public holidays. Employers are required to provide adequate light, ventilation, and sanitary facilities for employees, and to install and maintain machinery in ways which minimize the risk of injury. In practice, these regulations are generally followed only within the wage economy and are enforced haphazardly by inspectors from the Department of Labor of the Ministry of Labor and Employment. Staff shortages in the Ministry limit effective enforcement to the major urban areas.

LIBERIA

In 1993 Liberia remained divided geographically and factionally into three main regions and competing political-military groups as a result of the 4-year civil war. The Interim Government of National Unity (IGNU), a coalition of political parties and interest groups led by President Amos Sawyer, administered Monrovia and the expanded perimeter around it secured by the Economic Community of West African States (ECOWAS) Cease-fire Monitoring Group (ECOMOG). Over half of the country's current population resided within IGNU's area. The Charles Taylor-led National Patriotic Reconstruction Assembly Government (NPRAG) and its political-military arm, the National Patriotic Front of Liberia (NPFL), held several central and southern counties. The anti-NPFL United Liberation Movement for Democracy in Liberia (ULIMO), led by Alhaji Kromah, controlled the three western counties and portions of two central counties. The other important warring faction is the Armed Forces of Liberia (AFL), the remnants of the late President Samuel Doe's army, which is nominally subordinate to IGNU but also has close ties to ULIMO. During the last quarter of the year, the Liberian Peace Council (LPC), which has ties to the AFL, initiated a military campaign against NPFL control of the southeastern counties while the Lofa Defense Force (LDF) emerged in the northwest to challenge ULIMO.

The three major Liberian groups (IGNU, NPFL, ULIMO) executed a peace accord on July 25—the third such agreement since 1990— under the auspices of ECOWAS, the United Nations, and the Organization of African Unity (OAU). The accord reestablished a cease-fire and provided for demobilization of warring factions, a unified national transitional government, and free elections by March 1994. However, there was little movement through the rest of the year in implementing the accord, primarily because of factional differences in interpreting the accord and delays in the arrival of additional peacekeepers needed to help carry out disarmament. In September the United Nations Security Council established a U.N. Observer Mission in Liberia (UNOMIL), in accordance with the peace accord, to help ECOMOG monitor the cease-fire and disarmament. By year's end, over 270 of an expected 303 UNOMIL military observers had arrived in Liberia.

The July accord helped stabilize the military situation which had been in flux since October 1992, when ECOMOG forces, assisted by AFL and ULIMO troops, successfully defended Monrovia against NPFL attacks. Subsequently, the ECOMOG extended the capital's defensive perimeter in the first months of the year, taking the port of Buchanan, Liberia's second city approximately 50 miles southeast of Monrovia, and Kakata, a key transportation hub 30 miles northeast of Monrovia. Meanwhile, ULIMO displaced the NPFL from substantial areas in northwestern and central Liberia. By April fighting subsided to sporadic low-intensity encounters along the enlarged perimeter.

ECOMOG assumed most police powers in Monrovia because the IGNU police force, reconstituted in 1991, initially was unarmed and ineffective, although IGNU later formed some relatively better equipped armed special security units. NPFL and ULIMO military and police forces asserted control in their areas. There were massive human rights violations by NPFL, ULIMO, and AFL units during 1993.

While ECOMOG forces generally conducted themselves well, they were also responsible for a number of serious abuses (see Sections 1.a. and 1.g.).

The civil war-ravaged economy, previously based primarily on iron ore, rubber, timber, diamonds, and gold exports, continued to decline. The year's gross domestic product was projected at less than half of prewar levels. Massive emergency operations by the United Nations, as well as by American and other Western-based relief agencies and nongovernmental organizations (NGO's), brought subsistence-level humanitarian assistance to most Liberians. These operations continued throughout 1993 but were periodically suspended outside of Monrovia because of intermittent fighting, harassment of relief workers by combatants, and security restrictions imposed by ECOMOG.

While all parties professed to honor the 1985 Liberian Constitution, roughly based on the United States model, the document's provisions were selectively ignored and unevenly applied, although less so in IGNU-controlled areas. Human rights were widely violated, particularly for civilians in territory controlled by the NPFL and ULIMO armed factions. Since 1989, an estimated 150,000 Liberians have been killed or wounded as a result of the conflict, and hundreds of thousands have fled abroad or are displaced within Liberia. On June 6, according to a U.N.-commissioned investigation, the AFL massacred over 500 displaced persons, mostly defenseless women and children, at the Firestone plantation near Harbel. Credible reports indicated that NPFL fighters killed over 130 civilians at Fassima, Lofa County, on May 15. All warring factions committed other egregious human rights violations, e.g., use of excessive force, arbitrary detentions, forced conscription, torture, and summary executions. IGNU security personnel and, to a much lesser extent, individual ECOMOG soldiers committed excesses in Monrovia during the year.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Numerous cases of extrajudicial killing were reported. Although professing adherence to the rule of law, the leaders of the warring factions condoned and, in some instances, seemingly encouraged lethal brutality (see Section 1.g.).

The ECOMOG peacekeeping force maintained a commendable record and policy against unlawful behavior, but there were reported incidents of individual ECOMOG fighters killing civilians. An unconfirmed account implicated ECOMOG soldiers in the fatal January beating of a youth identified as an NPFL fighter by residents of a Monrovia suburb. In addition, ULIMO efforts to consolidate its position in Lofa County prompted credible reports of numerous political killings there during the last quarter of 1993.

There were no reported cases of the factions punishing fighters for politically motivated killings. In one instance, the AFL imposed capital punishment against a soldier convicted in the criminal homicide of a Monrovia resident. Human rights observers viewed the case not as a genuine commitment to instill professional discipline but as a ploy by the AFL hierarchy to disarm criticism of its institutional behavior.

b. *Disappearance.*—Disappearances were not believed to be common, but there were reports (of varying degrees of credibility) of young men disappearing while in the custody of AFL, NPFL, or ULIMO fighters, possibly victims of forced conscription or execution. Very little new information was available about persons missing as a result of the war. The October 1992 NPFL attack on Monrovia resulted in hundreds of missing suburban Monrovia residents. Others disappeared when fighting spread to other parts of the country. There were credible reports that many people were unwillingly moved to sites in NPFL territory. Many of those forcibly removed were feared to have been killed.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture and degrading treatment. While not descending to the same level of the 1989–90 civil war period, inhuman treatment continued to be frequent. Monrovia remained the safest area for civilians, but reliable sources claimed that IGNU police frequently beat criminal suspects in their custody. The IGNU Ministry of Internal Affairs sometimes relied on "trial by ordeal" or "sassywood"—subjecting suspects to the excruciation of metal objects heated by burning wood—to coerce confessions in criminal investigations.

There are credible reports that ECOMOG soldiers beat criminal suspects and harassed individuals at ECOMOG checkpoints in Monrovia. Prominent Monrovia politician Peter Bonner Jallah, arrested in November 1992 for allegedly aiding the NPFL attack on Monrovia, credibly claimed he was tortured by ECOMOG and IGNU intelligence officers, as evidenced by the impaired use of his hands.

NPFL soldiers were also widely accused of beating and torturing civilians, especially persons suspected of being ULIMO operatives. At numerous highway checkpoints in NPFL areas, NPFL forces beat civilians and forced them to disrobe, usually in connection with extortion or other forms of intimidation. Much of the reported NPFL inhuman treatment was centered in Grand Gedeh County, the home county of the late president Samuel Doe and his Krahn ethnic group. NPFL leader Charles Taylor publicly condemned harassment of civilians but chose to discipline offending troops only when expedient.

Civilians in ULIMO-held areas fared little better. ULIMO checkpoint guards and roving bands harassed and beat civilians if they resisted extortion. For example, in June ULIMO bands raided several villages in Cape Mount County, beating and threatening villagers alleged to be NPFL accomplices. There were also numerous reports, difficult to confirm, of ULIMO'S Mandingo forces executing or generally harassing citizens of Lofa County because of religious and ethnic differences.

Conditions in the nation's often makeshift jails were hazardous to life and health prior to the civil war and were more dismal in 1993. Reports were remarkably similar: prisoners denied medical care, family contacts, and adequate food; living in small, crowded, and filthy cells or rooms. It was not possible to determine whether any prisoners died because of these conditions. In Monrovia pretrial detainees were often housed with convicted criminals, but women and children appeared to be held separately. IGNU has not given prison reform a high priority, and there has been no attempt to improve the largely untrained guard force. The Monrovia-based Center for Law and Human Rights Education and other human rights advocates were finally allowed to visit the Central Prison toward the end of the year after IGNU had denied previous requests for access.

The AFL continued to detain an unknown number of alleged NPFL collaborators at its stockade in Monrovia. According to a leading human rights organization, these detainees (including children)—many held incommunicado—suffered deplorable living conditions and experienced occasional harassment by cell guards.

The conditions of detention in NPFL and ULIMO territory were even worse, according to credible sources; both factions held prisoners in makeshift, substandard facilities and subjected them to various forms of mistreatment. A prominent Monrovia journalist and another credible returnee described physical and psychological mistreatment—including beatings, rape, and threatened executions—of abducted civilians.

d. *Arbitrary Arrest, Detention, or Exile.*—The 1985 Constitution prohibits arbitrary arrests, but in the aftermath of the war there were few functioning institutional safeguards preventing these malpractices. The Constitution provides for the rights of the accused, including warrants for arrests and the right of detainees either to be charged or to be released within 48 hours. These provisions were widely ignored, although the bail system functioned relatively well in Monrovia.

IGNU President Sawyer repeatedly affirmed his administration's respect for constitutional procedural safeguards. However, administrative inefficiency, delays in appointing judges, and poorly trained criminal justice personnel resulted in detainees being held for long periods without trial or charges. In practice, police officers had wide discretion to make arrests. This authority was often abused. Arrests regularly took place without probable cause. Many police officers accepted bribes to arrest persons based on unsubstantiated allegations. At times they failed to inform detainees of the charges against them, and often charges went unrecorded. Many suspects were held incommunicado. Police occasionally coerced confessions from persons illegally detained.

As ECOMOG gradually took on more police duties in response to the escalating crime rate, citizens called on ECOMOG soldiers to arrest and detain alleged criminals. However, detentions by ECOMOG peacekeepers did not always satisfy constitutional or internationally recognized standards. ECOMOG soldiers sometimes physically coerced confessions from suspects.

While accurate arrest information was unavailable, charged and uncharged pretrial detainees formed a sizable portion of the total incarcerated population at year's end and likely numbered in the hundreds. It was impossible to determine the number of political detainees among this total. However, politician Peter Bonner Jallah remained confined after being detained by ECOMOG in November 1992 for allegedly abetting the NPFL attack on Monrovia. According to Jallah's attorney, ECOMOG has failed to produce evidence implicating his client or to charge him formally. Criminal law also allows for the writ of habeas corpus, but the IGNU judiciary denied a September attempt to secure a writ on behalf of Bonner Jallah. The denial was on the basis that he was a "prisoner of war"—even after the July ceasefire accord provided for the release of all faction prisoners and although the term

is of questionable applicability to internal armed conflicts. There was no change in the Jallah case by year's end.

Arbitrary detentions were commonplace in NPFL territory where martial law has been in effect since the war began. NPFL soldiers and police officers had almost unbridled power to make warrantless arrests. They exercised that power often and capriciously, detaining hundreds of persons on spurious grounds or without charge for periods ranging from several hours to several weeks. Detainees in NPFL territory were rarely informed of their legal rights. The writ of habeas corpus remained suspended, and access to bail was basically unavailable. ULIMO's arrest and detention practices mirrored the NPFL's lack of procedural safeguards.

Many Monrovia area residents abducted by NPFL fighters during the October 1992 attack on Monrovia remained in NPFL custody. The NPFL refused to relinquish custody of over 250 orphans abducted from a Monrovia suburb in 1992, despite U.N. and other humanitarian entreaties. In early 1993, the AFL detained over a dozen suspected NPFL supporters whose fate is unknown.

During the year, there were no reports of Liberians being subjected to forced political exile.

e. *Denial of Fair Public Trial.*—Liberia's legal system is closely modeled on that of the United States, with the Supreme Court at its apex. Before the civil war, however, the system afforded little protection in practice for defendants, due to corruption among court officials, lack of training, and a domineering executive branch. By mid-1990, the system had completely collapsed, along with the rest of civil authority, with justice resting in the hands of the military commanders of the factions.

In 1991 IGNU slowly began to reconstitute the court system in the Monrovia area. It reestablished several magistrate courts in Monrovia and swore into office new circuit court judges. In Monrovia criminal defendants, in theory and generally in practice, were entitled to a defense attorney, pretrial discovery of accusatory material, and the right to appeal. Corruption in the judiciary was a recurrent problem, often cited by human rights monitors, the press, and members of the bar. There seemed to be no overt judicial interference by the IGNU executive. However, the courts almost universally sided with IGNU in controversial cases as in the Jallah case when the criminal court denied him a writ of habeas corpus on highly questionable legal grounds.

In addition to the resurrection of the modern court system, customary law was also applied in many areas. In Monrovia the Ministry of Internal Affairs often subjected persons accused of occult practices and other crimes to "trial by ordeal," i.e., submitting defendants to physical travail to adjudicate innocence or guilt (see Section 1.c.). This customary mode of justice was also used by traditional authorities in some rural courts which operated in 1993 in areas under IGNU control.

There are few national institutions still working across faction lines. The ad hoc Supreme Court is one exception. Under the auspices of the ECOWAS peace process, IGNU and the NPFL agreed on the creation of a five-member ad hoc Supreme Court in September 1991. In 1992 IGNU and NPRAG agreed that the Court should have the full jurisdiction provided by the Constitution. The ad hoc Supreme Court, which has assumed the full jurisdiction of the regular Supreme Court, continued hearing a variety of civil and criminal cases in 1993 but, like the rest of the court system, tended to avoid controversial cases arising from the violation of law and human rights during the civil war. Under the July peace accord, ULIMO named a justice to fill the seat on the bench left vacant by the 1993 death of the Chief Justice.

The NPFL also partially reactivated in 1991 the court system in areas under its control. In practice, legal and judicial protections were almost totally lacking as executive branch interference was pervasive and overt. ULIMO judicial practices and protections were equally suspect to the extent they existed.

Given the situation in Liberia, it was not possible to determine either the number of political detainees (see Section 1.d.) or political prisoners among the many "prisoners" being held by the various factions. An illustrated news report in December, however, charged that some 800 of the 1,000 prisoners held at the substandard Monrovia Central Prison under IGNU and ECOMOG guard were ex-combatants, primarily from the failed October 1992 NPFL attack on Monrovia. Embarrassed by the situation, IGNU appointed a panel to investigate the allegations.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—While the Constitution provides for these rights, there were many serious abuses of privacy and home—including confiscation of property and failure to obtain required warrants—by soldiers of all of the warring factions. There was no evidence of frequent surveillance of individuals.

AFL soldiers committed many armed robberies in the Monrovia area. As ECOMOG expanded its defensive perimeter, AFL or ULIMO brigands followed to pillage and loot these areas, including the Firestone plantation. Virtually any valu-

able object was pilfered. ULIMO fighters regularly raided villages in their areas and conducted house searches for loot to sell in Monrovia. They also illegally occupied many private homes.

The situation regarding interference with person or property in NPFL territory was even more abysmal. Throughout NPFL territory, NPFL soldiers regularly demanded scarce food and personal valuables from already impoverished residents or displaced persons and often robbed and physically abused travelers, particularly at checkpoints. Confiscation of private homes and vehicles was also common practice. To escape harassment, many Liberians moved their families to remote areas or out of Liberia. Occasionally ECOMOG conducted searches, without warrants, of Monrovia households for weapons caches, but there were no reported incidents of violence or theft during these searches.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—During the first half of 1993, fighting moved to western and central Liberia as the military tide turned against the NPFL after its unsuccessful attack on Monrovia in October 1992. As has been the case throughout the civil war, "fighting" was an inaccurate description, for there were few battles between opposing militaries. In fact, the warring factions inflicted considerably more harm on noncombatants than on each other. AFL, NPFL, and ULIMO fighters indiscriminately ransacked villages, abused populations, and confiscated scant food supplies. They also murdered innocent civilians and regularly committed violence against women, including rape.

Although there was no credible evidence of willful ECOMOG violations of humanitarian law, there were incidents of civilian deaths and damage from ECOMOG aerial strikes. In late February, ECOMOG planes strafed near the Cote d'Ivoire border, injuring some civilians and temporarily panicking civilians and relief workers in the areas. In September Nigerian planes, based in Sierra Leone and supporting both the Sierra Leonean counterinsurrection and the ECOMOG operation, strafed a refugee settlement along the border, killing 6 and injuring nearly 40 persons.

On June 6, a group of armed fighters slaughtered over 500 displaced persons, mostly women and children, at a settlement on the Firestone plantation at Harbel. A U.N. investigation team, comprised of three eminent international lawyers and human rights advocates, concluded in a September report that the AFL committed the act and cited substantial evidence supporting this finding. AFL soldiers were also caught in possession of property looted from the settlement. The Interim Government and the AFL disputed the U.N. team's finding, insisting on NPFL culpability. Three AFL soldiers whom the U.N. report identified as key participants in the massacre were initially ordered held by IGNU but were never actually detained or arrested by IGNU or AFL authorities.

In another highly publicized case, several AFL soldiers in late January killed British scientist Brian Garnham at his animal research institute outside Monrovia. According to witnesses, Garnham was pleading for his life when fatally shot at close range. The assailants, without any basis, had accused Garnham of NPFL sympathies. The Interim Government established an AFL-chaired committee to investigate the incident. However, credible human rights monitors criticized the composition and the poor performance of the committee. At year's end, no suspect had been formally charged with the murder; lesser charges against one of the five soldiers implicated in the incident were dismissed by an AFL court-martial, and the cases against the others languished.

The NPFL also committed unlawful killings. In early May, a broadcast reportedly intercepted by ECOMOG recorded NPFL leadership ordering fighters to target civilian populations in a "reign of terror." Shortly thereafter, a massacre of more than 130 civilians at Fassima took place. Although the massacre is believed to have been committed by NPFL fighters, the facts of the incident were not subsequently confirmed by independent investigation or prosecution. Survivors were believed to have been abducted and massively abused. In January dozens of bodies—several beheaded—were found in unmarked graves in Monrovia's northwestern suburbs. The killings were probably committed by NPFL fighters before retreating from the area in November and December 1992. While advancing toward Buchanan in March, ECOMOG troops found scores of civilian corpses along the roadsides. NPFL fighters apparently killed civilians who tried to flee to ECOMOG lines.

NPFL fighters are also believed responsible for the massacre of over 200 civilians in separate incidents in Montserrado and Margibi counties, north of Monrovia. An unconfirmed report attributed the alleged executions of another 200 displaced persons in Camp Todee to the NPFL. Many of the most egregious NPFL offenses continued to take place in Grand Gedeh County, where Gio and Mano NPFL fighters exacted revenge against their Krahn ethnic rivals. In September fighting was reported between the NPFL and the Krahn-dominated LPC along the Grand Gedeh

County-Ivoirian border. Military operations by the LPC in the southeast during the last quarter of the year resulted in many civilian deaths. There were credible reports of LPC abuses against suspected NPFL sympathizers and members of other ethnic groups.

ULIMO also preyed on civilians in its area. Residents, local human rights organizations, and relief workers reported numerous ULIMO human rights abuses in Lofa County. Advancing ULIMO fighters executed several village elders for being alleged supporters or harboring the NPFL in their villages. Often the victims executed had been forced to accommodate the NPFL under threat of bodily harm. Unconfirmed reports also indicated that ULIMO might have executed several NPFL fighters attempting to surrender after the August 1 cease-fire. Intensified ULIMO operations in Lofa County after August prompted the emergence of the Lofa Defense Force, which charged Mandingo members of ULIMO with abusing local citizens. Credible sources claimed that both ULIMO and the NPFL executed innocent civilians, usually young men, on the mere suspicion that the victims belonged to the rival group. Both ULIMO and the NPFL mistreated Sierra Leonean refugees living in western Liberia.

Continuing a practice begun in 1992, both ULIMO and AFL troops executed civilians in Monrovia, according to reliable sources These reports cited AFL and ULIMO squads targeting former members of the NPFL and the Independent National Patriotic Front of Liberia, a defunct offshoot of the NPFL. Nighttime bands of AFL and ULIMO fighters occasionally roamed sections of the city searching for Gio and Mano tribe members from Nimba County, whom they would torture or kill.

Both ULIMO and the NPFL exploited minors as fighters. During the first half of the year, the NPFL continued its program of involuntary conscription, including children, in Nimba County and southeastern Liberia. The NPFL beat and tortured persons who refused to join their ranks and local government officials who refused to implement the conscription program.

The warring factions tried to exploit humanitarian relief efforts to their political advantage, often to the detriment of the affected populations. After intensifying its Lofa operations, ULIMO denied relief workers access to besieged areas and hijacked their vehicles and supplies on several occasions. The NPFL used relief convoys entering its area as a means of circumventing ECOWAS economic sanctions and possibly the international arms embargo. The NPFL insisted that relief must cross the international border with Cote d'Ivoire although direct shipments from Monrovia constituted the shortest route to the most needy populations in NPFL territory. In the absence of mechanisms to monitor the contents of relief convoys, ECOMOG imposed restrictions on NGO and U.N. relief operations, including cross-border deliveries. In September ECOMOG acceded to more liberal cross-border operations once its arms embargo and economic sanctions enforcement concerns were resolved by the stationing of monitors at key entry points.

A number of Liberian employees of relief organizations, including the United Nations, were detained by the factions during the year; some were beaten or threatened. For example, in October the NPFL detained 10 drivers and workers of a U.N. World Food Program convoy on suspicion of spying, held them for several weeks, and mistreated some of them. A few foreign relief workers also were detained, mostly for short periods. In one case detained relief workers were forced to endure an ad hoc trial and mock execution. Occasionally, NPFL and ULIMO soldiers tried to confiscate relief supplies or relief vehicles from relief workers; fighters from all factions commonly confiscated relief food after the humanitarian groups had distributed it.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—These freedoms are provided for in the Constitution and, with some significant limitations, were generally exercised in Monrovia. There were more far-reaching limitations elsewhere. Due primarily to continued economic stagnation, the number of media organs in Monrovia diminished to approximately 5 to 7 privately owned newspapers (down from 12 in 1992), 3 of which published regularly. The Interim Government newspaper, The Liberian Times, was not published in 1993. Official press censorship was not pervasive in Monrovia, nor were any newspapers forcibly closed during the year. However, the Monrovia press tended to be pro-IGNU; and some journalists admitted self-censorship. Other journalists asserted that constant public calls by IGNU officials for a "more responsible" press had a chilling effect on journalistic freedom. At times journalists were requested to meet privately with IGNU officials who had been offended by articles.

In reaction to perceived NPFL military preparations along the defensive perimeter in May and June, IGNU ordered that journalists submit all "war-related" stories to the Ministries of Information and Justice for clearance on national security

grounds. The Press Union of Liberia and newspaper publishers objected to the measure as a prior restraint. The Press Union and the Interim Government later compromised on guidelines for military reporting. In September IGNU repealed decree 88-a, which had been used by the former Doe regime to stifle free speech by criminalizing criticism of government on national security grounds. However, a restrictive, Doe-era media law, providing the Ministry of Information wide discretion in licensing and regulating journalists, still remained on the books.

There were no official or private newspapers printed in NPFL or ULIMO territory. International journalists visited NPFL areas intermittently throughout the year, with no indications of official censorship. Because of the fighting, journalists from Monrovia were prohibited from covering events in NPFL areas, and vice versa. Residents of Liberia had to exercise care in their criticism of the various factions. Although NPFL leader Charles Taylor affirmed publicly on several occasions that his government supported free speech, citizens in his area were subject to sanctions for criticizing the NPFL. Citizens in ULIMO territory also had to exercise care. After a group of citizens published a statement that ULIMO should relinquish to IGNU control of the western counties, the ULIMO leadership exerted pressure for a retraction.

IGNU supported a shortwave radio station (ELBC) and also continued radio broadcasts in 1993. News reports were favorable to IGNU, and many credible journalists allege substantial censorship by ELBC. The NPFL intermittently operated two radio stations in its area. NPFL news programs uncritically supported Charles Taylor's NPFL and offered no criticism of his political program.

The University of Liberia, which closed temporarily after fighting erupted in October 1992, was open most of the year. Academic freedom was generally respected, although pro-NPFL expression was criticized by university authorities and most of the student body.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the rights of peaceful assembly and association. In Monrovia, several groups held peaceful demonstrations—ranging from support of the peace process to a group celebrating late president Doe's birthday. Some of the unhindered processions were critical of IGNU, and most took place without permits. Nevertheless, authorities moved quickly to disband gatherings that they believed could incite unrest. In June ECOMOG prohibited a pro-ULIMO rally at a local sports stadium. In September ECOMOG and IGNU police peacefully dispersed demonstrations by market vendors protesting rising wholesale prices. The 7 p.m. to 7 a.m. nighttime curfew in Monrovia, imposed after the NPFL attack in 1992, continued in force. ECOMOG soldiers were ordered to enforce the measure strictly, and numerous persons were arrested for noncompliance. AFL soldiers reportedly killed or wounded a few citizens for breaking the curfew. ECOMOG periodically meted out corporal punishment to repeat curfew violators.

Political parties and other groups were able to organize freely and hold public meetings in Monrovia. Freedom of assembly and association was generally more restricted in NPFL areas than in Monrovia. None of the prewar political parties was known to have held public meetings in NPFL areas. There were several anti-U.N. demonstrations in NPFL territory protesting the alleged lack of U.N. humanitarian assistance to NPFL areas and perceived pro-IGNU bias by the United Nations. These demonstrations were probably orchestrated by NPFL officials. Citizens could not independently organize public demonstrations, particularly any critical of the NPFL. In ULIMO areas, residents still felt intimidated and did not attempt demonstrations critical of ULIMO for fear of reprisal.

c. *Freedom of Religion.*—The 1985 Constitution recognizes freedom of religion as a fundamental right, and Liberia has no established state religion. Christianity has long been the religion of the political and economic elite, while the majority of the population follows traditional religions or practices a mixture of traditional religions and Christianity or Islam.

There was no evidence of systematic violation of religious freedom by warring factions, but there were isolated and sometimes violent incidents of religious repression by local fighters.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of movement throughout Liberia as well as the right to leave or enter the country at will. Freedom of movement in and out of Monrovia was generally respected by IGNU, though ECOMOG and AFL checkpoints impeded the movement of relief workers and supplies.

Freedom of movement, ranging from resettlement of displaced persons to ordinary commerce and travel, was inhibited by factional fighting in the first half of 1993. Throughout the year, NPFL and ULIMO forces impeded movement by extorting and

harassing citizens at checkpoints. The NPFL prohibited thousands of displaced persons from traveling to seek refuge behind ECOMOG lines.

Over 700,000 Liberian refugees remained in neighboring West African countries, many out of fear of ethnic persecution. The number of refugees increased and decreased depending on the intensity and proximity of the fighting to population centers in Liberia. The U.N. High Commissioner for Refugees reported that as many as 30,000 Liberian refugees may have returned spontaneously in 1993. Most of these returnees went to Monrovia, where they were well received and were provided assistance by a network consisting of the U.N. agencies, IGNU, and international and domestic nongovernmental relief groups.

There are approximately 100,000 Sierra Leonean refugees in Liberia. Although many Sierra Leoneans were mistreated by the NPFL and ULIMO, there were no reports of such refugees being forced to leave Liberia.

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

Despite constitutional and statutory guarantees of free and fair elections, Liberians could not exercise the right to change their government. As fighting continued the first half of the year, there was again intense activity in the search for new political formulas to restore unity under a popularly elected leadership. Under joint U.N., OAU, and ECOWAS auspices, leaders of IGNU, the NPFL, and ULIMO hammered out a peace accord in late July after negotiations in Geneva and Cotonou, Benin. The agreement called for demobilization of the warring factions and the institution of a unified transitional government to organize elections for February-March 1994. Pursuant to the accord, the rival IGNU, NPRAG, and ULIMO administrations would dissolve as rival administrations upon the installation of the transitional government. The peace accord was welcomed by the overwhelming majority of Liberians. Its implementation, however, lagged behind schedule at year's end because of lack of agreement among the factions about the timetable for disarmament, demobilization, and the seating of the transitional government, and because of delays in the arrival of the additional ECOMOG forces needed to help accomplish these objectives.

IGNU is a coalition government comprised of the major prewar political parties and interest groups. Power in IGNU mainly resides in the executive branch, led by President Amos Sawyer, not in the legislature or the judiciary. NPRAG also has three separate branches of government. But unlike the coalition-based IGNU, Charles Taylor remained the NPRAG's supreme leader. Unlike IGNU and NPRAG, ULIMO did not establish formal legislative, executive, or judiciary structures in its area. Decisions are made by senior level ULIMO political and military officials, with ULIMO leader Alhaji Kromah the primary decisionmaker.

Neither the legislature in Monrovia nor that in Gbarnga was truly representative. However, the interim legislature in Monrovia at times asserted its role as a separate branch of government, both confirming and rejecting important IGNU appointees following public confirmation hearings.

There are no restrictions in law on the participation of women in politics; but, in practice, only a few women hold Cabinet-level positions in the IGNU and NPRAG governments, none in significant decisionmaking positions. Overall numbers of women in the two governments and the various political parties are small.

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

The few domestic human rights organizations are relatively new and underfunded but made progress improving their influence, visibility, and performance in 1993. Two groups occasionally published newspapers dedicated to human rights. None of the organizations reported any major IGNU interference with their activities, although IGNU authorities sometimes criticized the organizations, and, in the case of The Center for Human Rights Education, prevented its members from monitoring conditions at Monrovia's Central Prison.

The attitude of NPRAG toward the human rights organizations was less clearly enunciated, and its conduct to date has not been encouraging. Some Monrovia-based activists feared for their personal safety, claiming that the NPFL had previously accused them of being IGNU agents. There was one human rights organization based in NPFL territory, but it did not appear to be active or effective. ULIMO officials insisted on monitoring the activities of human rights groups visiting its area.

In August a three-member U.N. team visited Liberia to investigate the June 6 Harbel massacre of over 500 innocent displaced persons. Both NPFL and IGNU officials cooperated with the panel. There were no apparent signs of interference with the panel's work, though IGNU publicly criticized the panel's September report,

which concluded that the AFL perpetrated the atrocity. A representative of the U.S. human rights monitoring organization Africa Watch visited Liberia early in the year and did not experience interference by IGNU authorities in Monrovia. However, ULIMO refused to allow the Africa Watch representative to visit its area without an ULIMO escort.

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

The 1985 Constitution prohibits discrimination based on ethnic background, race, sex, creed, place of origin, or political opinion, but discrimination exists de facto and in some cases de jure.

Women.—The status of women in Liberian society varies by region, ethnic group, and religion. Some women currently hold skilled jobs, including in government and business. In the past 2 years, several women's organizations were established in Monrovia and Gbarnga to advance family welfare issues, to help promote political reconciliation, and to assist in rehabilitating former combatants as well as civilian victims of war. In urban areas and along the coast, women can inherit land and property. In rural areas, where traditional customs are stronger, a woman is normally considered the property of her husband and his clan and usually is not entitled to inherit from her husband.

Women in most rural areas are responsible for much of the farm labor and have only limited access to education. According to a recent U.N. study, females in Liberia, on average, receive only about 28 percent of the schooling given to males. In the massive violence inflicted on civilians during the conflict, women suffered the gamut of abuses (see especially Sections 1.c. and 1.g.). Even prior to the war, domestic violence against women was extensive but never seriously addressed as an issue by the Government, women's groups, the courts, or the media.

Children.—In the civil war, the various sides have given almost no attention to the welfare of children, and the education and nurturing of children has been seriously disrupted. The NPFL and ULIMO recruited and employed children as combatants. As a result, children have become both victims and abusers in the conflict. Some NGO's have initiated small retraining and rehabilitation programs for a limited number of former child fighters. At year's end, the United Nations and NGO's were discussing plans within the overall peace process for special counseling and training of the bulk of young combatants once they demobilize (see also Sections 1.g. and 6.d.).

Female genital mutilation (circumcision), which international health experts have condemned as physically and psychologically damaging, is widely practiced at an early age, particularly in isolated rural areas and among traditional societies. According to an independent expert in the field, the percentage of Liberian females who have undergone this procedure may be as high as 60 percent.

National/Racial/Ethnic Minorities.—Although the Constitution bans ethnic discrimination, it also provides that only "persons who are negroes or of negro descent" may be citizens or own land, thus denying full rights to many who were born or lived most of their lives in Liberia. Neither Monrovia's Interim Government nor Gbarnga's NPRAG has considered repealing this racial test. In July IGNU reaffirmed a 1975 economic "Liberianization" law, which prohibited foreign ownership in certain business sectors. The law resulted in the closure or sale of several foreign-owned businesses.

The roots of the civil conflict can be found in the historical division between the Americo-Liberian minority, who for over 150 years dominated the political, economic, and cultural life of the country, and the indigenous ethnic groups. The latter frequently complained of government discrimination in many areas, such as access to education and civil service jobs and to infrastructure development.

The 1980 coup mounted by Sergeant Doe and other AFL noncommissioned officers was seen by some as a revolution, with indigenous groups taking power from the Americo-Liberian elite. However, Doe's authoritarian military-based regime progressively exacerbated ethnic tensions while subverting the democratic reforms embodied in the 1985 Constitution.

During the Doe regime, resentment grew over domination of government by Doe's ethnic group, the Krahns. At the height of the civil war, an individual's language was used to identify that person's ethnicity. Those from groups considered hostile often were summarily executed. The cease-fire in late 1990 stopped many of these abuses. However, the NPFL reprisals against Krahns, particularly in Grand Gedeh County, and against Mandingos throughout NPFL territory continued to occur. Harassment of rival ethnic groups by predominately Krahn AFL troops in Monrovia and Krahn and Mandingo ULIMO fighters continued during the year (see Section 1.g.).

Religious Minorities.—While religious discrimination is legally prohibited, there were claims of discrimination in practice. Muslims, who represent a sizable portion of the population, asserted they were subjected to discrimination during the year. Alleged mistreatment ranged from unequal access to official radio stations for religious programs to bias in government employment practices. On the other hand, many residents in ULIMO areas complained that ULIMO officials discriminated against non-Muslims by exacting higher checkpoint tariffs and business fees. Muslim representation in senior positions in both IGNU and NPRAG was disproportionately low. Muslims also asserted that equal sanction and acknowledgment was not conferred on Islamic holidays and practices as on Christian ones.

People with Disabilities.—The protracted civil war has produced a large number of persons with permanent injuries in addition to persons disabled from other causes. There was no de jure discrimination against the disabled. However, in practice the disabled did not enjoy equal access to education, employment, and already scant social services. Cultural norms also adversely affected attitudes toward the disabled population. None of the rival administrations places a high priority on care for the disabled, and there are no accessibility laws on the books. Some NGO and U.N. programs in Monrovia were dedicated to rehabilitating and assisting war-wounded and otherwise disabled persons.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution states that workers have the right to associate in trade unions. The Constitution also states that unions are prohibited from partisan political activity, and this restriction has been observed in practice. Government interference in union activities, especially elections and leadership conflicts, was commonplace before the war. Over 20 trade unions, representing about 15 percent of the wage-earning work force, were registered with the Ministry of Labor before 1989. Approximately 10 national unions were members of the Liberian Federation of Labor Unions (LFLU). However, the actual power the unions exercised was always slight.

Like virtually all other organized activity in the country, unions disappeared during the height of the 1989–90 war. As some large-scale operations involving rubber and other extractive industries began operating in NPFL areas in 1991 and 1992, union activity associated with these industries resumed. Economic sanctions and renewed fighting after October 1992 stopped these operations and associated union activity in NPFL territory, but with the signing of the July peace accord, many industries planned to resume and affected unions began reorganizing and attempting to locate members. In Monrovia union activity focused on internal leadership questions, internal financing, and locating suitable employment for members. One of the most active organizations was the Ship Workers' Union, which urged the Interim Government to pressure Liberian flag vessels to employ more Liberian workers. However, contending with an 80-percent unemployment rate in Monrovia, this and other unions faced an uphill struggle.

Liberia's status as a beneficiary of trade preferences under the United States' Generalized System of Preferences (GSP) program was suspended in 1990 as a result of the Doe government's failure to take steps to provide internationally recognized worker rights. For example, the Doe regime did not recognize the right of civil servants or employees of public corporations to unionize or strike. During 1993, attempts languished in the IGNU legislature to enact an amended labor code removing the prohibition against unionization of government workers.

The 1985 Constitution is silent on the right to strike. While the labor practices laws of Liberia do protect this right, the Doe government issued a decree in 1980 prohibiting strikes. Neither IGNU nor NPRAG officially repealed or affirmed the no-strike decree, but it was not challenged in 1993 as there were no significant strikes. During the year, neither IGNU nor NPRAG took any discriminatory actions against organized labor.

Labor unions traditionally were affiliated with international labor groups before the war, and unions attempted to restore many of these ties in 1993.

b. *The Right to Organize and Bargain Collectively.*—With the important exception of civil servants, workers (including employees of public corporations and autonomous agencies) have the right to organize and bargain collectively. However, in 1993 these rights were significantly constrained by the institutional breakdown of unions caused by the war and the low level of economic activity. With high unemployment and dismissals being fundamental concerns, several unions negotiated with employers severance payments for union members. Generally, wage and severance pay agreements are negotiated freely between labor and their employers without government interference, but with occasional input from the IGNU or the NPRAG Ministries of Labor.

Although the interim legislature deliberated over the merits of a revised labor code, neither the Interim Government nor NPRAG took steps to correct flaws highlighted by the 1990 report of the International Labor Organization (ILO). That report stated that existing labor laws failed to provide workers adequate protection against discrimination and reprisals for union activity, failed to protect workers' organizations against outside interference, and did not give eligible workers in the public sector the opportunity to bargain collectively.

Labor laws have the same force in Liberia's one export processing zone as in the rest of the country.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced labor, but even before the civil war this prohibition was widely ignored in rural areas where farmers were pressured into providing free labor on "community projects" which often benefited only local leaders. Forced labor was used by some or all of the warring factions during the civil war, especially for moving equipment and supplies. This practice persisted in 1993. NPFL forced labor camps and farms in Grand Gedeh County were not reported to have closed. According to several sources, the NPFL reportedly used forced labor in western Liberia to move supplies in the wake of clashes with ULIMO. When it captured portions of Lofa and Bong Counties, ULIMO reportedly forced inhabitants to carry property that had been confiscated as spoils of war. The AFL also forced civilians to carry its stolen goods.

d. *Minimum Age for Employment of Children.*—Under the Doe government, the law prohibited employment of children under age 16 during school hours in the wage sector. Enforcement by the Ministry of Labor, however, was limited. Even before the civil war, small children continued to assist their parents as vendors in local markets and on family subsistence farms. This practice persisted in 1993, particularly in those areas where schools had been closed because of the war. During the conflict, the NPFL recruited young children as soldiers; many of them had been orphaned, and some were less than 12 years of age. Many of these children, especially in the NPFL, remained under arms in 1993. (Indeed, the NPFL has a unit named the "small boys unit.")

e. *Acceptable Conditions of Work.*—The labor law provides for a minimum wage, paid leave, severance benefits, and safety standards. Before the economy collapsed, the legal minimum wage varied according to profession but did not generally provide a decent standard of living for a worker and family. (The minimum wage for agricultural workers was approximately 90 cents per day, with industrial workers receiving three or four times that amount.) Often workers were forced to supplement their incomes through other activities to maintain a minimal standard of living. Most turned to subsistence farming. The minimum wage was not always been enforced adequately by the Labor Ministry.

The Liberian Labor Code provides for a 48-hour, 6-day regular workweek with a 30 minute rest period per 5 hours of work. The 6-day workweek may extend to 56 hours for service occupations and to 72 hours for miners, with overtime pay beyond 48 hours. In view of the low level of economic activity during 1993, most employers ignored these various regulations, and there was very little attempt at enforcement in Monrovia or in NPFL territory.

Prior to 1990, there also had been government-established health and safety standards, enforced in theory by the Ministry of Labor. Workers did not have a specifically protected right to remove themselves from dangerous work situations.

MADAGASCAR

Albert Zafy became President of Madagascar in March after defeating incumbent President Didier Ratsiraka in a runoff election determined by international observers to have been generally free and democratic. Legislative elections followed in June, and the new National Assembly, representing a spectrum of political parties, convened in August to choose Francisque Ravony, Vice Prime Minister of the previous unelected transitional government, as Prime Minister. Ravony's Government took over from the transitional government, led by Guy Willy Razanamasy, which was formed in late 1991 following mass protests against incumbent President Didier Ratsiraka who had ruled for 16 years.

Like the political system, the security forces have been going through a period of transition. Mixed commands of military, gendarmerie, and the national police are now responsible for internal security and are under civilian control. During the year, the army slowly assimilated the 1,800-man Presidential Security Guard, which had been loyal to ex-President Ratsiraka and responsible for some violence aimed at upsetting the electoral process in 1992. In April mixed commands, acting under

orders from President Zafy and then-Vice Prime Minister Ravony, intervened in Antsiranana (Diego Suarez) to round up more than 90 extremists, notably arresting several army officers accused of involvement with "Federalists" (Ratsiraka's supporters). On June 1, a similar group of combined security forces successfully expelled Federalist militants who had taken over provincial administration buildings in Toliara (Tulear). There were no reports of physical mistreatment of detainees by the security forces.

Despite some political and economic reforms, living standards have deteriorated in recent years. The economy remains highly dependent on agriculture, and the long-run prospects for traditional export products such as vanilla and coffee are not encouraging. The outlook for tourism, manufacturing, mining, and fishing is more positive, but to date these activities have played a relatively minor role in the economy. Smuggling of vanilla, gold, precious stones, and cattle is of growing concern. Unemployment and underemployment are serious problems in Madagascar, especially among the young (about 60 percent of the population is under age 25).

The human rights situation improved with the holding of two free and fair elections and the installation of a new President, a new National Assembly, and a new Government. Citizens freely exercised freedoms of speech, press, and assembly, although there remained some self-censorship by the media. Despite this progress, there were a number of human rights abuses, notably in the extrajudicial actions by the pro-Ratsiraka militants in seizing administrative buildings in Toliara, which resulted in at least two deaths. Other violence between Federalists and pro-Zafy militants (Active Forces or Forces Vives) in Diego Suarez Province in March and April also left a small number dead. Other abuses centered on ineffective law enforcement, which resulted in increased vigilante extrajudicial actions, including summary executions, and on the weak and overburdened judicial system in which the accused, primarily because of long delays, often do not receive due process.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no known political killings by government forces. However, there were extrajudicial killings in the politically motivated violence between Federalist and Active Force supporters in the north (Antsiranana) and south (Toliara) coastal areas. Tensions between these two groups were high in the context of the presidential election campaign which pitted Albert Zafy against Didier Ratsiraka. In these two areas especially, the supply and availability of illegal firearms helped spark violence and lawlessness. Victims of physical and material damage were usually known political activists. Political militants, thugs, and organized criminals no doubt used the cover of political unrest to settle personal scores in some cases. In restoring order in Antsiranana and Toliara provinces, government forces did not use excessive force and reportedly detained those arrested in humane conditions.

In March gendarmes killed two unarmed German scientists who apparently were suspected of poaching at night in Garagantasy Forest Reserve near Mahajanga. A gendarme was also killed in the encounter, presumably accidently by his own men, and another German was seriously wounded. Investigation into the killings, while not conclusive, suggests the gendarmes used excessive force.

Continued crime and inadequate law enforcement resulted in increased instances of civilian vigilantes taking summary retribution against alleged criminals. In an effort to cope with rising insecurity in the countryside, the President and transitional government officials encouraged the use of village-level mutual security pacts, known as "dina," which are administered by local traditional leaders (see Section 1.e.). Officials attempted to conform dina punishments to codified law but failed to prevent some extrajudicial executions of suspects who were not allowed adequate defense or due process rights.

The Government's investigation into the killing of more than 30 demonstrators by guards at then-President Ratsiraka's Iavoloha Palace on August 10, 1991, was still pending at year's end, and no arrests or convictions had resulted. Nor had there been an official report on the shooting by soldiers on March 31, 1992, at the National Forum (Constitutional Convention) in Antananarivo which left six pro-Ratsiraka supporters dead.

b. *Disappearance.*—There were no permanent disappearances in 1993 and no acknowledged cases of unsolved abductions or disappearances; however, unsubstantiated rumors and accusations of disappearances following the August 1991 confrontation at Iavoloha Palace persist. The Government is not actively investigating this case.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution provides for the inviolability of the person. However, credible reports indicate that dina trials in remote areas used various ordeals, even torture, in determining guilt.

Conditions in prisons are harsh and life threatening. The diet provided is inadequate, and family members must augment inmates' daily food rations, in some cases after bribing guards. Those prisoners without relatives in the prison vicinity sometimes go for days without food. Each prisoner has on average less than one square meter of space. Prisoners, estimated at 23,000, suffer a wide range of medical problems that are not routinely treated, including malnutrition, infections, malaria, and tuberculosis, which are exacerbated during the winter months. There have been an unknown number of deaths resulting from these conditions.

Women in prison have suffered abuses, including rape, as inmates in unsegregated prison confinement. A number of children live in the prisons with their mothers, suffering the same deprivations, and some guards conspire with female inmates to promote prostitution. The Government permits prison visits by the International Committee of the Red Cross, the Malagasy Red Cross, and religious and charitable organizations. On at least one occasion, even the media were permitted access to prisons.

d. *Arbitrary Arrest, Detention, or Exile.*—Legal safeguards against arbitrary arrest and detention are not always observed. According to the law, in a criminal case, the detainee must be charged or released within 3 days of arrest. An arrest warrant may be obtained but is not always required. Generally, defendants in criminal cases are charged formally within the specified time frame and, upon being charged, are allowed to obtain an attorney. Counsel is available, and court-appointed counsel is provided for indigents. Bail may be requested by the accused or by his attorney immediately after arrest, after being formally charged, or during the appeal process. Denial of bail may be appealed. The Penal Code provides for a determination of habeas corpus.

Despite these legal provisions, average pretrial detention time exceeds 1 year, and 3 or 4 years of detention is common, even for crimes for which the maximum penalty may be 2 years or less. Prisoners may wait years in prison only to be found not guilty, with no recourse. According to reliable estimates, around 60 percent of the prison population is in pretrial detention. By law, persons suspected of activity against the State may be detained incommunicado for 15 days, subject to indefinite extension if considered necessary by the Government.

The Government held more than a dozen political and security detainees at year's end.

At his inauguration in March, President Albert Zafy announced a general amnesty restoring all political and civil rights to prisoners or exiles condemned for political reasons under the regime of Didier Ratsiraka. The sole beneficiary of this amnesty was Major Richard Andriamaholison who had been condemned in 1981 for plotting against Ratsiraka and was exiled to France in 1990. He returned to Madagascar in time to win a seat in the National Assembly in June.

e. *Denial of Fair Public Trial.*—The Constitution adopted in 1992 provides for an independent judiciary, and, in practice, the judiciary seems to function without undue influence from the executive. However, excessive pretrial detention of the accused results in the denial of due process. To deal with this problem and purportedly to assure the independence of the judiciary from the executive and legislative branches, Prime Minister Ravony appointed a new Government in August which, for the first time since independence, had no Ministry of Justice. Instead, he created the position of a Minister responsible directly to him to act as a liaison with the judiciary.

Trials are public, and defendants have the right to be present, to confront witnesses, and to present evidence. Defendants enjoy a presumption of innocence under the Penal Code.

The judiciary has three levels of courts: lower courts for civil and criminal cases carrying limited fines and sentences; a Court of Appeals which includes a criminal court for cases carrying sentences of 5 years or more; and a Supreme Court. The judiciary also has a number of special courts designed to handle specific kinds of cases under the jurisdiction of the higher courts. A Constitutional High Court, with a separate and autonomous status, is a body for review of laws, decrees, and ordinances and for certifying election results.

Traditional institutions, known as dina, technically handle only civil matters within and between villages; in practice, the dina are used increasingly in criminal cases because of the practical inadequacies of the formal police and judicial systems. Decisions by dina are not subject to procedural protection of due process or to judi-

cial review, and their authority depends upon a customary consensus to abide by their rulings. Punishments are severe, sometimes including capital punishment.

Military courts have jurisdiction over most cases that the authorities judge as involving national security. It includes acts constituting a threat to the nation and its political leaders, invasion by foreign forces, and riots that could lead to overthrow of the Government. In exceptional cases, civilians may be tried in the military courts if charged with breaking military laws. Military courts, like civilian courts, provide for an appeal process and are presided over by civilian magistrates.

In September the Government prosecuted nearly 90 people, arrested in April for rebellion and lawlessness in Antsiranana, in civilian court in Antalaha (Antsiranana Province). As with similar cases in 1992, the Government tried them under criminal as opposed to security or treason statutes. The press complained of lack of access and information, but the authorities broadcast the proceedings over loudspeakers outside the limited confines of the courtroom (except for testimony involving 16 accused minors). Nine court-appointed lawyers defended the accused, and the court acquitted nearly 50 of the defendants and gave 19 others suspended sentences. The court sentenced one minor to 30 months in prison for his part in the killing and mutilation of an Active Forces activist. The court sentenced 20 Federalist and Active Forces extremists to prison terms ranging from 3 to 15 years. A dozen soldiers awaited trial for their role in the Antsiranana lawlessness.

In the case of the 36 Federalists arrested in June when government security forces freed government buildings under Federalist occupation, they were charged with incitement to rebellion against the Government, illegal entry into and destruction of government and private properties, acts of violence, and illegal possession of weapons. They were tried in a civilian court in December in the town of Ihosy (Toliara province), and the trial was open to the public. Five lawyers defended the accused, and the court gave 1-year suspended sentences to 16 defendants, sentenced 2 defendants in absentia to 14 months' imprisonment, and acquitted 17. Eighty-year-old Monja Jaona, the leader of the Federalists in Toliara, was among those sentenced; he was promptly amnestied.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The home is inviolable by tradition and law, and the State does not intervene in the private aspects of the lives of the people. The law requires judicially issued warrants to search houses, and there are reportedly few abuses. One case involved the arrest in June of two minors by a gendarme who was acting on behalf of a private individual without a court order. This case received extensive publicity, and the minors were released.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of expression, communication, and press and forbids press censorship; these provisions were largely respected. People speak freely, and debate in the National Assembly was open and lively. The print media openly criticized both the Government and the opposition. Opposition groups, trade unions, professional associations, and others have regular access to the press.

There is still a legacy of self-censorship among journalists, most of whom do not aggressively investigate stories or cite names, in part because Malagasy culture aspires to be nonconfrontational, and in part because they cannot count on being backed effectively by their editors and publishers. Journalists often use pen names to avoid identification. They publicized complaints after the Minister of Culture in the transitional government warned that it was not their business to investigate the extent and nature of property owned by government officials outside of Madagascar.

State-owned Radio-Television (RTM), the most important means of reaching the public, continued to feature discussion programs and debates on political and other public policy subjects, and the political content of its newscasts was largely factual. National television, however, was exhorted by the Presidency to provide more complete and eulogistic coverage of President Zafy's public appearances. Television also broadcasts French network news live via satellite each evening. All films and video tapes shown in public must first be approved by the Interior Ministry, according to a law dating from the previous republic.

Along with state radio, there are now at least five private radio stations. The private stations also cover political subjects and have sometimes been critical of the Government. There have been no reports of threats to academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—Some legal restrictions remain on the right of assembly and association. Municipal permits, usually granted, are required before holding public meetings but may be denied if government officials believe that the meeting poses a threat to the State or endangers national security. Officially established security zones are off limits to demonstrators. The prolifera-

tion of political and nongovernmental organizations (NGO's) indicates a more relaxed attitude toward freedom of association. There are more than 60 political parties and 900 NGO's.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion. The Government is secular, and there is no discrimination on the basis of religious affiliation. Between 40 and 50 percent of the population adheres to Christian beliefs, with the remainder following traditional Malagasy beliefs, Islam, and other faiths. Missionaries and clergy are permitted to operate freely.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There is no formal restriction on travel within the country; however, domestic security concerns do effectively restrict travel. All Malagasy must obtain official approval for trips outside the country. All residents of Madagascar (Malagasy and foreign) require exit visas issued by the Ministry of Interior. There is no refugee population in Madagascar.

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

Madagascar concluded more than 2 years of political transition, which was initiated by largely peaceful mass demonstrations against the previous regime of Didier Ratsiraka in 1991. In February citizens elected a new President by direct universal suffrage and secret ballot, and in March Albert Zafy began a 5-year term; he would be elgible to serve a second 5-year term, if reelected. The new President's primary constitutional responsibilities are national defense and foreign policy.

Citizens also voted in June for a 138-member National Assembly, but despite strong media and other efforts to inform the public about the election and the complicated distribution of seats, voter turnout was only about 55 percent, considerably down from earlier nationwide ballots (constitutional referendum and presidential elections) held in the previous 10 months. The Constitutional High Court, which rules on all elections, nullified results for four assembly seats because of procedural irregularities and fraud. Special elections filled these four seats in September.

In its first order of business, the National Assembly elected Francisque Ravony Prime Minister, who immediately formed a new Government after consultations with President Zafy. The Active Forces constitute a block of about 65 votes in the National Assembly. Most of the remaining members of the 138-member body have organized an alliance know as the group-of-6 (G-six).

The Prime Minister and his Cabinet, not the President, executes legislation. The President and his Government, provided they act in concert, may dissolve the National Assembly. The National Assembly may pass a motion of censure and require the Prime Minister and his Government to step down. The Constitutional High Court must review the constitutionality of every law before it is promulgated. The selection of the Senate must await the formation of local governments in 1994 since two-thirds of the Senate will be elected by local legislatures and one-third appointed by the President, all for 4-year terms.

There are no legal restrictions against women participating in politics, but in practice men dominate. One cabinet position is held by a woman, and women hold only 6 percent of the legislative seats; in the judiciary they have somewhat higher representation.

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

By law, human rights groups are considered to be political groups and must register with the Government. Nongovernmental human rights groups exist but are largely inactive. Although the new Constitution provides for the establishment of an independent organization charged with promoting and protecting human rights, none has yet been established. The Government did not penalize or repress anyone for criticizing its human rights record. It has been slow, however, to carry out investigations of salient cases of violence, notably the August 1991 killings at Iavoloha Palace.

The Government is receptive to visits by international human rights groups. The International Committee of the Red Cross made periodic visits and was regularly granted access to prisoners United Nations organizations, including the International Labor Organization (ILO), operated freely and extensively in Madagascar.

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

The Constitution prohibits all forms of discrimination and groups that advocate ethnic or religious segregation.

Women.—There is societal discrimination against women, less so in urban areas where women have an important, if secondary, role in the business and economic

life of the country, with many of them managing or owning business concerns or filling management positions in state industries. However, women in rural areas face greater hardship, bearing the responsibilities of raising a family while also engaging in farm labor or other subsistence activities. In education, women's participation in secondary and higher studies is lower than that of men. Madagascar has a high literacy rate (88 percent for men, 73 percent for women).

Under the law, wives have an equal say in choosing where a married couple will reside, and they receive a more or less equitable distribution of marital property in divorce cases. In the case of the death of a husband, a wife inherits one-half of the joint marital wealth. A widow receives a pension; however, a widower does not.

According to various sources, including magistrates, journalists, and women doctors, violence against women, such as wife beating, is not widespread. In the rare cases where physical abuse is detected, police and legal authorities do intervene, although there is no law dealing specifically with violence against women, except in cases of rape. Women have been victims of rape in prisons.

Children.—There is no pattern of official or societal abuse against children. The Government's expenditures on children's welfare, even as a proportion of total budgetary resources available, is low. In a context of extreme poverty, schooling is often sacrificed so that children might work in farming chores, hawking newspapers, or begging. The U.N. Children's Fund and other children's advocacy groups are active, and there are Malagasy associations for the protection of children and youth which raise very modest contributions for child welfare projects.

National/Racial/Ethnic Minorities.—Madagascar is inhabited by over 12 million people. The Malagasy are of mixed Malayo-Polynesian and African origins and are made up of 18 distinct groups based on regional and ancestral affiliation and some linguistic differences. None of these groups constitutes a majority of the population. Long-term historical processes of military conquest, ethnic domination, and political consolidation, however, have traditionally favored the political and economic status of highland ethnic groups of Asian origin over the coastal groups of more African descent. The centralized planned economy of the previous regime reinforced the concentration of economic and political power in the highland, capital area. This situation has contributed to ethnic tensions between the two groups. Ethnic or regional solidarity can also be a determining factor in hiring practices.

An Indo-Pakistani community of about 20,000, primarily engaged in commerce, has been in Madagascar since the early part of this century. Few, however, have been able to obtain Malagasy citizenship, since it is customarily bestowed matrilineally through native Malagasy women. Their shops have often been targets for violent attack during civil disturbances. While there were few such incidents in 1993, the Indo-Pakistanis remained a frequent target of mistrust and criticism.

People with Disabilities.—Physically disabled individuals are not subject to discrimination in education and in the provision of other state services, but nor are they the beneficiaries of special enabling or protecting legislation. The Government has not enacted legislation or otherwise provided for accessibility for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—The Malagasy in both the public and private sectors have the right in law (the 1975 Labor Code and the 1992 Constitution) and in practice to establish and join labor unions of their own choosing without prior authorization. Unions are required to register with the Government, and registration is routinely granted. However, the labor force of 4.9 million is mostly agrarian (80 percent), and unionized labor accounts for only about 5 percent of the total.

There are a number of trade union federations, and many are affiliated with political parties. In practice, however, formal public and private sector unions have not played a major role politically or economically in recent years. The transitional government, in place for most of 1993, exercised very limited control over organized labor.

The Labor Code and the new Constitution provide for the right to strike, even in export processing ("free trade") zones. Those providing essential services—police, firefighters, hospital workers—have only a limited right to strike. There were occasional strikes in 1993, but none was officially declared illegal, and most were resolved by negotiations or by informal arbitration by high government officials, including the President. Laws and regulations prohibit retribution against strikers who adhere to legal procedures for striking. Unions and workers were not directly targeted for human rights abuses, nor was there any apparent retribution against strikers and leaders.

Unions may and do freely affiliate with and participate in international bodies and may form federations or confederations.

b. *The Right to Organize and Bargain Collectively.*—Both the 1975 Labor Code and the 1992 Constitution provide for the right to bargain collectively. The Code states that collective bargaining may be undertaken between management and labor at either party's behest. Collective bargaining agreements exist but are not common, and the Government is often involved in the bargaining process, in part because of the large number of public sector employees in organized labor. The minimum wage is set by the Government. Other wages are set by the employers with individual employees, sometimes below the minimum wage. When there is a failure to reach agreement, the Ministry of Labor convenes a committee of employment inspectors who attempt to resolve the matter. If this process fails, the committee refers the matter to the chairman of the Court of Appeals for final arbitration. No such cases reached the Appeals Court in 1993.

The Labor Code formally prohibits antiunion discrimination by employers against union members and organizers. In the case of antiunion activity, the union or its members may file a petition in civil court challenging the employer.

Labor laws are applied uniformly throughout the country, including in free trade zones. Labor inspectors visit industrial work sites with some regularity but mostly in the capital region.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is explicitly prohibited by the Labor Code and is not practiced.

d. *Minimum Age for Employment of Children.*—The Labor Code describes a child as any person under the age of 18. The legal minimum age for employment is 14, and the use of child labor is prohibited in those areas where there is apparent and imminent danger. The Government tries to enforce these child labor laws in the small wage sector through inspectors from the Ministries of Civil Service, and Labor and Social Security. However, in the large subsistence sector, many young children work with their parents on family farms at much earlier ages. Similarly, in the urban areas many children earn money hawking parking spaces, newspapers or other wares, and by carrying water and begging.

e. *Acceptable Conditions of Work.*—The Labor Code and its enforcing legislation prescribe the working conditions and wage scales for employees, which are enforced by the Ministry of Labor and Social Security. The law distinguishes between agricultural and nonagricultural work. There is a 44-hour workweek in nonagricultural and service industries. There are also provisions for holiday pay, sick and maternity leave, and insurance.

There are several administratively determined minimum-wage rates in Madagascar, depending upon employment skills, starting with $23 a month (45,000 Malagasy francs) for unskilled workers. This wage is inadequate to ensure a decent standard of living, and such workers must supplement their incomes through subsistence agriculture, petty trade, or reliance on the extended family structure. Given insufficient enforcement measures, official wage rates are sometimes ignored as high unemployment and extreme poverty lead workers to accept salaries below the legal wage.

The Labor Code has rules concerning building and operational safety, machinery and moving engines, lifting weight limits, and sanitation standards. Ministry of Labor and Social Security inspectors visit industrial work sites, and violations of Labor Code rules are subject to inspection reports. Lack of resources effectively inhibit inspectors traveling regularly beyond the capital region. If cited violations are not remedied within the specified time frame, the violators may be legally charged and subject to penalties. Nevertheless, in some sectors protective measures are lacking due to the expense of even minimal protective clothing and other protective devices. To date, there have been no published reports on occupational health hazards and accidents, although there is clear evidence that these hazards exist. There is no explicit right allowing workers to remove themselves from dangerous work without jeopardizing their continued employment.

The ILO has cited the Government within the past year for failure to observe ILO conventions and standards in workplace safety.

MALAWI

The year 1993 gave promise of ending one-man, one-party rule in Malawi. In October 1992, Malawi's leader since independence, the Life President, Dr. H. Kamuzu Banda, called for a referendum to determine whether or not Malawi would continue as a one-party state. On June 14, 1993, Malawians voted by a margin of two to one in favor of a multiparty system. Two days later Banda publicly accepted the results and acknowledged the need for change.

In late 1993, seven political parties were legally registered and operating openly, and multiparty elections were scheduled for May 17, 1994. Dialog between the opposition and the ruling Malawi Congress Party (MCP) resulted in the establishment of a National Consultative Council (NCC) and a National Executive Committee (NEC), both with representatives from all registered parties, to oversee changes in the Constitution, laws, constituency boundaries, and election rules and procedures. In November, Parliament passed bills eliminating from the Constitution single-party clauses (such as Banda's Life Presidency), appending a bill of rights, establishing a multiparty electoral law, and repealing detention-without-trial provisions of the Public Security Act, as well as the Forfeiture Act and Malawi's restrictive dress code. Late in the year President Banda underwent brain surgery. During this period, the MCP established a Presidential Council to rule in his place. The Council dissolved in early December when doctors pronounced Banda fit to resume presidential duties. As 1993 came to an end, President Banda's nominally parliamentary, single-party Government was in a caretaker status.

Internal security is the responsibility of the National Police. An increasingly assertive populace, the growing independence of the judiciary, and an active opposition press, in addition to international pressure and the predisposition of some senior government officials, influenced the police force to curtail the worst of its abuses against the Banda Government's political opponents. The police, however, still employed physical force in dealing with suspected criminals and, in some cases, deprived them of their legal rights (see Section 1.f.). There were no reports of police being tried and punished in the courts for such abuse, but credible reports indicated that prison officials were disciplined, and in some instances fired, for such behavior.

During the referendum campaign, the MCP's Youth League and the paramilitary Malawi Young Pioneers (MYP) intimidated and harassed multiparty advocates. Intimidation by the Youth League and the MYP diminished sharply after the referendum and disappeared entirely in December when the army moved to disarm the MYP. The initial stages of disarmament were violent; over 20 people were killed, and extensive property damage was done to MYP and MCP facilities. Four soldiers also were killed. The army quickly enlisted the cooperation of the police to address civilian aspects of the disarmament operation.

Small, densely populated, and landlocked, Malawi has a predominantly agricultural economy. Nearly 90 percent of the population derives its income from farming. The main cash crops are tobacco—Malawi's most important foreign exchange earner—tea, coffee, and sugar. In 1993 the economy was rocked by severe shortages of foreign exchange, high inflation, and scarcity of critical agricultural and industrial inputs. Shrinking real wages led to wildcat strikes throughout the country, which exacerbated declines in productivity.

The gradual improvement in Malawi's dismal human rights record evident in 1992 accelerated in the first half of 1993 as campaigning commenced for the referendum. "Pressure groups" (i.e., parties in waiting) began to hold public rallies, attracting crowds often in excess of 20,000 in spite of instances of MYP intimidation of multiparty supporters, police manipulation of rally permits, and arbitrary detention of opposition activists. Returning exiles were in several instances detained on arrival. In some cases, opposition leaders successfully took the Government, the MCP, and the MYP to court for such abuses. Over a dozen political prisoners were released in 1993, including Chakufwa Chihana, Vera Chirwa, Gwanda Chakuamba Phiri, Fred Kazombo Mwale and three arrested in 1965 in connection with an armed rebellion led by former cabinet minister Chipembere.

Limitations on the activities of Asians remained in effect.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no political killings in Malawi in 1993. Although both during and after the referendum campaign vague rumors circulated of suspicious deaths at the hands of the police and the MYP, they were difficult to substantiate, despite the efforts of international observers monitoring politics and human rights in Malawi. In February Flora Kapito, an employee of the Electricity Supply Commission who had been arrested in May 1992 for possession of multiparty literature, died of injuries sustained while she was in prison. Opposition calls to investigate the case of three Government ministers and a parliamentarian who died suspiciously in 1983, officially in an auto accident, yielded no response from the Government.

b. *Disappearance.*—There were no reported cases of disappearance for political reasons in 1993.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Credible reports indicated that police continued to beat prisoners during initial detention and interrogation at police stations. The police also continued to deny monitoring groups access to these facilities, thus calling into question the Government's willingness to hold police accountable for such abuses.

There were no specific reports of women targeted for abuse by the police or other Government entities in 1993. Conditions in prisons improved, partly as a result of inspections and recommendations by the International Committee of the Red Cross (ICRC), but the Government acknowledged there was room for more improvement. The prisons are seriously overcrowded, nutrition is inadequate, and sanitation poor. The substandard conditions can be attributed largely to a lack of funding. To improve the penal system, authorities have demoted or fired abusive wardens. In November Parliament separated the prison service from police oversight and authority.

d. *Arbitrary Arrest, Detention, or Exile.*—In November Parliament passed amendments to the Preservation of Public Security Act (PPSA), repealing those portions which authorized detention without trial. The courts had already been ordering the release of those detained without charge or trial. By year's end, it was too early to determine how effective the Government would be in ensuring that police no longer arrested people without bringing charges against them or referring their cases to the courts.

The early stages of the referendum campaign were marred by the arbitrary arrest and detention of political opponents of the MCP. United Democratic Front Chairman Bakili Muluzi was arrested in February on charges that he had embezzled MCP funds when he was the MCP's Administrative Secretary and then Secretary General from 1977 to 1981. He was released on bail on February 18. The court dismissed the case against Muluzi for lack of evidence on April 1, but police rearrested him the same evening indicating that they would file new charges for the same offense. He was released the next day. Reverend Peter Kaleso was arrested and briefly detained early in the year for purportedly insulting the Life President while speaking at a public rally. A magistrate judge later acquitted Kaleso. In January Felix Mponda Phiri, editor of the New Express, was detained on returning to Malawi with the first edition of the paper, held for 17 days, and released without being charged.

The number of new cases of arbitrary arrest and detention of the Government's political opponents decreased gradually during the referendum campaign and all but ceased thereafter. However, arbitrary arrests and detentions of a less vocal group, suspected criminals, did not decrease perceptibly.

Long-term prisoner Vera Chirwa was released in January. Her husband Orton died in prison in 1992. Both were serving life sentences on charges, widely considered spurious, of plotting to overthrow the Government and assassinate the Life President. Chakufwa Chihana, arrested in April 1992 and sentenced in December of the same year on sedition charges, was released on June 12, 1993. The Supreme Court of Appeals reduced his original concurrent sentences of 18 and 24 months to 9 months in March 1993, and he received the standard 3 months off for good behavior. In October, to mark President Banda's return from surgery in South Africa, the Government declared amnesty for 229 prisoners. These included people who were convicted of political crimes, had served long sentences, were ill, or had demonstrated good behavior. The remaining prisoners considered that the process of determining eligibility for amnesty was a random one and staged a riot, during which two prisoners died.

Although the Banda Government never practiced forced exile as a means of political control, a sizable number of Malawians left the country over the years for political reasons. When these voluntary exiles started to return to Malawi to participate in activities prior to the referendum, police detained most and held them without charge for periods ranging from 24 hours to several months.

In a few cases, police continued to hold detainees despite court release orders. Fred Kazombo Mwale, the President's nephew, and two of his wives had been held without charge on a presidential detention order since 1991. A High Court justice ordered their release in early 1993, but police and prison officials did not comply with this order. Mwale and his wives were finally released in July as national and international attention on their case intensified.

Edward Jika, of the Zambia-based United Front for Multiparty Democracy, was detained in early 1993 when he entered Malawi. A High Court justice ordered police and prison officials to present him in court, which they failed to do. As a result, the justice ordered his release. Police and prison officials ignored this order also until shortly after the referendum, when they released him.

Following the referendum, President Banda declared a general amnesty for all exiles. Most remaining political detainees were released, and exiles began to return to Malawi without incident. In November Parliament created a returnees' committee

to assist the exiles in rejoining the community. The committee estimated that approximately 500 Malawians returned by year's end.

Incommunicado detention continues, but to a lesser degree. Police continued sporadically to restrict access to prisoners. Chakufwa Chihana's wife and his lawyer were at times denied the right to visit him. The lawyer of returning exile Edward Jika was denied access to his client. In July the High Court, citing the U.N. Universal Declaration of Human Rights, ruled that there was no legal basis for restricting the access of lawyers to their imprisoned clients. Subsequently, defense lawyers could gain access to clients.

Pretrial detainees made up a high proportion of the prison population. Poor record keeping and the reluctance of the police force to account for its activities precluded an accurate estimate of numbers of pretrial detainees. According to sources in the legal community, however, there are probably several hundred. The Government has acknowledged the problem and attempted to address it by setting aside specific time for court personnel to review and process pretrial cases.

c. *Denial of Fair Public Trial.*—Malawi has both traditional and modern court systems. In the past, only the regional and national traditional courts tried capital offenses. The Attorney General, however, announced the suspension of these courts in October, citing the NCC's intention to review the appropriate role of the traditional court system. The trend toward moving serious criminal and political cases from traditional to modern courts continued in 1993. In most cases, only the modern courts permit legal counsel. The right of appeal exists in both systems. By law, defendants and their attorneys are guarenteed access to government-held evidence. In practice, they often do not see the evidence against them until they are in court.

The modern court system consists of magistrate courts and the High Court, whose members sit on a Supreme Court of Appeal when the need arises. The President appoints the Chief Justice and, after consultation with the Judicial Service Commission, other court justices. According to constitutional amendments passed in November, the President must have parliamentary approval before removing a judge for incompetence or misbehavior.

Traditional court justices, including justices of the National Traditional Appeal Court, are appointed directly by the President. A typical traditional court panel consists of three traditional authorities and a magistrate judge. Police officials handle the prosecution, and defendants conduct their own defense. In April a traditional court sentenced Dedza District MCP Chairman Mlombwa Phiri to death for shooting a district police commissioner, whom he was alleged to have suspected of multiparty leanings. Amnesty International protested the sentence, noting that traditional court proceedings lacked the fundamental features of a fair public trial, such as the defendant's right to counsel. The case was under appeal at the end of the year.

Through seminars, workshops, and training, some improvements have taken place in the functioning of the traditional court system. At year's end, with the suspension of the regional and national traditional courts and a review of the entire system under way, many in the legal community, including high court justices, were predicting that the future of traditional courts was at the local level, where they would continue to hear cases involving small claims and customary law.

In 1993 the modern courts became increasingly bold in their decisions against the Government and the MCP. In one case, the court awarded, and the Government paid, Machipisa Munthali the equivalent of over $1 million for wrongful imprisonment. After completing a 6-year sentence in 1974, Munthali was immediately redetained without charge, trial, or explanation for an additional 18 years. Another long-term detainee-turned-opposition politician, Aleke Banda, successfully sued the MCP for defamation of character based on remarks against him which an MCP official made at a referendum campaign rally. The court awarded $75,000 in damages, which Banda collected with difficulty from the MCP. In the appeal of Chakufwa Chihana's sedition case, the Supreme Court granted both the defense and the prosecution the right to employ British queen's counsels to make their arguments. The Supreme Court stopped short of acquitting Chihana, instead reducing his sentence to 9 months.

The Government has not removed any judicial officials in response to the judiciary's newfound independence.

No known political prisoners remained at the end of 1993.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Oversight of the police was a significant weak link in the political transition process. Political liberalization has inhibited, but not completely ended, the practice of the police entering houses at will, under special entry authority, to conduct searches for suspects or incriminating evidence. During the MYP disarmament operation in December, the army and police, with Government approval, entered many private homes in search of hidden MYP members and weapons.

The forced purchase of MCP membership cards stopped. There were occasional threats of forced population resettlement during the referendum campaign, primarily to inhibit opposition activity in MCP strongholds. The MCP did not carry out these threats, however, and after the referendum, generally shifted from negative to positive incentives to generate political support.

Parliament repealed the Decency in Dress Act in November. The Act had banned slacks or skirts above the knees for women, and long hair and bell-bottom slacks for men.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of the Press.*—In the past, two government/MCP-controlled newspapers and one government radio station spread the Government and party line on all subjects. An opposition editor and a UDF official were briefly detained on press-related charges in early 1993. In March the Government temporarily banned two opposition newspapers, the UDF News and Alliance for Democracy's (AFORD's) Malawi Democrat. The High Court later lifted both bans.

The unfettered, aggressive media were an explosive new force. By the end of 1993, more than 20 independent newspapers were in circulation. In September the Malawi Broadcasting Corporation, based on a broadcasting code of conduct worked out between the Government and the opposition, canceled long-running, regularly scheduled pro-Banda/MCP programs. Independent journalists practiced less self-censorship. The independent press criticized the Government vigorously, and after the disarmament of the MYP in December, even MBC reporters and producers began broadcasting news items and press statements critical of the Government.

In November Parliament changed the sedition laws to include "intent to incite violence" as a necessary component of sedition. Parliament did not, however, repeal the law prohibiting journalists from publishing or communicating outside of Malawi any information which might tarnish the country's reputation. The chief public prosecutor must authorize any prosecution brought under this law.

b. *Freedom of Peaceful Assembly and Association.*—A November 1993 amendment to the Constitution provides that "no person shall be hindered in the enjoyment of his freedom of assembly and association," as long as he does not infringe upon the rights of others, endanger public order or public morality, impose restrictions on public officers, or act in a manner not "reasonably justifiable in a democratic society."

During the referendum campaign, police and other government officials grudgingly granted freedom of assembly. While opposition groups frequently faced problems in obtaining permits for rallies, large political meetings were held although political parties other than MCP were still illegal. The Government tolerated the so-called pressure groups as forums for free political association but often harassed their members.

Following the referendum, Parliament legalized political parties. Police then granted rally permits readily, although there were occasional reports of MCP officials encouraging local officials to change the venue of an opposition rally at the last minute so that the MCP might use the original location for its own rally. During the labor strikes that occurred around the country in September, police did not arrest strikers for failing to obtain permits. As in the past, individuals and organizations associated freely in nonpolitical activities.

c. *Freedom of Religion.*—Malawi does not have a state religion. Religious groups may establish places of worship and train clergy but must register with the Government. An informal presidential decree that no new religious groups should be registered served to prevent legitimate religious groups from establishing a presence in Malawi. In general, however, restrictions on all religious practices eased. In September the Government revoked its ban on Jehovah's Witnesses and certain other religious groups which refused to join political parties or accept a ruling government as sovereign.

Religious groups are free to establish and maintain links with their churches in other countries, and the Government does not restrict members from traveling abroad for religious purposes. Malawi's sizable Muslim minority (estimated at 20 percent of the population) conducts its religion and builds mosques freely. Foreign Islamic organizations have funded the latter with no governmental interference.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Freedom of movement both within and outside the country improved in 1993. President Banda declared a general amnesty for all exiles in June, and many returned. Denial of passports on political grounds was no longer common. Legal provisions restricting the movement of those convicted of political or criminal offenses continued in force. Employees still had to request permission from their employers to travel abroad, but such clearance appeared to be routinely granted. In a few

cases, police delayed the travel of political opposition leaders at checkpoints between regional boundaries, but it was not clear whether such actions were taken on individual initiative or at government direction. Formal emigration was neither restricted nor encouraged. Malawi does not apply any particular restrictions of the movement of women or most minorities (including expatriates) except for Asian residents and citizens, who while free to travel within the country, must nominally reside within four urban areas (Lilongwe, Zomba, Mzuzu, and Blantyre/Limbe). In Lilongwe, a planned capital, they must live in designated neighborhoods. Asians are also banned from running any business outside the urban areas, although the political parties, through the NCC, tentatively discussed the possibility of lifting this prohibition.

Malawi continued to host Mozambican refugees, the largest refugee population in Africa. The Mozambique Peace Accord, signed on October 4, 1992, brought an end to open hostilities in that country, but fears among refugees were slow to subside. Because of the devastation wrought by more than 16 years of war and southern Africa's worst drought in a century, refugees did not return to many areas of Mozambique. While the Government of Malawi encouraged their return, it made no attempt to force the refugees to depart before they were ready and able to do so. The Government and international organizations estimated that more than 300,000 Mozambican refugees left Malawi for their homes, with 700,000 remaining.

While this large number of refugees strained Malawi's roads, health care facilities, and land, fuel, water, and food resources, the Government continued to cooperate with the United Nations High Commissioner for Refugees (UNHCR) and other relief organizations to sustain the Mozambican refugees.

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

Freedom to change their government peacefully was the cornerstone on which Malawians began to build a new political system. At the beginning of 1993, politics was dominated by the President for Life and his Malawi Congress Party, the only legal party. Parliament rubber stamped the President's decisions, and candidates in all elections were preapproved by the President. After the national referendum, the opposition and the ruling party negotiated a transitional arrangement which gave the former a formal role in monitoring the existing Government and in crafting and introducing legislative reforms. In June Parliament repealed the section of the Constitution which prohibited parties other than the MCP, and granted Malawi's political exiles general amnesty. The principal mechanisms of the transition are the NCC and NEC, which include equal numbers of representatives from each registered political party. The NCC is a deliberative body in which the parties are working out the constitutional, legal, and electoral shape of the new system. The NEC plays a monitoring role, tracking the progress the Government and Parliament make in implementing the decisions of the NCC.

Malawi's first multiparty elections for a president and parliament are to be held on May 17, 1994. As in past single-party elections and the referendum, suffrage is to be universal among adult citizens, without regard to gender or tribal (indigenous) origins. In November Parliament passed laws related to the elections scheduled for May, including the lowering of the voting age to 18 years.

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

In the past, the Government did not allow either domestic or international organizations to investigate alleged human rights abuses. This situation began to change in 1992 when the Government invited the ICRC to inspect Malawi's prisons. A two-person delegation from Amnesty International visited Malawi for 2 weeks in November and met with government officials, the police, opposition leaders, and others. A few domestic human rights groups formed in 1993, but at year's end had not developed methods for monitoring the country's human rights situation.

The Government continued to refuse to investigate, despite opposition calls for a commission of inquiry, the 1983 deaths of three government ministers and a parliamentarian. At the time of the deaths, the Government claimed the four had died accidentally in an automobile wreck. For years, however, widespread rumors alleged that the accident had been staged and that the men had been shot for political reasons on the orders of senior government officials. In the fall of 1993, several independent newspapers conducted and reported investigations which they claimed produced evidence implicating the Government in these deaths.

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

Women.—Women and men above the age of 20 have equal legal status and are supposed to receive equal pay for equal work. In practice, however, women do not have opportunities equal to those of men. Historically, women have been unable to complete even a primary education and are therefore at a serious disadvantage in the job market. Women constitute 70 percent of all full-time farmers. Thirty percent of these women are heads of household. The Government included in its 1993 development policy a specific plan of action for women. The plan proposes that each ministry designate an officer to deal with issues concerning women and women's affairs. Most ministries have done so and are trying to allocate funds to support women's programs in their respective ministries. The Government reserves 33 percent of the places in secondary school for girls. In 1993, for the first time, all of these spaces were filled. However, women may not attend school at any level if they become pregnant. University women may return to their studies 6 months after the birth of a child. The Government cooperated closely with international donors seeking to enhance educational opportunities for females, especially at the primary school level.

Both the Government and nongovernmental organizations have sponsored programs to support better general education for women and girls. The National Commission on Women disseminates information on women's rights. Women across the country began to form groups advocating empowerment of women in various fields. The "Women's Voice" group, for example, encourages women to participate in the political process.

Malawi society does not practice systematic violence against women. However, spousal abuse is common, although it is not discussed openly by women. Occasionally the press reports instances of sexual abuse and harassment of female students by their male teachers. There are no apparent efforts by the Ministry of Education to address this problem.

Children.—The Government does not spend a high percentage of its budget on children's health and welfare. Despite women's access to maternal health services and extension programs, infant mortality remains the 10th highest in the world. Very few orphanages exist, and the Government is only beginning to address the necessity of intervening on behalf of children as the AIDS epidemic destroys traditional extended family and village care. There is no pattern of societal abuse against children, though a few small ethnic groups continue to practice female genital mutilation.

National/Racial/Ethnic/Minorities.—Citizens of the northern region occasionally experience discrimination in employment outside that region. Most Malawians of African heritage are members of indigenous tribes, which are not discriminated against by the Government or society. By law, Asians may not own businesses in agriculture or transport and strict rules govern where they may own property.

People with Disabilities.—The Government has not mandated accessibility to public buildings for the disabled, but it does help and support them. Self-supporting businesses, run by and for the disabled, operate successfully in Malawi. Special schools and training centers target individuals with disabilities.

Section 6. Worker Rights

a. *The Right of Association.*—Because most Malawian households derive their income from the agricultural sector, either directly from what they produce or through seasonal, informal employment on estates, government figures indicate that only 473,000 persons—approximately 14 percent of the work force—earn formal wages. Approximately 10 percent of this group—fewer than 50,000 employees—are organized in trade unions. Most organized workers are unskilled laborers on large agricultural estates.

Restrictive colonial labor legislation was subsumed largely intact into Malawian law. In response to continuing bouts of labor unrest, however, Ministry of Labor officials announced in September plans to review and modify the legislation.

Malawian workers have the legal right to form and join trade unions. For government workers, the right is limited to unions whose membership consists solely of government employees. By law and in practice, all unions have been required to affiliate with the Trade Union Congress of Malawi (TUCM). The TUCM, ostensibly independent of the Government, was until late 1993 highly restricted in its activities. In response to a prolonged period of sporadic strikes, late in the year a group of new TUCM leaders formed a "caretaker committee" which they tasked with the revitalization of the TUCM. At the same time, the Ministry of Labor announced a policy of decentralized dialog, negotiation, and collective bargaining in labor matters which, inter alia, emphasized the right of workers and employers to organize freely

into trade unions and employers' associations, respectively. At year's end the effectiveness of these actions was uncertain.

In 1993, Malawi experienced unprecedented labor unrest. Starting in May, sporadic work stoppages at individual companies occurred in Blantyre, the country's main commercial city. In August, September, and October, wildcat strikes—including a nationwide civil service strike—spread throughout the country. The unrest was generally nonviolent, two exceptions being the fatal shooting of a striker at a sugar plantation and the destruction of a tobacco estate's medical clinic. Government intervention was limited, and negotiated resolutions of workers' demands was the norm.

Malawi's official unions played no significant role in either leading or resolving the labor unrest in 1993. In contrast, Joint Consultative Committees (JCC)—worker/management councils established within the last 2 years in numerous private enterprises and state-owned firms—provided forums for negotiations and were often successful in defusing tensions. Ideally, the committees were to consist of elected representatives of workers and management. Often, however, worker representation was determined by employer appointment.

The TUCM is a member of the International Confederation of Free Trade Unions (ICFTU), although the ICFTU suspended the TUCM in December, and the Organization of African Trade Union Unity. It also belongs to the Southern African Trade Union Coordination Council (SATUCC). The Government closed SATUCC's Malawi office in 1992, following the arrest of its chairman, Chakufwa Chihana, on charges of sedition. In September 1993, SATUCC received the Government's approval to reopen its Malawi office and it plans to return in early 1994.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining is protected by law, but its use is limited by stark labor market realities. Unskilled laborers outnumber available positions by a ratio of eight to one. By contrast, skilled workers, because of their scarcity, enjoy a relatively high demand for their services and, therefore, higher salaries. The latter have had some success when negotiating employment terms, either on an individual basis or, as was the case with the railroad union, collectively.

Antiunion discrimination by employers is prohibited by statute, but enforcement of the provisions through civil suits does not occur. Most individual labor disputes, usually in the form of a worker claiming unfair dismissal, are initially referred to the Ministry of Labor for resolution. The Ministry typically attempts to encourage a settlement between the parties and does not actually adjudicate the merits of the claim.

Malawi has no export processing zones or free trade zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor was widely practiced during colonial times. Although never formally outlawed, it is not practiced except for prison labor. Sentences which include a component of "hard labor" are routinely handed down upon conviction for criminal offenses. Hard labor has, however, generally meant light gardening or road maintenance and can be waived for medical considerations.

d. *Minimum Age for Employment of Children.*—Malawian law defines persons under the age of 12 to be children and prohibits their employment. Persons between ages 12 and 14 are eligible to do "light" work in a family business. Enforcement by labor inspectors is not effective.

In the large agriculture sector, children help out at a young age both on family farms and on smaller estates, where laborers are given a quota to meet and entire families work towards reaching it. Children are rarely employed in industrial jobs, which are few in number and pay better than does agricultural work.

There is no law mandating compulsory education of children.

e. *Acceptable Conditions of Work.*—Malawi's legislated minimum wage varies by location. Workers in the cities of Blantyre, Lilongwe and Mzuzu receive a minimum of $0.70 (Malawian kwacha 3.00) per day; workers in municipalities and townships are entitled to a minimum wage of $0.63 (mk 2.70) per day; rural workers are entitled to a minimum wage of $0.56 (mk 2.40) per day. As most Malawians earn their livelihood outside the formal wage sector, they are not affected by the prescribed minimums.

Wages are primarily derived from the Government's prescribed minimum wage scales and by comparison to civil service wages. Industrial employees received the highest wages, with most private commercial firms intentionally setting their wages higher than those for similarly experienced government employees. Agricultural workers tend to receive only the Government's prescribed minimum wage, with some additional benefits such as access to basic medical treatment and farm supplies on credit. Minimal Ministry of Labor enforcement of the decreed wage rates, and agricultural labor practices in which harvesting quotas are sometimes met by

entire families rather than by a single worker have reduced some actual agricultural wages below the mandated minimum.

In 1993 high inflation rates and shortages in basic consumer goods made the minimum wage insufficient for the provision of basic needs. In practice, even those workers who received a wage tended to supplement their incomes through farming activities carried out through the extended family network. Effective September 1, legal minimum wages were increased by approximately 13 percent. The estimated rate of inflation in 1993 was approximately 23 percent.

The standard legal workweek in Malawi is 48 hours with 1 day of rest, usually Sunday. Workers obliged to work on Sundays and official holidays must be paid overtime.

Occupational safety standards are set by law. Their enforcement by Ministry of Labor inspectors is erratic, and workers—particularly those in industrial jobs—often work without basic safety clothing and equipment.

MALI

Mali has a constitutional Government headed by President Alpha Konare. After the overthrow of the Moussa Traore regime in March 1991, the country went through a 14-month transition period during which Mali held its first democratic national elections. In a series of six direct elections between January and April 1992, Malians ratified a new Constitution, elected municipal councilors, National Assembly deputies, and, finally, a President. Twenty-one political parties nationwide participated in elections, judged by international observers to be free and fair.

There was a gradual normalization of the security situation following the signing of the National Pact in April 1992, a major truce agreement, which ended the insurgency in the north involving varied Tuareg and Maur groups, ranging from politically motivated persons seeking an autonomous Tuareg state to those engaged in simple banditry. The improved security situation relieved some domestic pressure but allowed other problems to come to the fore. Violent student demonstrations over government efforts to restrict scholarships in April forced the resignation of the first government of the Third Republic. The President, in a bid to develop a consensual approach to the nation's problems, incorporated several former opposition political parties into the second Government, headed by Prime Minister Abdoulaye Sekou Sow.

Mali's military and security forces number some 7,000 and are divided between the Army, Air Force, Gendarmerie, the Republican Guard, and the police. The Army and Air Force are under the control of a civilian Minister of Defense. The Gendarmerie and Republican Guard are also part of the defense structure but are assigned, for operational purposes, along with the police, to the Ministry of Territorial Administration. This was done in an attempt to provide a more concerted and better organized force in the face of rising civil disturbances. With the end of the Tuareg rebellion, there were few reports of abuses by the military and security forces, who remain supportive of the young democracy.

Mali continues to be beset by a myriad of economic problems including a sagging economy, a national debt roughly equal to its gross domestic product, dependence on international donors, inadequate government revenues, demands from a number of vocal special interest groups, and a literacy rate of only 23 percent. Its annual per capita gross national product is approximately $300. Mali's economy is based primarily on subsistence farming and animal husbandry, making it highly dependent on adequate rainfall for its economic well-being. The Government, at the senior levels, continues to be committed to implementing reforms aimed at modernizing the economy through fiscal and regulatory reforms.

The Government respected constitutional provisions on freedom of speech, press, assembly, association, and religion, and, with the signing of the National Pact and the end of the Tuareg rebellion, there were no new extrajudicial killings committed by the security forces. Nevertheless, there were human rights abuses, notably in the Government's inability to process the large backlog of judicial cases in accordance with the law. This has resulted in persons languishing in prison for several years awaiting trial. Social and cultural factors continued to sharply limit economic and educational opportunities for most women.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of targeted political killings and no credible reports of extrajudicial killings on the part of secu-

rity forces. The signing of the National Pact in 1992 with the Tuareg rebels, the formation of mixed patrols, and the integration of 600 former Tuareg rebels into the armed forces in the north brought an end to most organized insurgency in region. However, the Commission of Inquiry that was to have been established to investigate all deaths on both sides of the conflict had not been created by year's end.

b. *Disappearance.*—There have been no incidents of abduction or disappearances attributable to government or opposition forces.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution states that no one will be subjected to torture and cruel, inhuman, degrading, or humiliating treatment. There were no known reports, including in the media, of police or military beating of detainees.

Prison conditions are still characterized by overcrowding, inadequate medical facilities, and limited food supplies. The Government is seeking foreign assistance to help improve the situation, and several associations are working with women and juvenile prisoners to improve their conditions. Juvenile offenders are generally held in the same prison as adult offenders. Women are housed in the same prison as men but live in a separate compound. During past prison riots, male inmates have attacked and raped female inmates.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution has expanded the rights of arrested persons. Arrested persons must be charged or released within 48 hours, and they are entitled to counsel. In practice, detainees are not always charged within the 48-hour period, and administrative backlogs as well as insufficient numbers of lawyers, judges, and courts often cause lengthy delays in bringing people to trial. In extreme cases, individuals can languish several years in prison before coming to trial.

The law does not provide for release on bail, but detainees are sometimes released on their own recognizance. In October the court released on their own recognizance six former government and party officials from the Moussa Traore regime, awaiting trial for economic crimes against the State (see Section 1.e.).

In July 1991, the Government arrested Commandant Lamine Diabira and several other military personnel for plotting to overthrow the then transitional government. At year's end, Diabira had still not been charged with a crime and remained in custody. Meanwhile, the Government has released his accused coconspirators. In response to diplomatic inquiries, the Ministries of Justice and Human Rights insisted that the Government was not technically in violation of the law, although the authorities failed to clarify the legal ground for the continued imprisonment of Diabira without trial.

e. *Denial of Fair Public Trial.*—The Constitution provides for the independence of the judiciary. However, the executive branch has considerable influence on the judicial system: The Ministry of Justice appoints judges and supervises both law enforcement and judicial functions, and the Superior Judicial Council, which supervises judicial activity, is headed by the President. The Supreme Court has both judicial and administrative powers. The Constitution established a separate Constitutional Court and a High Court of Justice with the power to try senior government officials in cases of treason. Except in the case of minors, trials are public, and defendants have the right to be present and to have an attorney of their choice. Defendants are presumed innocent and have the right to appeal decisions to the Supreme Court. Court-appointed attorneys are provided for the indigent.

Following the overthrow of Moussa Traore in 1991, the new government arrested him, his family, and about two dozen members of his government and political party and charged them with various crimes. A court found the former president and three former government officials to be responsible for the deaths of over 100 people during the demonstrations that led to Traore's overthrow and sentenced the four to death in 1993. Although the Supreme Court denied their subsequent appeal, the President could still commute their sentences. These 4 men and 17 others, including the former president's wife, son, and brother-in-law, face additional charges for economic crimes against the State.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Inviolability of the home is provided for in the Constitution and is respected in practice. Police searches are infrequent, and warrants, issued by judges, are required. The security forces maintain physical surveillance of individuals and groups suspected or known to be a threat to internal security, and, with court approval, may maintain technical surveillance as well.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and press. The Government controls the only television station, one radio station, and the only daily newspaper, but these all operate on a semi-independent basis and

are open to a wide range of views, including those critical of the President, the Government, and other politicians. Apart from the government radio chain, there are seven independent stations in Bamako and another six independent regional stations. In spite of only a 23-percent literacy rate, there are nearly 50 independent newspapers and journals. Political meetings take place openly and without interference.

The National Assembly passed new laws regulating the press. These laws provide substantial penalties, including imprisonment, for slander and for public injury to the Head of State and other officials, including foreign diplomats. Such injury is not defined in the law and therefore is subject to judicial interpretation. In a case currently under way, the President of the Supreme Court is suing the publisher of two weekly newspapers for slanderous comments.

Following complaints from journalists' organizations, the Government asked the National Assembly to review all press laws, particularly those on the composition of the proposed National Press Council that will be responsible for enforcing press regulations. No results were available at year's end.

Academic freedom is respected.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution protects the right of assembly and association. Permits must be obtained for mass demonstrations, and these are routinely granted. However, in Bamako in April, students did not obtain a permit, and their demonstrations protesting reductions in scholarships turned violent, leading to destruction of property.

There are dozens of political parties and hundreds of professional and special interest associations. The Constitution forbids the formation of political parties based on religion, region, or ethnicity, and political parties must have their charters approved by the Ministry of Territorial Administration. Following the former President's overthrow, the transitional government banned the party of Moussa Traore, the Democratic Union of the Malian People (UDPM). The UDPM applied in 1993 for recognition, but the Government denied the application on a technicality. This action engendered much public debate and criticism, and the UDPM planned to appeal the Government's decision.

c. *Freedom of Religion.*—Mali is a secular state. The Government does not discriminate on religious grounds. Although 90–95 percent of the population are Muslim, members of other religions freely practice their faiths and are permitted to establish houses of worship and schools. Christian missionaries of various denominations, including foreign missionaries, operate freely. Proselytizing and conversion are permitted. The Government prohibits publications in which one religious group defames another; the Minister of Territorial Administration determines whether a publication is defamatory.

In October the Ministry of Territorial Administration canceled the visa of a Protestant German evangelist who had been planning to hold a number of revival meetings in Bamako later that month. The official reason for the cancellation was fear of civil unrest as the evangelist's visit to Nigeria in 1991 had led to large-scale riots. However, it was widely assumed that the Government canceled the visa as a result of pressure from local Islamic organizations and associations. The press was critical of the Government's decision, calling it a violation of the Constitution.

Administrative orders promulgated in 1977 prohibiting members of the Baha'i faith from meeting in groups of more than three people are not enforced, and Baha'i practice their faith without interference.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Freedom of movement is generally unrestricted although police checks occur in which Malians and foreigners are stopped, particularly at night. These checks are ostensibly used to restrict the movement of contraband goods and to verify vehicle registrations, but some police and gendarmes use the occasion to extort bribes. An exit visa is no longer needed.

In recent years, Mali has both accepted and generated displaced persons. Approximately 13,000 Mauritanian Peuhl refugees, who fled strife in their country in 1990, settled in Mali. For the most part, they have been absorbed into the local economy.

The fighting in the north between government troops and Tuareg rebels generated an estimated 100,000 Tuareg and Maur refugees, most of whom fled to Mauritania, Algeria, and Burkina Faso. With the improved security situation in the three northern regions, the flow of Malian refugees declined, and the Government, together with its neighbors and the United Nations High Commissioner for Refugees (UNHCR), planned to repatriate Malians refugees in those countries. However, at year's end, only a few families had returned.

Initial reports of an incident on December 12 indicate that an army patrol killed three Tuareg refugees returning from Mauritania. The patrol contends that the three were bandits killed in a fire fight as the patrol attempted to apprehend them

following an earlier attack on a transport convoy. The Office of the Chief of Staff of the Armed Forces and senior representatives of the rebel movement formed a joint commission to investigate the incident but had not released a report by the end of the year.

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

In 1992 Malians for the first time exercised their right to change their government through peaceful means, electing a new President and a new multiparty National Assembly.

The Third Republic is a multiparty democracy, based on the Constitution drawn up at the August 1991 National Conference and ratified in the January 1992 referendum. Under the Constitution, the President is Chief of State and Commander in Chief of the Armed Forces and is elected for a term of 5 years with a limit of two terms. The President appoints a Prime Minister, who is Head of Government. The National Assembly consists of 116 members, and representation is apportioned according to the population of administrative districts. Election is both direct and by party list. The Constitution provides for a separation of executive, legislative, and judicial powers and for control of the military by the President.

Twenty-one political parties nationwide participated in the municipal, legislative, and presidential elections held between February and April 1992. The parties campaigned freely and had broad access to the state-owned media. Citizen participation in the elections was low but was fairly evenly distributed across most regions, ethnic groups, and between men and women. Balloting was secret.

Although there were complaints about some irregularities, all parties accepted the outcome. President Alpha Oumar Konare won 60 percent of the vote in the second round of presidential balloting. Konare's party, the Association for Democracy in Mali, also won the majority of seats in the National Assembly in which 10 other parties are represented. The National Assembly is still a young institution. Most legislation originates in the Government and its ministries and is approved by the Assembly, but debate on key issues is vigorous.

Women are poorly represented in the political process. There are 2 female deputies in the 116-member National Assembly and 1 female minister in the Cabinet. A second woman, the Secretary for the Promotion of Women, holds ministerial rank.

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

There are two independent human rights organizations: The Malian Association for Human Rights (AMDH), and the smaller Malian League of Human Rights. Neither organization has been active in highlighting human rights abuses since the installation of democracy in Mali.

In April the Government established a Ministry of Human Rights separate from the Ministry of Justice, but by year's end the Human Rights Ministry had been folded into the Ministry of Justice.

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

Women.—The Constitution affirms that there shall be no discrimination based on sex, but social and cultural factors give men a dominant role. While there are a number of women in the professions and government, economic and educational opportunities for women remain limited. Women often live under harsh conditions, especially in the rural areas, where they perform much of the hard farm labor and most of the child-rearing.

A 1991 United Nations report indicated that females receive only 29 percent of the schooling of males (in terms of average number of years of schooling). Only 20 percent of children have access to basic education. The Government, with help from international donors and private voluntary organizations, is working to persuade the public of the need for increased female education, but limited financial resources, social and cultural factors, and the harsh demands of daily life keep females from participating to the same extent as their male counterparts.

Despite legislation passed giving women equal rights regarding property, traditional practice and ignorance of the law prevent women from taking advantage of this reform. There are some active women's groups that promote the rights of women and children.

Violence against women, including wife beating, is accepted and pervasive. The society generally does not tolerate spousal abuse that results in physical injury and deals with the problem informally at the village or family level. Legal action for redress of injury in such cases is not normally available, although severe physical injury is grounds for divorce.

Children.—There is no constitutional or legal provision to protect the interests and rights of children, but the Constitution provides for basic human rights for all persons. The Malian Social Services Department investigates and intervenes in cases of reported child abuse or neglect. The Government's resources are insufficient to meet the basic health care and education needs of Malian children.

Female genital mutilation (circumcision) is widely condemned by international health experts as damaging to both physical and psychological health. It is still common in Mali, especially in rural areas, and is performed at an early age on females. The Government has not proposed legislation prohibiting female circumcision, but it supports educational efforts to eliminate the practice through seminars and conferences. It also provides media access to women's groups and others who are attempting to end female genital mutilation. According to an international expert, 75 percent of the females in Mali have undergone this mutilation.

National/Racial/Ethnic Minorities.—Virtually all ethnic and language groups are represented at all levels of government and society and suffer little discrimination. The nomadic populations, however, are not completely integrated into the economic and political mainstream, and they resent being politically dominated by other more numerous ethnic groups. Economic life in the three northern regions was significantly disrupted during the recent rebellion, but the National Pact, signed in April 1992, makes provisions for the social and economic reintegration of the displaced populations and for a much greater degree of political autonomy. Resource limitations have hindered implementation of the Pact's provisions.

People with Disabilities.—There is no specific legislation protecting the rights of the physically disabled or mentally handicapped, including on accessibility. The physically disabled are not discriminated against in access to employment, education, and other state services. Given the high unemployment rates, however, the physically disabled are often unable to find work.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution and the Labor Code specifically provide for the freedom of workers to form or join unions and protect freedom of association. Only the military, the gendarmerie, and the Republican Guard are excluded from forming unions. Virtually all salaried employees in Mali are organized.

Under the old constitution, labor unions had to belong to one confederation, the National Union of Malian Workers (UNTM). While most unions are still part of the UNTM and while no new confederations have yet formed, some unions have withdrawn from the UNTM, and new unions tend to remain outside the UNTM. Workers have established independent unions for teachers, magistrates, and health workers. The UNTM, for its part, was a leading force in the overthrow of the previous regime and has maintained its autonomy from the current Government.

The Constitution provides for the right to strike, and although there are some limiting conditions, these are not especially restrictive. There were several strikes, notably among civil servants in the education and health sectors, over salary issues and working conditions. They were legal and did not involve violence. The strike actions were generally resolved by negotiations between the labor unions, management, and the Government. Workers must give 2 weeks' notice of a planned strike and must enter into negotiations with the employer and a third party, usually the Ministry of Labor. Workers receive no pay for the time they are on strike. The Labor Code does prevent retribution against strikers. Most strikes have involved government employees, and there has been no attempt on the part of the Government to retaliate.

Unions in Mali are free to associate with and participate in international bodies.

b. *The Right to Organize and Bargain Collectively.*—True collective bargaining does not take place. Wages and salaries for those workers belonging to the UNTM unions are set by tripartite negotiations between the Ministry of Labor, labor unions, and representatives of the federation of employers of the sector for which the wages are being set. These negotiations usually set the pattern for unions outside the UNTM. The Ministry of Labor acts as a mediator in labor disputes.

Neither the Constitution nor the Labor Code addresses the question of antiunion discrimination, but there have been no reports or complaints of antiunion behavior or activities. If the parties cannot come to agreement, the dispute goes to the Labor Court for decision.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor. However, the Bela are traditional slaves of Maurs and Tuaregs in Northern Mali, and some de facto slavery probably still exists, especially in the extremely remote salt mining communities north of Timbuktu.

d. *Minimum Age for Employment of Children.*—The minimum legal age for employment is 14, but with parents' permission children may be apprenticed at age 12. This regulation is often ignored in practice and has no effect on the vast number of children who work in rural areas, helping with family farms and herds, and in the informal sector, e.g., in street vending. They are not protected by laws against unjust compensation, excessive hours, and capricious discharge. The Labor Inspection Service of the Ministry of Labor is responsible for, and reasonably effective in, enforcement of child labor laws in the modern sector only.

e. *Acceptable Conditions of Work.*—The Labor Code specifies conditions of employment, including hours, wages, and social security. The national minimum wage rate is $70 per month (20,000 CFA francs) effective as of 1991. Workers paid on a daily basis receive a rate of $2.65 (750 CFA francs). Workers must be paid overtime for additional hours. The minimum wage is supplemented by a required package of benefits, including social security and health care benefits. While this total package could provide a minimum standard of living for one person, in practice most wage earners support large extended families and must supplement their income by some subsistence farming or work in the informal sector.

The normal legal workweek is 40 hours, with a requirement for at least one 24-hour rest period.

The Social Security Code provides a broad range of legal protection against hazards in the workplace, and workers' groups have brought pressure on employers to respect parts of the regulations, particularly those affecting personal hygiene. With unemployment high, however, workers are often reluctant to report violations of occupational safety. The Labor Inspection Service of the Ministry of Labor oversees these standards, but enforcement is limited to the modern, formal sector due to the lack of inspectors. Workers have the right to remove themselves from dangerous work situations and request an investigation by the Social Security Department, which is responsible for recommending remedial action, where deemed necessary.

MAURITANIA

President Maaouya Ould Sid'Ahmed Taya has ruled Mauritania since 1984, first as head of a military junta and since 1992 as head of an elected civilian Government. The January 1992 presidential elections, however, were widely regarded by observers as fraudulent. In April 1992, there were elections—boycotted by most opposition parties—for a new civilian Parliament to replace the Military Committee which had previously functioned as the country's legislative body. The 1991 Constitution delegates most powers to the executive; the Parliament, composed of a Senate and a National Assembly, posed no challenge to the executive's dominance. The opposition boycott also gave the President's party, the Democratic and Social Republican Party (PRDS), effective control over Parliament.

The President and the Government have strong military support. Mauritanian security forces number between 19,000 and 20,000 and include the regular armed forces, the National Guard, the Gendarmerie (a specialized corps of paramilitary police), and the police. The Gendarmerie is directed by the Ministry of Defense, while the National Guard and police come under the Ministry of Interior. The security forces continued to engage in human rights violations, but the incidence and severity of violations continued to drop from the massive scale of abuses during 1989–91. The security forces, especially the military, are dominated by the Arabic-speaking (Hassaniya) Maurs.

Most of Mauritania's 2.1 million inhabitants, either nomadic herders, settled farmers, or small merchants and traders, live within a market-oriented subsistence economy. Mauritania is burdened with numerous long-term economic and social problems: drought, desertification, insect infestation, extensive unemployment, one of the highest per capita foreign debts in Africa, minimal infrastructure, inadequate health and education systems, and rapid urbanization. Low rainfall levels over the past years have forced large numbers of nomads to settle, with a consequent weakening of traditional nomadic culture, a severe strain on government resources, and increased ethnic tensions with the sedentary African, non-Hassaniya-speaking farmers in the south (see Section 5).

While the observance of human rights improved, there was only limited progress in resolving major human rights violations of previous years. The political system still fell far short of a genuine democracy; despite numerous parties, the regime's legitimacy remained in question with a large part of the electorate—namely, many African non-Hassaniya-speaking citizens—excluded from effective political representation. Some 56,000 African-Mauritanians, among the approximately 60,000 ex-

pelled in the 1989–90 period, remained in refugee settlements in Senegal. Most were waiting to be repatriated and to be reimbursed for their lost property and belongings. Ethnic tensions remained high because of the Government's failure to bring to account those responsible for the bloody purge conducted by the military among its own ranks from September 1990 through March 1991, in which approximately 500 persons—almost entirely from Mauritania's black African ethnic groups (largely Halpulaar and Soninke)—are believed to have died, and many hundreds more were tortured and maimed. In June the PRDS-dominated Parliament aggravated the situation by passing an amnesty bill to preclude legal pursuit of those involved in this purge.

The Government undertook efforts to restructure the judiciary, including abolishing the Special Security Court, but in practice, the right of fair trial remained restricted, the police continued to mistreat suspects, and slavery remained a problem. Violence against women became an issue for open discussion.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—While it was not clear whether security forces were acting under orders or whether individuals were acting as armed vigilantes, there were a number of unexplained and uninvestigated deaths in the border region of Guidimaka. In that area, there is a high incidence of cattle rustling and vigilantism by both civilians and security forces.

There are credible reports that black Mauritanians, previously expelled to Senegal and associated with radical, antigovernment groups, killed two Mauritanian military officers, both white Maurs, in August along the Senegal River where the majority of the country's non-Arabic-speaking black population lives.

Extrajudicial killings, primarily of African-Mauritanians, from past years remained uninvestigated and unresolved. The principal example of unresolved extrajudicial killing dates from 1990–91 when, while in military custody, approximately 500 largely Halpulaar and Soninke military and civilian personnel died; many of these persons were summarily executed after being tortured. They were part of a large group of as many as 3,000 who were rounded up, detained, and tortured, allegedly for coup-plotting. The results of an internal military investigation into this matter have never been made public, and no one has been charged with or faced trial for the tortures and deaths. In fact, several high-placed military officials who reportedly were involved remain on duty and in some cases were promoted, including Colonel Sid'Ahmed Ould Boilil, Colonel Cheikh Ould Mohamed Salah, Major Mohamed Cheikh Ould El Hadi, and Major Ely Fall.

In June Parliament approved a bill granting amnesty to members of the armed forces and police, as well as to private citizens, involved in those killings and other abuses during the 1990–91 period. The bill was a setback for efforts by human rights groups and others to bring to account those responsible or otherwise resolve these abuses. The Government offered compensation to victims of these abuses and to relatives of those who were killed, but very few of the concerned families accepted the compensation in the absence of an overall settlement.

b. *Disappearance.*—There were no reports of disappearances. In previous years, there were occasional credible reports of black Africans disappearing after being taken into military custody. The Government appears to have made no effort to investigate these past incidents.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits the use of torture and other forms of cruel or inhuman punishment. However, while there was no repetition of the large-scale mistreatment of 1990–91, there continued to be credible evidence of mistreatment by security forces. In particular, police occasionally beat criminal suspects prior to interrogation. Persons who commit such abuses are only occasionally tried and punished. In one instance, police reportedly apprehended a journalist in Nouakchott for not having his identity papers with him; they stripped and beat him and then released him. There was no report of an investigation or punishment of the police involved.

Security forces, claiming retaliation for cross-border raids in the Guidamaka area near the Mali border, reportedly sometimes resort to brutality—usually severe beatings—in questioning people, and on some occasions have themselves stolen goods from the people they were supposed to protect.

Prison conditions are harsh and do not meet minimum sanitary or humanitarian standards. In September an independent journal featured an expose on abysmal conditions at the central prison for men in Nouakchott. The article cited, inter alia, inadequate food and medical treatment for inmates. There was also a report of some inmates being forced to wear manacles continually so as to restrict their movement.

Another independent newspaper reported the arrest of two minors, aged 10 and 12, who were held in an adult prison where they were beaten before being released. The Government permitted visits by the International Committee of the Red Cross (ICRC) to monitor prison conditions.

There were a few reports of policemen being brought to justice for the mistreatment of individuals. In one case, four police officers entered a house under the guise of searching for drug traffickers. After raping and robbing a woman, they were apprehended by other police officers; the perpetrators were tried and sentenced to lengthy prison terms.

d. *Arbitrary Arrest, Detention, or Exile.*—The 1991 Constitution provides for due process and the presumption of innocence until proven guilty by an established tribunal. It further states that no one can be arrested, detained, prosecuted, or punished except as provided for under the law. The Government, with the participation of an association of lawyers, revised the Code of Civil and Criminal Procedures in 1993 to bring it into line with the Constitution and to spell out more clearly safeguards to protect the accused. Nonetheless, actual application of these safeguards remained inconsistent and continued to vary widely from case to case.

By law, the courts are required to review the legality of a person's detention within 48 hours of arrest. However, the police can extend the period for another 48 hours, and a prosecutor has the authority to detain persons for up to 30 days in cases considered to involve national security. Only after the prosecutor submits the charges is the suspect permitted to contact an attorney. It is, moreover, common practice to detain prisoners incommunicado for prolonged periods without charging them with any crime and without judicial review. Sometimes prisoners who have been charged find themselves released before trial without explanation. Such releases usually can be attributed to the prisoner's familial, tribal, or political connections. There is a provision for granting bail, but it is rarely used.

There was a credible report of suspects being held for extended periods without being tried or charged. For example, in Sory Male, a Halpulaar village with a history of abuse and torture by security forces, four persons were arrested in November 1992 for the murder of a Maur storekeeper. At the end of 1993, they remained in pretrial detention.

There continued to be occasional reports of arbitrary arrests and intimidation committed by security forces, particularly in communities along the Senegal river.

e. *Denial of Fair Public Trial.*—While the judiciary is nominally independent, it is controlled and influenced by the executive. The Government appoints judges and subjects the courts to pressure in reaching verdicts. This influence was demonstrated clearly when the Government refused to allow the courts to accept the opposition parties' challenge of the January 1992 presidential elections. Other examples include the court's dismissal, at the Government's direction, of banks' suits to seize collateral on defaulted loans held by influential community members and the rejection of class actions which could embarrass the Government. Furthermore, effective implementation of justice is problematic due in part to poorly educated and trained judges and their susceptibility to tribal or social pressures.

To a significant degree, the judicial system continues to be dominated by rulings, conciliations, and settlements conducted by tribal elders based on Shari'a (Islamic law), tribal regulations, and personal connections.

The revised formal judicial system (see Section 1.d.) includes a system of lower, middle, and upper level courts, each with specified jurisdiction. The Security Court, a chamber reserved for cases involving the Government, was abolished. Bridging the traditional and modern system of justice are 43 department-level tribunals staffed by Qadis or traditional Islamic magistrates trained primarily in Koranic law. Mauritanians aiming to use the courts to seek redress in matters such as marriage, inheritance, succession, noncommercial suits, and land issues in rural areas must address themselves to one of these tribunals, which operate on the basis of both Shari'a and legal codes. The use by Islamic judges of extreme physical punishment, such as amputation, is no longer practiced in Mauritania. The Government is continuing to eliminate a number of unqualified Shari'a judges, and it held two training seminars for judges and members of the security forces to increase their awareness of the basic rights of detainees.

The 10 regional courts or tribunals of first instance handle litigation between companies, civil suits against the Government, traffic accidents and infractions, embezzlement of public funds, banking or insurance matters, money changing violations, and land issues in urban areas.

Challenges to decisions at the department and regional levels are handled by one of three regional Courts of Appeals. A Supreme Court, nominally independent, is headed by a magistrate named to a 5-year term by the President. The Supreme

Court reviews decisions and rulings made by the Courts of Appeal to determine their compliance with the law.

Constitutional review is the purview of a six-member Constitutional Council. Established by the 1991 Constitution, it has three members named by the President, two by the National Assembly President, and one by the Senate President. Submission of laws for review by the Council can be done only by the President, the Senate or National Assembly Presidents, or by one-third of the members of either house. Council findings may not be appealed. At the end of 1993, two laws submitted for review had been declared not in conformity with the Constitution on technical grounds. Both were being reformulated to bring them into compliance.

In theory, all defendants, regardless of the court or their ability to pay, have the legal right to be present with legal counsel during the proceedings. The law also states that defendants may confront witnesses, present evidence, and appeal their sentences. However, in practice these rights are not regularly applied.

The Government's claim that there were no political detainees or prisoners appeared accurate at year's end.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—By law, judicial warrants are required to perform home searches, but this requirement is often ignored. There were fewer reports of government surveillance of suspected dissidents than in the past. The extent to which the Government uses informants is unknown.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The 1991 Constitution provides for freedom of speech and press, but there are important restrictions including prepublication press censorship. With regard to freedom of speech, opposition political leaders spoke openly at large rallies in preparation for the municipal elections expected to take place in early 1994.

The Government controls the electronic media (radio and television) and the country's two daily newspapers, Horizon and Chaab. Radio is the most important medium by far in reaching the public, and all the official media strongly support government policies. All newspapers and political parties must register with the Ministry of Information, and newspapers must submit their copy to the Ministry prior to publication. There were no reports of the Ministry excising material from journals or otherwise censoring their articles, and in contrast to 1992 there were no cases of the authorities seizing issues of newspapers.

Independent, privately owned journals, established following the press law of 1991, numbered approximately 60—most appearing weekly in the capital and other large towns. For the most part, these weeklies reach a limited audience, not only due to financial constraints but also because of the high rate of illiteracy. They were boldly critical of the Government, particularly on its human rights record, and the President himself was often criticized by name. Some of them undertook investigations of human rights violations, unresolved crimes, and government corruption. Antigovernment tracts, newsletters, and petitions circulated widely in Nouakchott and other major cities.

The one university is government operated, but since 1991 limits on academic freedom have eased. There were no cases of professors being prevented from pursuing their research and publication interests or of having their lectures censored.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association. The law governing political parties requires that all groups must register with the Minister of Interior and obtain permission for large meetings or assemblies. There were reports of some permits being denied or conditions placed on some marches or rallies to limit their effectiveness.

Over 16 political parties and a wide array of nongovernmental organizations (NGO's), many of them highly critical of the Government, met openly, issued public statements, and chose their own leadership. Legally required to register with the Government in order to operate, a large number of newly formed NGO's, such as the Association of Human Rights, a women's group on the environment, and a group concerned with the rights of the handicapped, operated unfettered, although they had yet to receive the Government's approval by year's end.

c. *Freedom of Religion.*—Freedom of religion does not exist. Islam is the official religion of Mauritania, and all citizens are, by law, Sunni Muslim and prohibited from converting to another religion. Proselytizing by non-Muslims is prohibited, and Mauritanians are prohibited from entering non-Islamic houses of worship and from possessing sacred texts of other religions.

The small Lebanese Shi'a community is allowed to practice its religion privately. The expatriate Christian community is allowed to hold worship services that are restricted to resident foreigners.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Historically there were few restrictions on movement within Mauritania, where nomadism has long been a way of life. The Government has ended previous strictures on movement along the riverine area imposed by local authorities following the rupture of relations with Senegal in 1989 and the attendant violence. Travelers are regularly stopped and papers checked by the Gendarmerie on the roads between towns and on the outskirts of Nouakchott and other large towns. No cases were reported of persons being denied passports for political reasons.

The approximately 200,000 Mauritanian Maurs expelled by the Government of Senegal in 1989–90 have now been largely absorbed through government and private means. Some of them have settled on land belonging to Africans who were expelled by Mauritania during the 1989–90 crisis, heightening ethnic tensions in the Senegal River Valley. Of the approximately 60,000 African-Mauritanians who were expelled, an estimated 56,000 remain in refugee settlements in Senegal, the others presumably having returned to Mauritania or been absorbed into the Senegalese population. The 1989 crisis also led approximately 13,000 Mauritanian Peuhl to take refuge in Mali. Although the overwhelming majority apparently continue to remain there, some reportedly have returned.

The Government claims that it places no restrictions on the return of those expelled in 1989–90, including the Senegalese previously resident in Mauritania, and some refugees have traveled to Mauritania to visit family or to seek work. In the town of Debaye, 705 of the former 1,000 residents returned. The Government appeared to be encouraging a gradual case-by-case repatriation. In some areas regional and local government officials have encouraged refugees to return and have promised to issue new identity papers, return their land (or land nearby in cases where other settlers now occupy their land), and provide economic assistance to farmers. Authorities have fulfilled their promises of support for some returning refugees but not for others.

The impasse for the 56,000 refugees still in Senegal centers on their demands that the Mauritanian Government repatriate them en masse and acknowledge having expelled its own citizens, issue the refugees identity papers before their return, return their land, animals, and other personal goods, and pay compensation for their losses. Toward the latter part of the year, the Government began meeting with the U.N. High Commissioner for Refugees (UNHCR) to discuss conditions for repatriation. However, the Government has so far failed to set up clear administrative, much less judicial, procedures for expellees wishing to obtain confirmation of their citizenship and associated rights. The Taya Government has always maintained that most persons who fled or were expelled in the wake of the 1989 crisis were, in fact, Senegalese nationals and that their Mauritanian identity documents were fraudulent. However, certification of identity was problematic because security forces had destroyed or confiscated many of the deportees' identity documents during the 1989–90 expulsions.

At year's end, the UNHCR was beginning to arrange for the gradual return to Mali of some of the over 46,000 Tuareg and Maur refugees residing in camps in southeastern Mauritania. These refugees had fled to Mauritania in 1991–92 following conflict between Tuareg factions and government forces in Mali's northern regions.

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

Citizens have not been able to exercise their Constitutional right to change their government through free and fair elections. The 1992 multiparty election of a civilian President ended 14 years of military rule, but the elections were considered by international observers and the opposition to have been marred by fraud. Moreover, the military continued to provide strong support to the regime, and some previous Military Council members, in addition to President Taya, remained in positions of power within the armed forces and elsewhere in the Government. For example, the President of the National Assembly, the lower house of Parliament, was a former army colonel. As the major opposition parties, including the Union of Democratic Forces (UDF), boycotted the 1992 legislative elections, the President's party, the PRDS, has near-total control of the National Assembly, 106 seats out of 132.

The opposition political parties announced that they would participate in the municipal elections scheduled for early 1994. In preparation for these elections, the Government met with leaders of the major opposition parties and updated the voter registration rolls.

Although the PRDS enjoys the advantages of incumbency, it nonetheless faces strong opposition in a number of constituencies, including the capital city, other major towns, and in some southern border areas. The main opposition party, the

UFD, draws its support particularly from the African-Mauritanian community as well as from Maurs opposed to Taya and his group and a significant percentage of the Haratine class. Only a few of the other parties have a wide popular following, though a recently created centrist party will run candidates for municipal office in a number of constituencies.

Women have the right to vote, although few are active in political parties. There were five women in senior government positions: Counselor to the President, the Assistant Director of the President's Cabinet, the Secretary of State for the Condition of Women (raised to Cabinet level in 1993), and the Secretaries General of the Ministries of Commerce and of Justice. There is one elected woman Senator belonging to the ruling party, the PRDS, and one elected town mayor. There is only 1 female senator in a Parliament totaling 132 members.

While there are black Mauritanians in senior positions in the Government, they are underrepresented. Of the 17 Ministers in Prime Minister Sidi Mohamed Ould Boubacar's Cabinet, 3 are black Maurs, 1 is Pulaar, and 1 Soninke. The other ministers are white Maurs.

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

The only officially recognized human rights organization within the country, the Mauritanian League for Human Rights (HRL), was increasingly active on behalf of human rights. The League, through its newspaper and press statements, did not criticize the President or top officials directly, but it openly criticized the amnesty law granting immunity from prosecution for those guilty of violations dating from the 1990–91 period.

The Government continued to withhold recognition from the Mauritanian Human Rights Association (HRA), which applied for a permit in 1991, and two women's rights groups that were active in 1993: the Support Committee, for assistance to the wives and orphans of victims of the 1990–91 military purge; and the Collective of Families Separated by Deportation, which represented the spouses (mainly female) and children of persons who were deported to Senegal during the 1989 crisis. Nevertheless, the Government allowed these associations to function.

The HRA was extremely active in pursuing its agenda, specifically in providing information to the press and in sponsoring seminars. The Government has still not processed the applications for recognition from the HRA and many other institutions, partly out of suspicion toward NGO activities in general and partly to keep potential opposition groups on a short leash.

In July the Government created a post of mediator or "Ombudsman" to assist citizens with problems they may have with government institutions. Requests for assistance must go through Members of Parliament. There have been no reports as yet of the mediator's effectiveness.

Representatives of the Government as well as delegates from the League for Human Rights, the Association of Mauritanians in Senegal, and the Committee of Solidarity with the Victims of Repression in Mauritania all attended a March meeting in Banjul of the International Commission of Jurists, where they openly aired their differences on the human rights situation in Mauritania. During a subsequent visit to Mauritania, members of the International Commission of Jurists met with government officials, human rights monitors, and others to discuss the human rights situation in Mauritania.

However, the Government was selective in its approach to international organizations. It cooperated with the International Labor Organization (ILO) (see Section 6.a.), Amnesty International, and the ICRC (see Section 1.c.). The Government refused to permit a visit by Africa Watch, a U.S.-based human rights group which has published articles highly critical of the Government's human rights record.

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

The 1991 Constitution's first article provides for equality before the law for all citizens, regardless of race, national origin, sex, or social status, and prohibits racially or ethnically based propaganda. In practice, the Government operates under a hierarchy of unwritten rules where constitutional and other legally mandated rights, protections, and benefits are often accorded on the basis of racial or tribal affiliation, social status, and political influence.

Women.—Women have legal rights to property, divorce and child custody and, among the more modern and urbanized population, these rights are observed. In theory, both marriage and divorce can take place without a woman's consent. Polygyny exists as sanctioned by the teachings of Islam; a woman does not have the

right to refuse her husbands's wish to be polygynous. In fact, such practices are increasingly rare.

Women are also subjected to domestic violence, including wife beating. In recognition of this and to mark International Women's Day, the United Nations Development Program sponsored a roundtable on violence against women. A large turnout included government representatives and, for the first time, all types of physical and psychological abuse against women were publicly aired. The police and judiciary occasionally intervene in domestic disputes, but women in traditional society usually do not attempt legal redress, preferring to turn to family and ethnic groups to resolve domestic disputes.

There are no legal restrictions on education for women, although the number of women attending university remained low. The Government has been instrumental in opening up new employment opportunities for women in areas traditionally reserved for men, such as hospital work. By law, men and women must receive equal pay for equal work; and while far from universally applied in practice, the two largest employers, the civil service and the State Mining Company, SNIM, respect this law. In the modern (wage) sector, women also receive generous family benefits, including 3 months of maternity leave. Once they return to work after giving birth, they are allowed 1 hour of leave per day to nurse their child.

Children.—Children's rights are subsumed under the general provisions of law dealing with other civil rights. Government policy concentrates on the desperate economic conditions which a serous threat to children in this young population. Although child labor laws exist, they are not enforced and are seen as irrelevant by some in this tradition-bound society. Children often perform significant labor in support of their families' activities.

Female genital mutilation (circumcision), which has been condemned by international health experts as damaging to both physical and psychological health, is performed at an early age and is still widely practiced. Evidence indicates, however, that the incidence is diminishing in the modern, urbanized sector. Of the country's main population groups—Maurs and Africans—all except the Wolofs in the African group practice genital mutilation. Some groups practice infibulation, the most severe form of mutilation. The Government has not attempted to interfere with these traditional practices, but it permits some government health workers to educate midwives on the health dangers of the practice and of the fact that Islam does not require it.

National/Racial/Ethnic Minorities.—Mauritania is situated geographically and culturally on the divide between traditionally nomadic Arabic-speaking (Hassaniya) Maurs of the north and sedentary black African cultivators and herders who historically lived along the Senegal river in the south. Though culturally homogeneous, the Maurs are divided among numerous tribal groups and are racially distinguished as white (Beydane) or black (Haratine, literally "one who has been freed"). The southern black Africans represent three main ethnic groups—the Halpulaar, the Wolof, and the Soninke. The interaction of these groups produces complex cultural diversity as well as ethnic tensions.

During the colonial period, the French administered what is now Mauritania as part of French West Africa through reliance on the more settled black Africans who dominated the economy and civil service. This situation dramatically shifted following the partition of West Africa and the creation of an independent Mauritania. Northern Maurs dominated the newly established government and modern economic sectors centered in the capital of Nouakchott and initially coexisted with, but had little interaction with, the traditional nonmarket economies in the far reaches of the country.

Also, 20 years of severe drought, desertification, and urbanization have ended the centuries-old nomadic way of life. Maurs have pressed further south into the more fertile river area, exacerbating tensions between farmers and herders, and between ethnic groups. The tensions surfaced dramatically in the mass expulsions of African-Mauritanians in 1989–90. Black Africans charge that the Government's 1983 land reform law is being misused to allow Maurs to encroach on fertile land in the Senegal river valley that traditionally has been the preserve of black Africans.

The tensions have also been exacerbated by successive government regimes—both civil and military—vigorously pursuing a policy of "Arabization" of the schools and the work force, which has the effect of serious discrimination against non-Hassaniya-speaking African-Mauritanians. Consequently, white Maurs now hold the majority of top positions in Government, state enterprises, business, and religious institutions. African-Mauritanians and black Maurs are likewise underrepresented in the senior ranks of other key institutions, such as the military and security forces. Many Africans and human rights groups contend that this situation is a result of ethnic and linguistic discrimination.

Taken together, the black Maurs and Africans outnumber the white Maurs by a considerable majority. No precise figures are available, as the Government has not released the results of the last census taken in 1988. This racial majority, however, is by no means cohesive as there is little cultural identity or political cohesion between the Haratines, who identify with the Arab/Berber tribal culture of the north, and the southern African ethnic groups.

Although relations between ethnic groups have improved since the explosion of ethnic violence in April 1989, tension and bitterness persist. The Government's subsequent extrajudicial expulsions and reprisals by the security forces were clearly based on ethnicity. There are reports that the Government has begun to rehire some African-Mauritanians summarily dismissed from their jobs during the 1989 crisis.

People with Disabilities.—The Government has no legislation or regulations providing preference in employment or education for disabled persons, and has been able to afford only limited facilities easing access for the disabled. There is no legislation mandating accessibility.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for freedom of association and the right of citizens to join any political or labor organization. All workers except members of the military and police are free to associate in and establish unions at the local and national levels. However, many restrictive military decrees are still nominally in effect which circumscribe these and other constitutional rights. In 1993 the Goverment cooperated with the International Labor Organization (ILO) in preparing a revision of its current Labor Code to bring it into closer conformity with international standards. The revised code is expected to be completed and passed into law in 1994.

Prior to 1993, the government-controlled labor central, the Union of Mauritanian Workers (UTM), consisting of 36 unions, was the only labor confederation allowed by law. It remains the major worker confederation and is still close to the Government and the PRDS. A 1993 amendment to the Labor Code repealed provisions restricting trade union pluralism, and new confederations have developed to rival the UTM. In particular, the General Confederation of Mauritanian Workers (CGTM) is competing actively with the UTM, which is still viewed by many workers as a tool of the Government. The CGTM, though not formally aligned with a political party, favors the Union of Democratic Forces, the major opposition political party. Another group of workers organized the Confederation of the Free Syndicates of Mauritania (CSLM) which declared itself free from politics, with its only concern being worker rights. Although they were permitted to function, neither of the two newly organized confederations had received recognition from the Government by year's end. The CGTM made a formal protest charging that its affiliates were being harassed by local government leaders.

The UTM participates in regional labor organizations, but international trade union activity is minimal.

Most workers are engaged in subsistence agriculture (informal sector) and animal husbandry and only a small number, 20 percent, are employed in the wage sector. However, close to 90 percent of industrial and commercial workers in Mauritania are members of unions. Some trade union leaders expressed concern that, given the small size of the formal sector in the economy, the increased competition among unions for members could fragment and weaken labor's bargaining strength.

Although Mauritanian law grants workers the right to strike, strikes rarely occur because of government pressure. The law also stipulates that tripartite arbitration committees composed of union, business, and government representatives may impose binding arbitration that automatically terminates any strike. In practice, strikes are rare and appear to consist of brief, wildcat strikes by small groups of workers. In December the independent press reported a several-hour work stoppage in Nouakchott by bus drivers protesting the hiring of foreigners by the government-owned bus company.

The ILO continues to criticize the Government for violation of worker rights, noting in particular charges of forced labor. In July the United States Trade Representative announced that Mauritania's eligibility for United States Government Generalized System of Preferences (GSP) benefits had been revoked for failure to respect freedom of association and to take steps to eliminate forced labor, including slavery.

b. *The Right to Organize and Bargain Collectively.*—By law, unions are free to organize workers without government or employer interference. Genuine collective bargaining does not exist, however, because of the Government's heavy-handed role in shaping labor relations. Wages and other benefits are decided informally among individual unions (all controlled by the UTM until 1993), employers, and the Government.

There are laws providing workers protection against antiunion discrimination. Technically, employees or employers may bring labor disputes to three-person labor courts that are overseen jointly by the Ministries of Justice and Labor, but human rights groups charge that labor courts are controlled by the Government's race-based political program.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Although slavery has been officially abolished several times—most recently in 1980—the legacy of slavery remains pervasive, particularly in its economic and psychological manifestations. Tens of thousands of persons whose ancestors were slaves still occupy positions of servitude and near servitude. Many of these are freed slaves (Haratine) who, because of economic necessity, have either stayed with, or returned to, their former masters. The most common situation involves Haratine who live independently but continue, from a sense of fear and duty, to perform unpaid labor for their former masters.

Anedoctal accounts indicate that there still may be individuals forcibly held against their will in urban areas as well as in isolated communities. Their numbers are difficult to quantify, although credible reports indicate that there are from 30,000 to 90,000 people living in slavery. In the freer political arena of 1993, a movement, entitled, El Hor (literally "the free man") developed an agenda to eradicate the vestiges of slavery and the associated mentality among former slaves. According to the independent press, the Government recently intervened to return to her family a young girl who had been kidnaped and held in bondage as an unpaid herder.

d. *Minimum Age for Employment of Children.*—Education is not compulsory, and only a small percentage of children regularly attend government schools. The law specifies that no child may be employed under the age of 13 in the agricultural sector without the permission of the Minister of Labor, nor under the age of 15 in the nonagricultural sector. The law provides that employed children aged 14 to 16 should receive 70 percent of the minimum wage, and those from 17 to 18 should receive 90 percent of the minimum wage. In practice, the Labor Ministry's few inspectors provide only limited enforcement of child labor laws.

Young children in the countryside commonly pursue herding, cultivation, fishing, and other significant labor in support of their families' activities. In keeping with longstanding tradition, many children serve apprenticeships in small industries and in the informal sector. In Nouakchott and other large towns, youths in their early teens typically work as mechanics, blacksmiths, furniture makers, plumbers, and electricians. They can also be found in shops, gas stations, and laundry establishments, in private homes as domestics, and on the streets as petty vendors. The phenomenon of young workers is likely to increase, as urbanization proceeds apace.

e. *Acceptable Conditions of Work.*—The guaranteed minimum wage for adults was raised following a devaluation of the national currency in October 1992. It still barely enables the average family to meet its minimum needs. The minimum wage is currently set by decree at $67 (ougiya 8,300) per month or approximately $700 per year; per capita gross domestic product is $520.

The standard, legal, nonagricultural workweek cannot exceed either 40 hours or 6 days without overtime compensation, which is paid at rates that are graduated according to the number of supplemental hours worked.

Enforcement of the labor laws is the responsibility of the Labor Inspectorate of the Ministry of Labor, but in practice the Directorate is limited by the shortage of qualified personnel. Likewise, although the Government sets health and safety standards, which are theoretically enforced by the Ministry of Labor, enforcement of these standards is inconsistent.

MAURITIUS

Mauritius is a parliamentary democracy governed by a Prime Minister, a Council of Ministers, and a National Assembly. Mauritius declared itself a Republic on March 12, 1993. The Head of State is the President, who is nominated by the Prime Minister and confirmed by the Assembly, and whose powers are largely ceremonial. Fair and orderly national and local elections, supervised by an independent commission, take place at regular intervals. There are four major political parties and several smaller parties. Prime Minister Anerood Jugnauth's current coalition received a broad mandate in general elections in September 1991.

A paramilitary Special Mobile Force of some 1,200 men and a 240-man Special Support Unit are responsible for internal security. These forces, under the command of the Commissioner of Police, are backed by a general duty police force numbering

over 6,000. They are largely apolitical and generally well trained, but police abuse of suspects apparently increased during the year.

The economy is based on export-oriented manufacturing (mainly textiles), sugar, and tourism. The rapid economic growth of the mid-1980's has slowed as a result of labor shortages and the global economic slowdown. The Government, with the help of international donors, is attempting to diversify the industrial base to favor high-technology, capital-intensive production, and new sectors, such as financial services.

Political and civil rights are protected under the Constitution and respected in practice. The work of the Garrioch Committee, established by the Prime Minister in 1990 to conduct an independent review of several controversial laws, led to significant reforms. These included expansion of the freedom of assembly and abolition of the repressive Public Order Act, which permitted detention without charge or trial. The Government continued to delay the release of the Garrioch Committee's recommendations on amendments to the Industrial Relations Act, which effectively disallows the right to strike. The Government determines wages and benefits; collective bargaining is not practiced. Societal discrimination and violence against women continued.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture and inhuman punishment are prohibited by law and generally are not practiced. However, there were increased press allegations, confirmed by attorneys handling civil rights cases, of police mistreatment of suspects. The abuse ranged from use of excessive force during arrests to beatings of suspects in custody. In September, in a well-publicized case, two police officers were charged with having caused the death of a person in their custody. Some victims of police mistreatment have sued and been financially compensated for their personal injuries. No police officers accused of abuse were brought to trial in 1993.

d. *Arbitrary Arrest, Detention, or Exile.*—Under the Constitution, detained persons have the right to a judicial determination of the legality of their detention. Although the time limit for making this determination is not specified in law, in practice it is usually made within 24 hours. Bail is commonly granted. The Public Gathering Act, which replaced the Public Order Act on the basis of recommendations from the Garrioch Committee, no longer allows for indefinite detention without charge or trial.

Exile is legally prohibited and not practiced.

e. *Denial of Fair Public Trial.*—Mauritius' judicial system, modeled on that of Great Britain, consists of the Supreme Court, which has appellate powers, and a series of lower courts. Final appeal may be made to the Judicial Committee in the United Kingdom, and this is routine in the cases of death sentences. There are no political or military courts.

The President, in consultation with the Prime Minister, nominates the Chief Justice and, in consultation with the latter, nominates the senior puisne (associate) judges. The President nominates other judges on the advice of the Judicial and Legal Service Commissions. The legal system has consistently provided fair, public trials for those charged with crimes. Defendants have the right to private or court-appointed counsel. The judiciary is also charged under the Constitution with ensuring that new laws are consistent with democratic practice.

While a number of recent legal decisions went against the Government, the most significant being the Supreme Court's rejection of an attempt by the Prime Minister to strip the leader of the opposition of his seat in the National Assembly, legal specialists and opposition politicians have warned against undue influence by the executive over the judiciary. These concerns were highlighted by the resignation in August of a Supreme Court justice. The justice resigned after his stay of deportation of a woman who was 8 months pregnant was overruled on the direct order of the Prime Minister.

There were no political prisoners in Mauritius in 1993.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The sanctity of the home is guaranteed by law and generally respected in practice, but credible reports hold that the Government's intelligence apparatus occasionally opens mail and carries out surveillance of local opposition leaders and other major figures. In September 1992, after a staff member of the Mauritius Broadcasting Cor-

poration (MBC) alleged that a letter addressed to him had been opened, the Supreme Court ruled that the MBC and other government organizations could not open the personal mail of their employees. The search of personal property or premises is allowed only under clearly specified conditions by court order or by police decision if an illegal act has been committed.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and press is protected by the Constitution and local tradition and is largely respected in practice. Debate in the National Assembly is lively and open. While there are occasional complaints of government influence in editorial policies, over a dozen privately owned daily, weekly, and monthly newspapers present varying political viewpoints and freely express partisan views. However, newspapers are subject to the constraints of strict libel laws, which, under the 1984 Newspaper and Periodicals (Amendment) Act, inhibit the ability of the press to criticize the Government. In 1991 two journalists were charged with giving out false information concerning a sea captain accused of fishing in Mauritian waters. The charges against the journalists were dropped in February 1992, but in March of the same year an appeal was filed by the Director of Public Prosecutions. This appeal was still pending at the end of 1993.

The Government owns the 2 television and 3 radio stations, which broadcast in 12 languages and dialects. Television and radio, which in the past tended to reflect government editorial and programming policies, have developed more independent, professional news reporting. Opposition politicians are given more air time than previously and new current events programs featuring interviews with politicians from across the political spectrum have been well received.

b. *Freedom of Peaceful Assembly and Association.*—Mauritians enjoy the right to form associations, including political parties, trade unions, and religious organizations, although in practice all such organizations need government approval in order to operate officially. Mauritius has a multitude of such private organizations.

Political, cultural, and religious assemblies are commonplace. Under the 1991 Public Gathering Act, police permission is required for holding demonstrations and mass meetings. Such permission is rarely refused. Although groups have sucessfully challenged police denials of permits, in 1993 no appeals were made. Groups complained that the time involved in the appeals process often makes the final outcome moot.

c. *Freedom of Religion.*—There is no state religion. Hindus are a majority, but Christians, Muslims, Buddhists, and others openly practice, teach, and proselytize. All religious institutions receive state subsidies in proportion to their memberships. There is no state-sponsored discrimination against any ethnic or religious community. The Government facilitates the travel of Mauritians who make the hajj. Foreign missionaries are not allowed to enter the country without a prior request from a local religious organization. Missionaries have faced the same difficulties as other foreigners in obtaining residence permits.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no restrictions on freedom of movement within the country. Foreign travel and emigration are also unrestricted. However, there is no blanket guarantee of repatriation, and there are no general criteria for processing repatriation applications. Applications from Mauritians abroad who lost their citizenship after acquiring a second nationality (estimated to be several thousand) are handled on a case-by-case and sometimes arbitrary basis. This remains an issue of political debate as more Mauritians abroad seek to reclaim their Mauritian citizenship.

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

Citizens have the right and ability to change their government through democratic means. Mauritius is governed by a freely elected, unicameral National Assembly, with executive direction coming from the Council of Ministers, currently headed by Prime Minister Sir Anerood Jugnauth, whose Alliance coalitions won elections in 1983, 1987, and 1991. The President, in accordance with the advice of the Prime Minister, has the right to designate the person charged with forming a new government following parliamentary elections or in a parliamentary crisis. Parliamentary, municipal, and village council elections are held at regular intervals. All citizens 18 years of age and over have the right to vote and run for office.

In the National Assembly, up to eight members are appointed through a complex "best loser" system designed in part to ensure that all ethnic groups are adequately represented. The governing (three-party) Alliance coalition controls 49 of the 66 seats. The political parties often match the ethnicity or religion of their candidates to the composition of particular electoral constituencies.

Only 2 of Mauritius' 66 members of Parliament and 1 of its 25 ministers are women. There are no legal impediments to women assuming leadership roles. The Government is not actively trying to address this imbalance.

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

Local human rights groups monitor developments without governmental restriction. There have been no known requests by international organizations to investigate human rights violations in Mauritius.

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

Women.—Traditionally, women have occupied a subordinate role in society, but the Government has tried to promote equality by eliminating various legal restrictions, e.g., in laws dealing with emigration and inheritance and, in 1990, by removing a legal bar to women serving on juries. Also, in 1989 the Government appointed "Equal Employment Opportunity Officers" in the major ministries to ensure the promotion of women's interests. However, the lack of a body of law mandating equal treatment for women limits these officers' effectiveness. Despite the growing number of women in the work force, there is no legislation requiring equal pay for equal work, nor are there any specific provisions against sexual harassment in the workplace. Additionally, women still cannot transmit citizenship to their foreign-born children, and foreign husbands of Mauritian women cannot automatically obtain residence and work permits (as can foreign wives of Mauritian men).

According to the Ministry of Women's Rights and Family Welfare, physicians, attorneys, and religious and charitable organizations, violence against women is widespread. There are no special provisions in Mauritian law concerning family violence. Police are generally reluctant to become involved in cases of wife beating. The Government in 1989 established a family counseling service, managed by the National Council of Women, one of whose principal tasks is to provide counseling and legal advice in cases of spousal abuse. S.O.S. Women, a nongovernmental organization which provides assistance to abused women and works to sensitize the Mauritian population on women's rights issues, estimates that it is contacted by more than 150 abused women each month. Rape and Incest Aid, a Mauritian nongovernmental organization, has made progress in sensitizing Mauritians to these issues. Victims are frequently informally referred to this group by the Mauritian police.

Children.—The Government's programs in the area of children's rights and welfare are limited. Most are handled by the National Children's Council, a parastatal organization attached to the Ministry of Women's Rights. Most of the Government's resources in this area are concentrated on family counseling and sensitization on child abuse.

National/Racial/Ethnic Minorities.—Although Mauritius has a Hindu majority, the country's active press and strongly egalitarian traditions mitigate against discrimination in all forms. Discrimination on the basis of race, ethnicity, or caste is also prohibited by law. Nonetheless, underlying social tensions based on ethnicity and caste continued in 1993.

People with Disabilities.—Mauritian law requires organizations that employ more than 10 persons to set aside at least 3% of their positions for people with disabilities. The law does not, however, mandate that worksites be accessible to the disabled. Several nongovernmental organizations have expressed concern about this lack of accessibility, which makes it impossible for people with disabilities to fill many jobs.

Section 6. Worker Rights

a. *The Right of Association.*—Mauritius has an active trade union movement. Almost 300 unions represent about 110,000 workers, just under 30 percent of the work force. Of these, 110 have less than 50 members. Workers are theoretically free to form and join unions and to organize in all sectors, including in the export processing zone (EPZ) which employs about 90,000 workers. However, in practice there are a variety of constraints under the 1973 Industrial Relations Act (IRA), such as the need to obtain government approval to register new unions. In addition, five unions in the EPZ were deregistered in 1993 because they became inactive, or because their membership dropped below seven. Less than 10 percent of EPZ workers are believed to be unionized. Unions can and do press wage demands, establish ties to domestic political parties and international organizations, and address political issues.

In theory unions have the right to strike. However, in labor disputes the IRA requires a prestrike 21-day cooling-off period followed by binding arbitration, which has the effect of making most strikes illegal. Participation in a strike not approved by a court is sufficient grounds for dismissal.

b. *The Right to Organize and Bargain Collectively.*—While the right of association is guaranteed by law, excessive government intervention has distorted the collective bargaining process. The IRA's provisions for establishing wages bear little resemblance to the traditional collective bargaining process, and the Government's restraints on that process render it ineffective.

A National Remuneration Board (NRB), whose chairman is appointed by the Minister of Labor, sets minimum wages by sector but also establish a wage structure based on length of service and job classification. The NRB thus sets wages for skilled and experienced workers whose earnings are well above the minimum wage. Wages and benefits for civil servants are established by the Pay Research Bureau (PRB) which prepares a wage scale for the civil service on the basis of the Sedgwick/Chesworth Report recommendations. After a 6-year hiatus, this report was published in May. While it gave wage increases which averaged 17 percent, labor groups criticized it for its inflexibility and opaqueness.

In 1993 the salary increases granted in the PRB also served as cost-of-living adjustments, which previously had been determined in tripartite negotiations. Ordinarily, the government-established tripartite committee, chaired by the Minister of Finance and including employer and trade union representatives, meets once a year. Its recommendations are not always unanimous, however, and the Government makes the final decision.

The International Labor Organization (ILO) noted again in 1991 that the IRA does not give workers' organizations sufficient protection against acts of interference as provided for by ILO Convention 98 on the right to organize and bargain collectively. The Garrioch Committee submitted its review of the IRA to the Government in May 1992. Despite government pledges to release the Committee's report and introduce amendments to the IRA by July 1993, at the end of the year neither had been done.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited by law and not practiced. However, under the IRA the Minister of Labor can refer industrial disputes to compulsory arbitration, enforceable by penalties involving compulsory labor provisions. The ILO continues to criticize this as being in conflict with ILO Convention 105 on forced labor. There were no such cases in 1993.

d. *Minimum Age for Employment of Children.*—The minimum work age for employment of children is 15. The Ministry of Labor is responsible for enforcing child labor laws, but enforcement is minimal. While there are cases of children under the age of 15 working illegally in the EPZ, the large, established EPZ factories do not hire children under 15. In fact, it is unusual to see employees much younger than 18.

e. *Acceptable Conditions of Work.*—The NRB establishes minimum wages for 26 categories of private sector workers (sugar, tea, transport, etc.) which apply equally to workers in the EPZ. Although originally established to set minimum wages for nonunion workers, the NRB has broadened its powers and issues remuneration orders that establish minimum wages, bonuses, housing, and transportation allowances, and other benefits for almost all private sector workers. About 85 percent of all private sector workers (including unionized workers) are covered by NRB orders. Employers and unions are free to negotiate wages and benefits above the minimums established by the NRB, but this is rare.

Minimum wages are differ along employment sector and gender lines. Women are paid less in the agricultural sector on the stated assumption that their productivity is lower in this labor-intensive work. In the EPZ, the minimum wage is equal for men and women. The statutory minimum wage for an unskilled worker in the EPZ is $45 (approximately 800 Rupees) a month. The minimum wage for non-EPZ workers is about $54 (about 1000 Rupees) a month. However, given Mauritius' present labor shortage, the market rate is much higher, and most jobs include various benefits. The overall compensation package generally is sufficient to afford an acceptable standard of living. The Government mandates minimum wage increases each year based on inflation.

The standard workweek in the industrial sector is 45 hours, but excessive overtime continues to be a problem in the EPZ. An employee may be required by an employer to perform up to 10 hours per week of mandatory overtime (at a higher hourly wage). With the employee's consent, he or she may work up to 20 hours of overtime per week (i.e., 65 hours).

The Government sets health and safety standards, and working conditions are inspected by Ministry of Labor officials. While the total number of industrial accidents has declined in recent years, the number of fatal accidents has risen. Enforcement is minimal and ineffective due to the small number of inspectors.

MOZAMBIQUE

In 1993 Mozambique continued to be governed by President Joaquim Chissano and the Ruling National Front for the Liberation of Mozambique (FRELIMO). The multiparty elections called for in the 1990 Constitution, and initially set for 1 year from the October 4, 1992 signing in Rome of the General Peace Accord of Mozambique, marking the end of the civil war, were delayed until October 1994. The Rome Accord addressed political party registration, organization of the electoral system, the size of the military, political amnesty, and oversight of the state intelligence service. Approximately 16 unarmed political parties were active in 1993, 11 of which met the registration criteria set by the Government. FRELIMO and the Mozambican National Union (UNAMO) were registered by the end of 1992. The former insurgents, the Mozambican National Resistance (RENAMO), had acquired political party status as a result of the peace accord.

The presence of a United Nations peacekeeping force (ONUMOZ) of approximately 7,000 was fully operational by June and undertook responsibility for helping the people of Mozambique to achieve peace and democracy in their country. Although RENAMO agreed that Mozambique would continue to be governed by the Chissano Government until multiparty elections were held, RENAMO continued to assert the right to control certain areas they claimed to have occupied prior to the signing of the Rome Accord.

Estimates of the size of the government security forces varied from 60,000 to 92,000. These figures included the Armed Forces of Mozambique (FAM), a territorial force, and a people's militia. RENAMO claims a force of 21,000. The State Information and Security Service (SISE) replaced the Mozambican National Security Service (SNASP) in 1991. SISE is to be placed under the supervision of a 21-member monitoring committee made up of representatives of the Government, RENAMO, and independent citizens. In an agreement reached between RENAMO's President Dhlakama and President Chissano in August, ONUMOZ is to have responsibility for overseeing the Mozambican police force. SISE, unlike the former SNASP, does not have the power to arrest and detain suspects, and there were no reported incidents of abuses by SISE in 1993.

Under the terms of the peace agreement, the Government and RENAMO are to merge their armies into a new national force of 30,000 soldiers to be known as the Mozambique Armed Defense Force (FADM). Those soldiers on both sides not chosen for the new force are to be demobilized. RENAMO and the Government began sending soldiers to Nyanga, Zimbabwe, to start FADM training in August. Demobilization of troops on both sides began on December 1 at 20 assembly areas under U.N. supervision, but initially proceeded slowly and unevenly, especially on the RENAMO side. As the month progressed, the rate of demobilization picked up, and additional assembly areas were opened. At year's end, 35 areas were open, and ONUMOZ reported that a total of 7,949 government soldiers (19 percent of those expected at these areas) and 3,764 Renamo soldiers (36 percent of those expected) had checked in.

The Mozambique economy remained heavily dependent on foreign aid. The country continued to move towards a market economy. The gross domestic product declined over 2 percent in 1992, though the International Monetary Fund forecast a 4-percent growth in 1993. The return of rain after the worst drought on record in 1992 and continuing peace meant that many Mozambicans were able to farm their lands again, making them less dependent on food aid. Approximately 80 percent of the population is employed in agriculture, mostly on a small-scale, subsistence level. Major exports are shrimp and cashew nuts.

Blatant human rights abuses in 1993 included the continuing use of access to humanitarian relief as an instrument of political control and RENAMO's continuing efforts to limit freedom of movement into and within zones over which it claimed control. Access to humanitarian relief improved as a result of complaints submitted to the Cease-Fire and Control Commission. Both sides frequently attempted to use control over the distribution of food aid for their own purposes. RENAMO used it as a political weapon for partisan ends, often refusing to cooperate with relief efforts while demanding more assistance. On the government side, corruption and red tape, not political maneuvering, were the most significant obstacles to relief efforts.

Each side accused the other of cease-fire violations and illegal military incursions and takeovers. Both sides submitted their complaints to the Cease-Fire and Control Commission. Laws guaranteeing individual human rights as granted in the Constitution were not implemented. Other major human rights problems included sexual violations of kidnaped women and children in RENANO-controlled areas, harsh prison conditions, incidents of military and police extortion and harassment of civil-

ians, and the inability of citizens to change their government. In some areas, the country's human rights' record improved. Press and other media criticized official corruption and, to a lesser extent, government policies, but there was no direct criticism of the President. Because legislation in 1991 enabled labor unions to register individually, three unions declared their independence, and the FRELIMO-dominated Labor Federation Union sought ways to respond more effectively to worker needs. Although hampered by lack of funding, political parties spoke up freely throughout 1993 on the economic and political situation in the country.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no known or suspected cases of Government forces targeting persons for political killing in 1993. RENAMO was accused by the family of Tiago Salgado of murdering him in July. RENAMO admitted that Salgado, a former RENAMO official, had been accused of being a FRELIMO spy but claimed he had been killed trying to escape detention.

b. *Disappearance.*—There were no reports of government-perpetrated disappearances. However, thousands remained missing due to the conflict, often as a result of kidnapings in areas affected by the war. Although some missing children were identified for family reunification, RENAMO was reluctant to release them and in a few cases reportedly bartered the children's freedom for material goods or money.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution expressly prohibits torture. However, during the prosecution of the war both government and RENAMO forces tortured prisoners and civilians, and there have been occasional allegations of torture since the war. In 1993 there were charges that RENAMO had tortured apparent defector Tiago Salgado before his death (See section 1.b.), as well as a Nampula police sergeant detained in December after an alleged attempt on the life of Afonso Dhlakama. While similar highly publicized allegations were not known to have been directed at the Government in 1993, the suspicion that it too continues to employ torture remains widespread.

Prison conditions throughout the country remain poor. Medical and food supplies are often insufficient, and overcrowding is a serious problem. Machava Prison on the outskirts of Maputo, the largest in Mozambique, holds over twice the number of inmates for which it was built. On July 26, inmates rioted at the Maputo City Jail, demanding that the guards remove the body of a prisoner who had died in his cell. The prisoners complained that the deceased, Moises Eduardo Mapuro, had been sick for 5 days but had received no medical attention. In September inmates at Beira Prison in Sofala Province went on a hunger strike to demand better living conditions and an end to treatment that they felt violated their constitutional rights. Police ended the strike by force, causing injuries among the inmates.

Since 1988 the Government has allowed international human rights groups access to prisons where national security prisoners (mainly RENAMO soldiers and sympathisers) were held. In 1992 the International Committee of the Red Cross (ICRC) was also given access to prisoners held in military prisons. This access continued through 1993.

Reliable evidence accumulated that RENAMO continued to hold women and children, about 5,000 of the latter, against their will. They lived in abysmally poor conditions and were used as porters, personal servants, and guards in RENAMO camps. There were credible reports that kidnaped women were used for sex, as were some of the children.

In 1993 there were no reports of detention of prisoners for national security reasons.

d. *Arbitrary Arrest, Detention, or Exile.*—The law requires that most detainees be charged or released within 30 days. However, persons accused of the most serious crimes, i.e., security offenses or other offenses requiring a sentence of more than 8 years, may be detained for up to 84 days without being formally charged. With court approval, such detainees may be held for 2 additional periods of 84 days while the police complete their investigation. The detainee's constitutional right to counsel and to contact relatives or friends is often not respected.

In some cases, detainees may be released from prison while the investigation proceeds, but the bail system in Mozambique remains ill defined. The law provides that, if the prescribed period for investigation has been completed and no charges have been brought, the detainee must be released. In practice, however, this law is often ignored, in part because of the severe lack of administrative personnel and trained lawyers to monitor the judicial system (see Section 1. e.), and in part because citizens are often unaware of their rights, particularly those granted under the 1990 Constitution, and do not demand them. As a result, throughout 1993 there

continued to be a large backlog of prisoners awaiting trial. Detainees often spend many months, even years, in pretrial status.

The 1990 Constitution's prohibition of exile or the expulsion of any Mozambican citizen was honored in 1993.

e. *Denial of Fair Public Trial.*—Mozambique has two complementary formal justice systems: the civil/criminal, which includes customary courts; and the military justice system. The Ministry of Justice administers the civil/criminal system and shares the administration of the military courts with the Ministry of Defense. At the apex of the system is the Supreme Court, to which appeals, including military cases, may be made. Local customary courts handle matters such as estate and divorce cases. In these courts, proceedings are usually conducted in public by a trained representative of the Ministry of Justice, assisted by two to four popularly elected lay judges.

The entire judicial process suffers severely from a shortage of trained personnel and the Government's inability to reduce a large backlog of cases. The Government, with international assistance, continued to develop a comprehensive plan for improving the professional level and efficiency of the judiciary. However, no actions have been taken to put this plan into effect. As a result, there were no changes in the legal system in 1993; it continued to be weak and inefficient. Although all accused persons are in theory presumed innocent and have the right to legal counsel and the right of appeal, these rights are not always honored. Prisoners who were poor and without formal education could remain in detention awaiting arraignment beyond the 30 days allowed by law, usually without access to legal counsel.

The 1990 Constitution formally established an independent judiciary and provided for the selection of judges by other jurists, replacing the prior system of administratively appointed justices. However, the President still appoints the members of the most important tribunal, the Supreme Court, and the FRELIMO-controlled Assembly appoints "lay judges" to that Court.

Since the establishment of the Supreme Court in 1988 and the abolition of the Revolutionary Military Tribunal, persons accused of crimes against the State are tried in common civilian courts under standard criminal judicial procedures. A judge may order a trial closed because of national security interests or to protect the privacy of the plaintiff in cases concerning rape.

In 1993 the Government claimed that there were no national security prisoners. At the beginning of 1992 it was reported by credible sources that the Government held an estimated 400–550 national security prisoners, most of whom were accused of sympathizing with, or committing crimes on behalf of, RENAMO. The Rome Accord provided for the release of such prisoners, and an amnesty was passed allowing for the release of over 300 prisoners. All credible reports indicate that the Government no longer detained national security prisoners in 1993.

RENAMO continued to administer the areas under its control through a rudimentary form of civil administration. Reports continued that RENAMO relied on traditional courts in these areas, with military commanders sometimes acting as judges. On September 10, RENAMO announced that the authority of the Constitution did not extend to areas under its control, a controversial position at variance with the 1992 peace agreement.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The 1990 Constitution provides for privacy. During the war, police and security forces entered homes at will, but after the signing of the Rome Accord such activity abated. Many persons were forcibly resettled during the war by both RENAMO and the Government. With the end of the war, persons in government-controlled territory have been generally free to return to their homes. Persons under RENAMO's control have not always had the same freedom to return to their homes (see Section 1. b.).

Throughout 1993 there were credible reports that RENAMO was forcing individuals in areas under its control to join it. In Manica Province, RENAMO was accused of confiscating FRELIMO membership cards. A report from Zambezia Province claimed that RENAMO insisted that individuals join it before they could recover their property in RENAMO-controlled areas. RENAMO made similar accusations concerning government political activity, particularly in Nampula Province. While the accusations are credible, coercive activity by government authorities is not systematic.

It is widely assumed that government forces employ surveillance devices to monitor local and international telecommunications systems and that they periodically inspect mail, even though the new Constitution expressly prohibits such surveillance.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—The Rome Accord ended the fighting that had marked the brutal 17-year

civil war, although violations of the cease-fire continued to occur in 1993. Although neither the Government nor RENAMO officially opposed access to humanitarian aid during implementation of the peace process, RENAMO was credibly accused of hindering distribution of humanitarian relief in areas under its control. For example, an international nongovernmental organization (NGO) reported in September that malnutrition and medical shortages existed in some RENAMO-controlled areas in Zambezia Province due to RENAMO reluctance to allow access to relief organizations. The same month another international assistance organization reported difficulties with RENAMO administrators who hindered distribution of agricultural aid kits. There were also numerous cases of unpaid, hungry soldiers extorting food from NGO warehouses, including a late November incident in which armed government soldiers invaded offices and residences of an international NGO in Mutarrara in Tete province and seized food. These incidents do not represent any systematic government policy, however, but rather are an indication of its inability to support and pay its forces.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution, the 1991 press law, and the 1992 Rome Accord provide for freedom of expression and the press, but with restrictions in cases involving national defense considerations. Legally, criticism of the President is not prohibited; in practice, few news reports or editorial commentaries critical of him appear. The 1991 press law holds that in cases of defamation against the President, truth is not a sufficient defense against libel. Through the end of 1993, this law had not been tested in court, but its result was considerable self-censorship.

On balance, freedom of the press continued to improve in 1993. The media, particularly the private newssheet Mediafax, television, and radio, reported objectively on controversial topics, including disagreements between the Government and RENAMO on peace agreement implementation, high-level military corruption, internal unrest in the military, and political opposition viewpoints. Several journalists continued to push the boundaries of press freedom, and the National Organization of Journalists maintained its strong support of an independent media. For example, TV Mozambique aired a story in which the President's late brother was accused of suspect real estate dealings involving land of a psychiatric hospital. However, even without formal prior press censorship, journalists in the state-run media were often implicitly held to unwritten and vague guidelines by their directors (who are appointed by the Government). There is ample evidence that journalists in the state-run media continue to be under strong pressure to avoid any investigative reporting that could expose high-level corruption.

During the 1993 multiparty conference on the electoral law, opposition politicians received almost daily coverage of their statements and views on the proceedings. RENAMO complained that it was consistently mistreated in the government-run media, whose bias was evident in skewed stories and emphasis on the negative. While the import of speeches and attendance at RENAMO rallies was routinely downplayed, for example, RENAMO defections or alleged hindrances to the peace process were blown out of proportion to their true significance. Nonetheless, RENAMO received wide coverage in media organs, and the party began to publish its periodical, Novos Tempos, in Maputo instead of Portugal.

In early 1993, a reporter for radio Mozambique was denied access to RENAMO areas in Manica Province. As a result, the head of Mozambique's National Union of Journalists accused RENAMO of refusing to allow free press coverage in areas under its administration. RENAMO responded that all journalists would need specific authorization to enter areas under its control. In practice, RENAMO territory is not freely accessible to journalists, or any other outsiders, and a few Mozambican journalists, who had given no advance notice of their trips, were turned away at the borders of RENAMO-controlled areas. For most journalists, this has not been an issue because they have been primarily interested in visiting RENAMO headquarters at Maringue, a trip which for purely logistical reasons requires advance preparation. RENAMO was generally cooperative in arranging such visits.

The Higher Council of Social Communications (CSCS), created by the 1991 press law, met for the first time in 1993. Its stated mission is to arbitrate disputes, hear complaints, and set guidelines on media issues. At year's end, it was uncertain what influence the CSCS might have.

Until 1992, almost all media were government owned or government operated. In 1992 Mozambique's first privately owned daily news bulletin, Mediafax, began publication, and in 1993 Mediacoop, Mediafax's parent cooperative, planned to begin publication of a weekly news journal, Savana, but complained that publication was being delayed by government interference and the levy of excessive taxes. These

charges appeared to be well grounded. Also in 1993, Mozambique's first independent television station, Radio Televisao Klint (RTK), began broadcasting in Maputo. Two opposition political parties, the National Convention Party (PCN) and the Social Liberal and Democratic Party (SOL), began publication of periodic newssheets. An independent media cooperative, Coopartes, received funding to begin a new weekly, although publication had not begun by year's end.

In mid-1993, the government-run Noticias group of newspapers announced plans to privatize their operation, although the State directly and through the Bank of Mozambique will continue to have majority control after contracts are awarded.

No formal restrictions on academic freedom exist, but in practice teachers routinely adhere to self-censorship since their employment depends on the State.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association. Legislation enacted in 1991 set up guidelines for registering as a political party and for holding public demonstrations. During 1993 political groups were free to hold congresses and press conferences and to travel in areas under the Government's control. RENAMO, however, limited access to areas under its control and in September announced that it would not permit political parties to campaign in its areas.

Under legislation approved in October 1992, a legally recognized political party must demonstrate that it has no racial, ethnic, or religious exclusiveness and secure at least 2,000 signatures of support. By the end of 1993, 10 parties, including FRELIMO, were registered. In September the registration application of one party, the Federal Party of Mozambique-Democratic Federalist (PAFEMO-DP), was denied by the Ministry of Justice because the use of the term "federalist" in its party name was deemed contradictory to the unitarist definition of the Mozambican State as set forth in the Constitution. Under the Rome Accord, RENAMO received political party status without having to meet registration requirements in advance.

No groups were known to be have been denied permission to hold public marches in 1993.

c. *Freedom of Religion.*—The Constitution mandates strict separation of church and state and provides for the freedom to "practice or not practice a religion." The Government does not require religious organizations or missionaries to register, and foreign missionaries are readily granted visas. The Constitution gives religious institutions the right to own property and to operate schools. Relations between the Government and religious organizations, tense in the early years after independence,began to improve by 1992 and improved further in 1993.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of travel within the country and abroad. The Government no longer requires citizens to obtain permits from local authorities in order to travel within the country.

The civil war and the 1992 drought caused massive internal migrations in search of food, water, and safety. With the end of the civil war and the return of the rains, 3.6 million internally displaced people were free to return home, as were the almost 2 million refugees who had sought safety in neighboring countries. Under the auspices of United Nations High Commissioner for Refugees (UNHCR) and the International Organization of Migration, the displaced and refugee populations began to return. Although numbers were difficult to gauge, it was estimated that by the end of 1993 over 450,000 refugees had returned to Mozambique. Involuntary repatriation from South Africa continued well into 1993. An agreement between the UNHCR and South Africa was concluded in September to allow UNHCR access to Mozambicans who had fled into South Africa. In October South Africa, Mozambique, and the UNHCR signed a tripartite agreement governing the return of the Mozambican refugees from South Africa.

Reports from credible sources, including international organizations, indicated that in 1993 RENAMO prevented the free movement of people and goods throughout its regions. RENAMO officials were requiring travel documents, "Guias da Marcha", to allow people to enter areas under its control or to move within those zones. In June RENAMO detained a Member of Parliament, Aurelio Fernando Manhica, and his party of 18 in the Salamanga region of Maputo Province. RENAMO claimed that the party had been hunting in RENAMO territory without permission. Despite the intervention of the U.N. peacekeeping force, RENAMO held the detainees for almost 3 weeks.

In July RENAMO detained 17 timber workers and confiscated 2 tractors in Sofala Province because they were doing forestry work in a RENAMO area without its permission. In August RENAMO refused to allow road repairs in areas under its control. Both cases were symptomatic of the extremely contentious issue of administrative control in disputed areas.

Mozambique hosted few refugees from other countries. At the end of 1993, there were 80 refugees from other countries under the protection of the UNHCR and another 250 asylum seekers awaiting determination of their status. There were no reported cases in which refugees were forced to return to countries where they might have a well-founded fear of persecution.

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

In 1993 citizens could not change their government by democratic means. Though the 1990 Constitution officially ended FRELIMO's status as the sole legal political party and permitted the creation of other parties, the President, the FRELIMO Political Commission, and the Council of Ministers continued to control policymaking and implementation and were set to remain in office pending future elections, scheduled for October 1994.

The Rome Accord established an election timetable and an independent monitoring system to ensure their fairness. Multiparty elections decreed by the Constitution were to be held within a year of the October 4, 1992 signing of the Accord. However, because of delays in the implementation of the peace process, all parties agreed to postpone elections until October 1994. Balloting is to be secret, and an electoral commission made up of members of FRELIMO, RENAMO, and the political parties is to organize and direct the election process. The Accord specified that the Government, in consultation with RENAMO and other opposition parties, should enact an election law. A multiparty conference on the draft law ended after prolonged debate failed to produce results. However, the Government continued to consult with RENAMO and the opposition parties in bilateral meetings to produce a final document which was submitted to the National Assembly and ratified on December 9. The peace agreement allows for international election observers to be supervised by the United Nations.

Under the Rome Accord, RENAMO is to be an equal partner in supervising and monitoring the electoral process, the cease-fire, and demobilization of the armed forces. The agreement accorded RENAMO the right to participate in the civil administration of areas it nominally controlled at the time of the agreement. A summit meeting in Maputo in August between President Chissano and RENAMO's President Dhlakama produced agreement that RENAMO was to appoint advisors to the provincial governors. A few days later RENAMO partially pulled back from the agreement and declared that the Government's Constitution would not be effective in areas under its control, nor would RENAMO permit political parties to campaign in its zones.

There were no women ministers in the Government at year's end. There was one vice minister (of foreign affairs). A few women are active in the leadership of nongovernmental organizations. While there are no legal restrictions hindering women's involvement in government, cultural factors have inhibited their political advancement.

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

There are no legal obstacles to the formation of local human rights groups. The Mozambican League for Human Rights became active in late 1993, holding several public meetings in Maputo and developing plans for education and monitoring programs to be started in 1994.

Human rights organizations with more defined constituencies and goals have been effective. Two groups, the Association of Women, Law, and Development (MULEIDE) and the Association of Mozambican Disabled (ADEMO), were established chiefly to address the legal rights of the groups they represent (see Section 5.). Another group, the Movement for Peace in Mozambique, announced its formation in 1993. It aimed to involve all sectors of Mozambican society to safeguard the peace process.

The Government remained receptive to international human rights monitoring groups and is responsive to inquiries on human rights issues. In 1992 the New York-based Africa Watch was allowed to visit and interview prisoners, and it publicly praised the Government for its cooperation. The only access by an international human rights monitoring group to RENAMO areas during 1993 was a trip by the Africa Watch rapporteur early in the year. It should be noted, however, that his visit was primarily concerned with investigating the mine-clearing issue, not the human rights situation.

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

The Constitution prohibits discrimination based on race, sex, religion, or disability.

Women.—The Constitution forbids discrimination on the basis of sex and mandates equal rights and responsibilities for women. In practice, however, women continue to be underrepresented in the professions and in educational institutions at all levels. Over 80 percent of Mozambican women are peasant farmers, and most have had little education or access to good health care. Mozambique has one of the highest maternal mortality rates in the world.

Although the Constitution upholds the equality of women in society and before the law, practical implementation often falls short of this ideal. Old civil and commercial legal codes that predate independence and still exist deny women full financial rights once they marry. The Justice Ministry, in collaboration with MULEIDE (see Section 4), was tasked with identifying these outdated laws which contradict rights granted women by the 1990 Constitution. MULEIDE aims to promote and defend the legal rights of women, particularly as they pertain to improving social conditions and ensuring participation in the development process.

According to medical and other sources, violence against women, especially wife beating, is fairly widespread in Mozambique, especially in rural areas. The police do not normally intervene in domestic disputes, and cases are rarely brought before the courts. The Government has not addressed the issue specifically. A local women's group indicates that nondomestic violence against women also has increased and that there has been a rise in the number of rape cases in urban areas. Both trends are concomitant with the overall rise in the national crime rate.

Children.—Children's rights and welfare have not been a priority of the Government. For its part, RENAMO in 1993 continued to utilize children taken from their homes during the war as soldiers and porters. While RENAMO has not agreed to a full-scale program aimed at resolving this problem, it cooperates on a case-by-case basis with efforts to reunify these children with their families.

Female genital mutilation is practiced in Mozambique, most frequently in the Muslim northern part of the country.

National/Racial/Ethnic Minorities.—There was no systematic persecution or discrimination on the basis of race, but no whites and few mixed-race Mozambican and Asians serve in the military. Moreover, the FRELIMO Government includes at all levels a disproportionate number of southerners, mostly from the Shangaan ethnic group. The Government also includes white, Asian, and mixed-race Mozambicans.

The leadership of RENAMO is predominately from the Shona-speaking ethnic groups concentrated in the center of the country. There is no indication that the conflict between the Government and RENAMO was primarily motivated by ethnicity, although ethnic and regional factors may have played some role, and tribal factors may explain some of the violence during the conflict. Historical accident appears to be responsible for the ethnic composition of the RENAMO leadership; the Shona was the group culturally and geographically most accessible to the Southern Rhodesian intelligence organization, which established the forerunner to RENAMO in the late 1970's. Since that time, RENAMO recruited from all ethnic groups and never significantly emphasized ethnic issues in its communiques or negotiating positions. It has, however, criticized FRELIMO for being dominated by southerners.

People with Disabilities.—Although the Constitution expressly states that "disabled citizens shall enjoy fully the rights enshrined in the Constitution," reality often falls short of this ideal. In 1991 ADEMO (see Section 4) was created to address the social and economic needs of the disabled. ADEMO provides training, raises public awareness of the need fully to integrate the disabled into society, and lobbies the Ministry of Labor to initiate legislation to support the working rights of the disabled. The Government has not legislated or otherwise mandated access for the disabled to public buildings. No special access facilities exist.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution specifies that all workers are free to join or refrain from joining a trade union. A labor law passed in December 1991 further protects workers' rights to organize and to engage in union activity at their place of employment. The legislation gave existing unions—those created as appendages of the FRELIMO-dominated Organization of Mozambican Workers (OTM)—the right to register independently. During 1993 the three unions that had broken away from the OTM announced their intention either to reform OTM from within or, failing that, to form their own association. Their activities resulted in OTM's reexamination of its own constitution, structure, and policies in representing workers. Late in the year, in the face of threats by the independent unions to call a general strike,

the Government agreed to negotiate with these unions on the minimum wage and other issues.

The Constitution explicitly provides for the right to strike, with the exception of government employees, police, military personnel, and employees of other essential services (which include sanitation, firefighting, air traffic control, health care, water, electricity, fuel, post office, and telecommunications). Nevertheless, strikes by soldiers to protest the Government's failure to pay back wages continued in 1993. Wildcat strikes continued to occur elsewhere, mostly due to the failure of pay rates to keep pace with inflation and employers' failure to provide promised benefits. Maputo postal workers went on strike for these reasons in August, returning on September 1 after some of their demands were met. In September workers at a marble factory in Cabo Delgado Province successfully negotiated a 50-percent pay raise and better working conditions after a 3-day strike.

The 1991 labor law forbids retribution against strikers, the hiring of substitute workers, or lockouts by employers. There were no known instances during 1993 in which employer retribution against striking workers was an issue.

Most labor disputes continued to be arbitrated through ad hoc workers' committees, formally recognized by the Government. The development of the newly independent labor unions was hindered by a lack of resources. However, their actions influenced the OTM which called for a national labor congress and began to address areas of dispute between the OTM and the independent unions.

In August the OTM was highly critical of a government-announced minimum pay raise, complaining that it was insufficient to meet worker needs, and insisted that the OTM should have been consulted prior to the announcement.

The Constitution and labor legislation guarantee unions the right to join and participate in international bodies. The OTM is a member of the Organization of African Trade Union Unity and the Southern African Trade Union Coordinating Council.

b. *The Right to Organize and Bargain Collectively.*—The labor law protects workers' rights to organize and engage in collective bargaining. It expressly prohibits discrimination against organized labor, although antiunion discrimination has not been an issue since until recently unions were government-controlled organizations. In late 1991, the Government decreed that it would no longer set all salary levels. Negotiating wage increases was left in the hands of existing unions.

During 1993, workers continued to bargain with employers through legally recognized ad hoc committees. The law requires government arbitration if labor and management fail to reach agreement. The majority of labor disputes dealt with management's failure to meet salary and other contractual obligations.

There are no export processing zones in Mozambique.

c. *Prohibition of Forced or Compulsory Labor.*

Forced or compulsory labor is prohibited by law, and there have been no reports of such labor practices by the Government. There were credible reports in 1993 that RENAMO continued to hold and mistreat children and civilians, kidnaped prior to the 1992 Peace Accord, who were used for forced labor (see Section 1.c.).

d. *Minimum Age For Employment of Children.*—Child labor is regulated by the Ministry of Labor. In the wage economy, the minimum working age is 16. Because of high adult unemployment, few children are in regular wage positions. However, children commonly work on family farms or in the urban informal sector, where they perform such tasks as guarding cars, collecting scrap metal, and vending.

e. *Acceptable Conditions of Work.*—The Government sets minimum wage rates administratively. The minimum wage at year's end was approximately $13.75 (70,600 meticais) per month. The Ministry of Labor is responsible for enforcing the minimum rates in the private sector, the Ministry of Finance in the public sector. Violations of minimum wage rates are usually investigated only after workers register a complaint. It is customary for workers to receive benefits such as transportation and food. The minimum wage is not adequate to sustain an average urban worker's family. Workers must turn to second jobs, if available, as well as work garden plots, to survive. An estimated 80 percent of the work force is engaged in subsistence agriculture and is not covered by minimum wage legislation.

The standard legal workweek is 44 hours, with a 24-hour rest period stipulated. In the small modern sector, the Government has enacted health and environmental laws to protect workers. On occasion, the Government has closed firms for noncompliance with these laws, but enforcement by the Ministry of Labor has been irregular, particularly in the poor economic conditions of recent years.

NAMIBIA

Namibia is a functioning multiparty, multiracial democracy, whose Constitution contains an entrenched bill of rights providing for freedom of speech, press, assembly, association, and religion. The Government is headed by President Sam Nujoma, leader of the South West Africa People's Organization (SWAPO), which won Namibia's first free elections in November 1989. While SWAPO enjoys majority control in both houses of Parliament, the multiparty opposition exercises its responsibilities freely and vigorously.

The main security force is the Namibian Defence Force (NDF), comprising former troops of the People's Liberation Army of Namibia (PLAN—SWAPO's military wing) and the South West African Territorial Force (SWATF) that battled each other prior to independence. NDF and police members were accused, and in some cases convicted, of crimes against civilians during the year.

The Namibian economy has two major components—a modern market sector that produces most of its wealth and a traditional subsistence agricultural sector (mainly in the north) that supports most of its labor force. Mining, ranching, and fishing, the mainstays of the market sector, are still largely controlled by white Namibian businessmen. The Government continued to stress the leading role of the private sector and encouraged new investments by indigenous and foreign entrepreneurs on the basis of the investment code adopted in December 1990.

Namibians enjoy a wide range of civil, political, and economic liberties. Controversy continued, however, over SWAPO's incomplete accounting for missing detainees formerly held in Angola and Zambia during the preindependence period. The Government's restrictive policies on refugees and the alleged forced deportations of asylum seekers were also criticized. Preindependence problems of racial discrimination and disparities—especially in education, health, employment, and working conditions—continued in 1993, despite efforts by Government to reduce inequities. While the Constitution prohibits discrimination based on race and other factors, a number of apartheid-based laws related to areas such as property, business, and labor, dating from before independence, have not yet been repealed or replaced and remain valid. Limited measures were taken to try to reduce societal violence and other discrimination against women, but serious inequities remained. A number of police and defense force members were charged, convicted, and dismissed from service for criminal offenses against civilians, including murder, assault, and theft but there continued to be instances of such abuses.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of political or other extrajudicial killings during 1993. Several cases of political killings which occurred prior to independence, including that of SWAPO activist Anton Lubowski, who was assassinated in Windhoek in September 1989, remained unsolved. The confidential police investigation into Lubowski's killing, completed in May 1993, was passed to the magistrate's court for inquest proceedings, which had not taken place by year's end. A local newspaper alleged, however, that high-ranking officials of the preindependence police and military forces planned his killing. The officers named in the allegation have brought court action against the newspaper under libel laws.

b. *Disappearance.*—There were no reports of disappearances occurring during 1993. Nevertheless, attention continued to be focused on the disappearances of persons detained by SWAPO prior to independence. The number of SWAPO detainees still unaccounted for ranges from 154 to 256. Controversy surrounding this issue is likely to continue until the Government conducts and releases the results of a full investigation.

In June the International Committee of the Red Cross (ICRC) issued its final report on its tracing efforts, which ran from November 1991 to April 1993. The ICRC noted that SWAPO responded to only a small fraction of the ICRC's inquiries during that period and urged family members to approach SWAPO directly for additional information.

Another outstanding issue is whether persons deemed responsible for past human rights abuses would be held legally accountable and whether current government officials credibly linked to serious human rights abuses in the preindependence period should be permitted to remain in office.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution states that "no persons shall be subject to torture or to cruel, inhuman, or degrading treatment or punishment." However, there were over 20 allega-

tions of torture or other abusive treatment by police and security forces during 1993. These incidents were all highly publicized locally.

Controversy erupted in March when Simon Ananias, a NDF member convicted of the murder of a 10-year-old boy in Rehoboth in 1990, was released under a presidential pardon. Ananias had served only 4 months of a 10-year sentence at the time of the pardon. Opposition political parties and the press criticized the fact that of over 500 prisoners released at the same time, Ananias was the only one convicted of a violent crime.

In April a former SWAPO detainee alleged that he was stopped by a joint police/NDF patrol in Windhoek after his vehicle ran out of gas. The individual alleged he was singled out for questioning after being recognized as a former detainee, forced into a police van, blindfolded, and taken to an unknown location, where he was severely beaten and interrogated about his loyalties to the SWAPO Party. He was detained in the city jail overnight on drunk driving charges before being released the following day. The individual subsequently filed charges against the police and the NDF and is being represented by the Legal Assistance Centre (LAC). Senior government officials claimed, however, that the individual's injuries were sustained in an ongoing altercation at the time of police arrival. The case was pending in the courts as the year ended.

In another case, three NDF members carried out the unprovoked beating of a farming couple near the northern town of Outjo in late June, using a tire iron and empty bottle. The three soldiers were arrested and charged with assault by the civilian courts. The case had not yet come to court by the end of the year.

In September a female refugee at the Osire camp formally charged a police official with assault, torture, and degrading treatment. She also alleged that at least two police and camp officials knew of male refugees raping women in the camps and allowed the crimes to continue unabated and without official intervention. The National Society for Human Rights (NSHR) agreed to press her case in court. She has since left Namibia, and court authorities are unable to prosecute the case without her participation. Other refugees also said they were reluctant to report cases of mistreatment by police and camp officials because they feared alleged "troublemakers" would be arbitrarily deported.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution forbids arbitrary arrest or detention, and the Government has generally respected these provisions. According to the Constitution, persons who are arrested must be informed of the reason for their arrest "promptly in a language they understand," and they must be brought before a magistrate within 48 hours of their detention. A trial must take place within "a reasonable time," or the accused must be released. The accused are entitled to defense by a legal counsel of their choice; the state provides a lawyer for the indigent.

Some traditional leaders, however, reportedly continued to detain and imprison persons accused of minor offenses without recourse to police or judicial review. The Government repeatedly condemned these actions and called upon the public to report such practices to the authorities. It also undertook to train traditional leaders in the constitutional exercise of their powers.

There were no reports of Namibians being exiled for political reasons in 1993.

e. *Denial of Fair Public Trial.*—Namibia has an independent judiciary. Under the Constitution all citizens have the right to a fair trial, and this right is afforded in practice. Namibia has retained the Roman-Dutch court system it inherited from South Africa, while also maintaining a traditional court system. The formal system has three levels: magistrate's court, the High Court, and the Supreme Court. The last also serves as the court of appeals and as a constitutional review court. The tenure of sitting judges was not affected by the 1990 change of government.

Traditional courts have long dealt with minor criminal offenses, such as petty theft and infractions of local customs, among members of the same ethnic group. A special presidential commission, created in 1991 to make recommendations on the prospective jurisdiction of traditional courts, presented its findings to the President in April. It concluded that traditional cultural practices and structures should be maintained, provided they were consistent with constitutional protections and existing laws. Enabling legislation was drafted in late 1993 with respect to the powers, duties, and functions of traditional leaders, and the establishment of "community courts" to bridge the existing gap between traditional and magistrates' courts. This legislation had not yet been presented to Parliament as the year ended.

The Constitution provides guarantees that persons claiming that their fundamental rights have been violated may seek redress in court and request free legal advice from the ombudsman. The lack of sufficient, qualified magistrates, however, continued to exacerbate the backlog of cases awaiting trial. Other delays resulted from the lack of legal counsel—fewer than 100 lawyers were engaged in private practice in

Namibia in 1993; fewer than 10 of these were black. The Government appointed the first public defender in July and provided renewed funding under its legal aid scheme to permit indigent defendants equal access to legal representation. During the year, the Government, in conjunction with the University of Namibia, also established a "Justice Training Centre," which is to provide additional legal training to magistrates and community court officials.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides all citizens with the right to privacy and requires arresting officers to secure a judicial warrant for certain listed offenses before conducting a search. These rights were respected in practice.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for these fundamental freedoms, including academic freedom in institutions of higher learning, and states that these rights may not be suspended except in time of war or during a state of emergency. In practice, these freedoms are respected.

The government-owned Namibian Broadcasting Corporation (NBC) operates virtually all radio and television services. A broadly representative government-appointed board sets policy for the NBC. Although the NBC routinely gave prominent coverage to the activities of government officials, it also provided significant coverage to the opposition and viewpoints critical of the Government. During the year, an independent media board was established to review applications and award radio and television licenses to private companies. One such "community radio station" was established in Windhoek in 1993 and began broadcasting. Print journalism in Namibia remained free and vigorous. During the year, four dailies, two biweeklies, and three weekly newspapers of general interest were published. There was no apparent self-censorship by journalists, aside from the constraints of libel and pornography laws. There were no restrictions on academic freedom.

b. *Freedom of Assembly and Association.*—The Constitution provides for freedom of assembly and association. During 1993, various organizations, including political parties and religious groups, held large meetings and public gatherings without interference. Police permits are required for large, publicized public gatherings, and there was no indication that any such permit requests were denied. Other spontaneous public gatherings, including protests to local governments over inadequate police protection against criminals, particularly thieves and cattle rustlers, took place without incident.

c. *Freedom of Religion.*—There is no state religion and no restrictions on the activities of particular religious groups or on foreign clergy members.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution guarantees the rights to move freely throughout Namibia, to reside and settle in any part of the country, and to leave and return. These rights are respected in practice. Nevertheless, the local press, local nongovernmental organizations (NGO's), and opposition political parties repeatedly criticized the Government's handling of citizenship and refugee issues.

Much of the criticism focused on the lack of a consistent refugee or asylum policy. At midyear, the Cabinet recommended that the Government accede to the 1951 U.N. Convention Relating to the Status of Refugees and the 1967 Protocol, and the 1969 Organization of African Unity (OAU) Convention, as had been urged by the U.N. High Commissioner for Refugees (UNHCR) and local human rights organizations. Legislation to this effect is expected to be considered in Parliament for debate and enactment in early 1994. The Government expressed prior reservations, however, over Article 26 of the 1951 Convention (concerning freedom of movement and residence). Such reservations effectively kept virtually all refugees, including 519 of the total of 569 recognized by both the Government and UNHCR, at the Osire refugee camp, located in a remote area some 120 miles northeast of Windhoek. Refugees are prohibited from working outside the refugee camp. Those discovered to be working were arrested for immigration violations. The only exception to the requirement to reside at Osire involved beneficiaries of UNHCR scholarships, who could reside and study at the University of Namibia in Windhoek.

The NSHR and opposition political parties alleged that a number of persons seeking refugee status were deported or jailed under ordinary immigration law upon their arrival in Namibia. These reports, involving as many as 100 people, could not be independently substantiated. An interministerial government committee reviews refugee and asylum claims on a case-by-case basis. Between January and September 1993, this committee reviewed 67 cases, and 5 candidates had been accepted as refugees. Six cases were denied, while 56 were still pending final determinations in late 1993.

Opposition parties accused the security forces of abducting several dozen Namibian citizens and residents and delivering them to Angola for conscription into that country's armed forces. The Government stated that only undocumented Angolan nationals were involved, all of whom had agreed to return to Angola. Because the Angola/Namibia border is relatively open and arbitrarily divides several ethnic groups, there is often confusion as to who is "Angolan" and who is "Namibian".

Repatriation from Botswana of the descendants of Herero speakers who fled Namibia during the 1904–07 war against the Germans commenced in mid–1993. Approximately 1,600 persons had entered the country by mid-September. Under this program, several thousand persons may ultimately resettle in Namibia with government assistance and obtain Namibian citizenship.

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

The Constitution stipulates the right of citizens to change their government, and this right is enjoyed in practice. All adult Namibians are able to participate in the political process.

The Constitution established a bicameral Parliament and provides for free general elections by secret ballot every 5 years and regional elections every 2 years. National elections held in 1989 and 1992 were characterized as generally free and fair.

Seven political parties are represented in the National Assembly. The SWAPO-led Government has 45 of the 78 seats and the Democratic Turnhalle Alliance (DTA), the major opposition party, holds 21 seats. Five small parties are also represented. The DTA, together with the other non-SWAPO parties in Parliament, can block constitutional changes, which require a two-thirds majority of all members. The National Council, the upper house of Parliament, consists of 19 SWAPO members and 7 DTA representatives.

Women have become increasingly involved in the political process. Three women hold positions at the cabinet or subcabinet level. Several women hold seats in the Parliament. Women's groups are active in civic and political activities.

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

Local organizations such as the National Society for Human Rights (NSHR) and the Legal Assistance Centre (LAC) operated freely, criticizing the Government's handling of the SWAPO detainee issue, the treatment of refugees, misconduct by members of the police and defense forces, and other matters.

The LAC, which also focused on legal education and women's rights, continued to work with the Ministry of Education and Culture in developing a constitutional curriculum for schools and offered lectures on human rights issues for police cadets and defense force trainees.

International human rights organizations were free to travel to Namibia and discuss human rights issues with governmental and nongovernmental representatives.

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

Women.—Women's rights are protected by the Constitution, but discrimination against women, stemming from pervasive cultural and traditional practices of all races, persisted. Several women's groups continued to seek an end to these inequalities and took particular exception to the fact that men are not required to provide economic support for their children in case of divorce, resulting in many indigent single mothers. Government leaders were sympathetic but had not introduced necessary amending legislation in Parliament by year's end. During 1993, the traditional leaders of several indigenous ethnic groups stated that they would honor a nonbinding parliamentary resolution condemning the traditional practice of family members confiscating property and other assets of deceased men from their widows and children.

Nevertheless, residual inequalities in the law and in education and employment opportunities continued. For example, a woman is considered a ward of her father until she marries, at which time she becomes a ward of her husband. Any property brought into a marriage by a woman is transferred to the ownership of her husband, who has the authority to decide its disposition without her consent. Under existing community property laws, married women of all groups are defined as legal minors and need written consent of the husband before they may legally acquire or purchase property or enter into a legal contract. Women were not barred from pursuing higher education but, due to prevailing social norms, remained primarily in the clerical, secretarial work, teaching, medical, and domestic service fields.

Violence against women remained widespread, particularly physical beating and rape. Because of traditional attitudes regarding the subordination of women, many

cases of spousal assault were not reported to the authorities. Women's groups and other women's rights advocates claim that police do not seriously pursue cases of spousal rape and assault, stating that they preferred not to interfere in domestic disputes. These groups also noted that prosecutions of and convictions for rape are rare. In September a man was sentenced to 5 years' imprisonment for murdering his common-law wife. In the widely publicized verdict, the judge said a wife was not her husband's property. In July the Namibian police opened a Women and Child Abuse Centre in Windhoek, with specially trained female officers to assist victims of sexual assaults.

Children.—Children's rights are enumerated and guaranteed in Article 15 of the Constitution. In practice, the Government has committed as many resources as its limited means allow for the protection of children's welfare. In 1993 the Government allocated 29 percent of its total budget (approximately $250 million) to education and other significant amounts to health and school feeding programs.

The police and courts vigorously prosecuted cases involving crimes against children, particularly rape and incest. These issues were also discussed in printed material given wide distribution in Namibian schools. The Women and Child Abuse Centre" (see above) also assisted in reducing the trauma suffered by abused children and in training police officials to handle this problem sensitively.

Indigenous People.—The Government continued to promote the civil, political, and economic rights of the indigenous majority of Namibians, who were deprived of land and many other rights during the recently ended colonial era. It has implemented affirmative action and other programs to provide equal education and employment opportunities to all of its citizens. The San people, Namibia's earliest inhabitants, have also been traditionally exploited by other indigenous ethnic groups. The Government has endorsed the San's rights to land and traditional land-use patterns and supported the first regional meeting of Southern Africa's indigenous San, held in 1993. The Ministry of Education and Culture also worked with the Nyae Nyae Development Foundation, a local NGO, to ensure that primary school teaching materials took San cultural sensitivities into account.

During 1993, the Government (encouraged by members of the indigenous majority) also confirmed the principle that indigenous traditional cultural practices, including the dispensation of justice, allocation of communally held lands, and selection of leaders, were permissible, provided they were not in conflict with the country's Constitution. Nonetheless, many indigenous Namibians were unprepared to exercise fully their civil and political rights as a result of their historically minimal access to education and economic opportunities under South African rule, coupled with their relative isolation in remote farming areas.

National/Racial/Ethnic Minorities.—The Constitution prohibits discrimination based on race and other factors and specifically prohibits "the practice and ideology of apartheid." As a result of many years of South African administration, racial and ethnic discrimination were institutionalized in Namibian society and racial discrimination continues. Many apartheid-based statutes which predate Namibia's independence remain valid until repealed or replaced by the Parliament. Nonwhites complained that the Government was not moving quickly enough to mitigate the continuing and serious inequalities in education, health, housing, employment, and use of public accommodations.

Although several racial and ethnic groups charged the Government with bias toward the numerically dominant Ovambo ethnic group, these claims could not be objectively substantiated. Some Afrikaans speakers alleged that the Government's policy of using English as the medium of instruction in schools violated their "cultural rights." In addition, leaders of the "Baster" community in Rehoboth alleged that the Government had unconstitutionally appropriated communal lands at independence. These charges were pursued through the courts, which had not yet rendered decisions as of late in the year.

People with Disabilities.—There were no reports of official discrimination on the basis of disability. With limited financial resources, the Government attempted to provide the disabled with treatment and education. Several local NGO's also were active in helping the disabled to become more socially and economically self- sufficient. Although the Government did not require special access to public buildings for the disabled, some municipal governments, including those of Windhoek and Swakopmund, have installed ramps and special curbing at street crossings for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—Namibia's Constitution provides for freedom of association, including freedom to form and join trade unions, a right that was extended to public servants, farm workers, and domestic employees under a comprehensive

labor law. Trade unions have no difficulty registering, and there are no government restrictions on who serves as a union official. No union has been dissolved by government action.

Unions are independent of government and may form federations and confederations, of which two are significant. The principal trade union organization is the National Union of Namibian Workers (NUNW), a SWAPO-aligned federation of 7 industrial unions with 70,000 members. Most workers in the mining industry, the country's key export sector, are members of the NUNW-affiliated Mineworkers Union of Namibia (MUN). The principal public service and construction unions are affiliates of the Namibia People's Social Movement (NPSM), formerly known as the Namibian Christian Social Trade Unions Confederation. There are also several independent trade unions. The bulk of the trade union movement maintains close affiliation to SWAPO and the Government. Several prominent NUNW officials serve on SWAPO's Central Committee, and union leaders have served in the National Assembly. The NPSM and other independent unions claim to be nonpartisan and in practice confine their activities to labor-management relations. Roughly half of the wage sector is organized to some degree, although many workers within this group are only employed part-time. Less than 20 percent of those wage earners employed full-time are organized, and few rural laborers are organized.

Namibian workers, except for those providing essential services (e.g., jobs related to public health and safety), enjoy the right to strike, once conciliation procedures have been exhausted. The Labor Act extended the right to strike to public servants, farm workers, and domestics. Under the Act, strike action can only be used in disputes involving worker interests, such as pay raises.

Disputes over worker rights, including dismissals, must be referred to the Labor Court (which has yet to be established) for arbitration. The Labor Act also led to the creation of the Office of the Labor Commissioner, which mediates nonjudicial solutions to labor disputes arising among workers, employers, and government.

Legally striking workers also gained protection from unfair dismissal under the Labor Act. An "unfair dismissal" is defined as one in which a "valid or fair reason" for termination or dismissal is "not in compliance with fair procedure." Because by year's end no one had yet challenged a dismissal as unfair under the law, it is unclear what "unfair" means in practice. Since independence, work stoppages over pay, dismissal, and pension issues have been relatively common, with most actions lasting 1 day or less. Job actions of this type have occurred less frequently within the past year. However, in November Namibia witnessed its longest strike since independence, the 2-week work stoppage at Consolidated Diamond Mines (CDM) in Oranjemund.

The strike began on November 15 after negotiations between CDM management and the Mineworkers' Union of Namibia (MUN) over an increase in pay ended in stalemate. Initially, CDM offered an 8.5 percent basic increase, while the MUN had demanded 15 percent. From the outset, the work stoppage was acrimonious, and there were several reported injuries on the picket lines when nonunion CDM workers and the striking mine workers confronted each other. Several days into the strike, negotiations stalled as charges of "illegal picketing" and "assault" were raised by CDM, while the union contended that the mine was hiring on a new, "strike breaking" work force. CDM also insisted that its workers in essential services be allowed to cross picket lines. From the mine's perspective, essential services included such areas as public health and safety, food preparation, and basic operation of the mine's infrastructure and utilities. The union countered that management's definition of "essential" was too encompassing, although the two sides ultimately compromised. The strike, which involved 3,500 workers and idled 5 on-shore mining facilities, was finally settled on November 29, when the parties agreed to a 10-percent wage increase for union members.

The work stoppage was costly for all concerned, in terms of lost profits, wages, and revenue to the Government. Yet in spite of the apparent costs, the protracted strike was viewed by many as a major test case for the interpretation of Namibia's 1992 Labor Act. These sentiments were summed up by one union leader as follows: "It seems that the (Labor) Act has got a lot of loopholes. On face value, the Act appears to favor the union but in practice it does not, nor does it favor the company." Labor Ministry officials announced in late December that the Government will introduce legislation in 1994 to clarify certain provisions of the Labor Act, particularly those relating to overtime and essential services.

Trade unions are free to exchange visits with foreign trade unions and to affiliate with international trade union organizations. The unions have exercised this freedom without interference.

b. *The Right to Organize and Bargain Collectively.*—The 1992 Labor Act guarantees employees the right to bargain individually or collectively. Collective bargaining

is not widely practiced outside the mining and construction industries; wages are usually set by employers. As unions become more active, however, informal collective bargaining is becoming more common.

The Labor Act provides a process for employer recognition of trade unions and protection for members and organizers. The law also empowers the Labor Court to remedy unfair labor practices and explicitly forbids unfair dismissals, which can also be brought on appeal to the Labor Court.

When a dispute cannot be resolved directly, the first recourse is to a conciliation board, with a mediator and representatives from both sides. The Office of the Labor Commissioner plays an integral role. Conciliation boards have been used mostly in wage disputes and, to a lesser extent, to negotiate working conditions, overtime hours, and reinstatements of dismissed employees. In almost all cases in which conciliation boards have been convened, the disputes were settled.

If, however, agreement cannot be reached via the current conciliation board route, the aggrieved parties have the option to strike, stage a brief protest walkout, or return to work (or continue to seek a solution via the conciliation board). Furthermore, the (current) law is not clear on what the parties in a dispute should do in instances in which they are not granted access to a conciliation board by the Labor Commissioner. The Government is considering district labor courts as an alternate venue for the resolution of disputes.

Yet, even with the new Act, business-labor relations remain, for the most part, strained. The unions appear to have little effective control over the mass of semiorganized, mostly black, urban unskilled workers, who are frustrated with the vestiges of the apartheid system which remain from the preindependence period.

The only export processing zone (EPZ) is located in Arandis, where special tax incentives are available for export-oriented industrial developments. The Government has no plans to suspend the provisions of the Labor Act in the EPZ as a means of attracting foreign investment.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is prohibited by law. Although there were no formal complaints filed with the Ministry of Labor in 1993, there were continuing reports that farm workers sometimes receive inadequate compensation for their labor and are subject to strict control by farm owners. There were also reports in previous years of some farm workers being subjected to physical punishment by their employers. Farm workers experienced great difficulties in gaining recognition of their working rights, due to the isolation of many rural areas and the resulting obstacles to organizing trade unions. Moreover, it is sometimes difficult for Ministry of Labor inspectors to gain access to Namibia's expansive, privately owned commercial farms in order to document possible Labor Code violations.

There have also been reports that Namibian crews on fishing vessels have been required to work excessive hours without proper compensation or time off.

d. *Minimum Age of Employment for Children.*—Under the 1992 Labor Act, the absolute minimum age for employment was 14 years, with higher requirements for certain sectors, such as 16 years for mining, manufacturing, and construction, 17 for underground work, and 18 for night work. Age regulations under previous legislation were generally enforced. However, children below the age of 14 often work on family and commercial farms and in the informal sector. Boys in the rural areas traditionally start herding livestock at age 7. The Labor Act empowers Ministry of Labor inspectors to enforce the prohibitions on child labor. Once they become established, the labor courts will be able to hear criminal charges against violators.

e. *Acceptable Conditions of Work.*—There is no statutory minimum wage law in Namibia. The Labor Act provides for wage commissions to consider proposals for sectoral or geographical minimum wages. Unskilled workers in the relatively well-paid mining sector earn about twice the amount earned by urban unskilled laborers. Domestic workers earn much less. In Windhoek's nonwhite townships, workers and their families have difficulty maintaining a minimally decent standard of living. White Namibians earn significantly more on average than their black compatriots, in large part because whites own most of the country's productive resources and had preferential access to education that enabled them to take advantage of the skilled labor shortage. Moreover, under the preindependence apartheid system, even qualified nonwhites were often barred from skilled jobs or did not receive equal pay for equal work. The Government is aggressively attempting to address this problem through affirmative action hiring policies.

The standard legal workweek since independence was reduced from 46 to 45 hours, including at least one 24-hour rest period per week. No more than 10 hours per week of overtime may be required by an employer. The law mandates 24 consecutive days of annual leave, at least 30 workdays of sick leave per year, and 3 months of unpaid maternity leave. In practice, however, these provisions are not yet rigorously observed or enforced.

Government-mandated occupational health and safety standards are set by law, and the Labor Act empowers the President to strengthen these standards by issuing applicable regulations and enforce them through inspections and criminal penalties. The Government has carried out a national survey of health and safety standards but has yet to release any report or upgrade standards. The law requires employers to ensure the health, safety, and welfare of their employees and provides for the right to remove oneself from dangerous work situations.

According to the Chamber of Mines, safety campaigns by the mining companies have reduced the combined reportable injury and fatality rate per 1,000 employees from 6.3 in 1980 to 3.5 in 1991. Although the MUN has frequently criticized Rossing Uranium's safety record, the company has consistently received high ratings from the British Safety Council and the International Atomic Energy Agency. Overall, working conditions remained poor for employees in agriculture.

NIGER

After adoption of a new Constitution in December 1992, Niger conducted in early 1993 its first multiparty presidential and legislative elections since independence in 1960. In the presidential elections, which international observers judged to be free and fair, eight parties banded together against the party created by the former military rulers to elect Mahamane Ousmane as President of the Third Republic. Nine parties won representation in the National Assembly elections. The governing coalition, the Alliance of the Forces of Change (AFC), led by Prime Minister Mohamadou Issoufou, consists of six parties with 50 of the total of 83 Assembly seats. The former ruling party, the National Movement for the Development of Society (MNSD-Nassara), won 29 seats in the Assembly and now leads the opposition.

The new Government moved quickly to address the Tuareg insurgency in the north, and in March reached a 3-month truce with the major Tuareg group, the Liberation Front of Air and Azawak (FLAA). The March truce led to an exchange of all prisoners and was extended in June for another 3 months. By September, however, the Tuareg rebellion had split into three principal factions only one of which, the Front for the Liberation of Tamoust (FLT), agreed to renew the truce for another 90 days. Despite the truces, some armed Tuaregs continued throughout 1993 to attack convoys and government outposts, raiding vehicles and taking food and fuel. By year's end, the Government was continuing efforts to engage the Tuareg factions in talks aimed at a comprehensive settlement offering greater regional autonomy.

The main security forces consist of the army, the gendarmerie (rural paramilitary police), and the national police. The new Government experienced problems in maintaining control over the security forces. In July some of the same elements that mutinied in 1992 once again attempted an uprising, demanding rejection of the Government's budget austerity measures, payment of salary arrears, and implementation of longstanding proposals to reorganize the military. Supporters of the newly elected coalition staged large counterdemonstrations, and the troops returned peacefully to their barracks. Following the mutiny, the Government initiated disciplinary action, including loss of rank, transfer, and removal, of personnel associated with the mutiny.

Upwards of 90 percent of the population depend on traditional subsistence farming or herding. Uranium mines produce the single most important export. Persistent drought cycles, low literacy rates, the declining demand for uranium, and burdensome debt have further weakened an already marginal economy. The Government's 1993 austerity budget cut the single largest expenditure—civil service salaries, which comprise half the formal wage sector. The labor unions have been critical of the Government's program but at the end of 1993 had agreed to the reductions.

Observance of human rights advanced with the introduction of a new Constitution, with free elections and the installation of a coalition Government, and with efforts to resolve the Tuareg rebellion, including delineating electoral districts in the National Assembly to ensure minority representation. Nevertheless, there continued to be serious human rights problems. In particular, during the fighting early in 1993, both government and rebel forces committed human rights abuses, causing some civilian deaths and property destruction. Moreover, while generally respectful of human rights, the transition government, which was in power in the first quarter of the year, made numerous attempts to intimidate or otherwise restrict its critics in the media. Some splinter Tuareg groups continued throughout 1993 to commit serious abuses, including killing noncombatants, but the Government's restrictive

information policy in the northern security zone made precise information difficult to obtain.

The Tuareg rebellion has been fueled in part by historical conflicts and by a centralized political system dominated by the more numerous Hausa and Djerma ethnic groups. Serious societal discrimination and domestic violence continue against women, who also lack educational and employment opportunities. The overloaded court system dispensed justice only very slowly with long pretrial confinement.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—The newly elected Government did not engage in political or extrajudicial killings in 1993. However, early in the year, under the transition government, there were reported instances of extrajudicial killing. In August 1992, military and paramilitary forces captured some 180 presumed Tuareg rebels in raids. Some of the 180 have never been accounted for and must be considered as having been killed extrajudicially. Similarly, Tuareg rebels took an undetermined number of captives early in 1993 who have disappeared and are presumed dead. Additionally, the conflict between military forces and Tuareg rebels in the north produced human rights violations resulting in a number of civilian casualties (see Section 1.g.). Early in the year, the local press reported that two policemen held by the rebels had died of malnutrition.

b. *Disappearance.*—There were no reports of government-instigated disappearances.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There were no reports of cruel, inhuman, or degrading treatment inflicted by either the army or Tuareg rebels after the truce in March was signed. There were random instances of individual law enforcement or prison officers abusing detainees and prisoners, although such cases were much reduced from 1992. Reports of abuse by police or prison officials involve occasional instances of beatings of detainees or prisoners, usually those believed guilty of sexual offenses or crimes against persons.

d. *Arbitrary Arrest, Detention, or Exile.*—The 1992 Constitution prohibits arbitrary detention. By law an arrestee must be either charged or released within 48 hours. In special cases the public prosecutor may authorize a 24-hour extension. However, in practice, if a police officer has failed to gather sufficient evidence within the detention period, the prosecutor gives the case to another officer, and a new 48-hour detention period begins. A case is not dismissed if the limits on detention are not respected.

The judicial system is seriously overloaded; individual magistrates hear upwards of 400 cases per year. There are no statutory limits on pretrial confinement which frequently laste months or even years. As many as 80 percent of prisoners in Niamey are awaiting trial. There are only two sessions of criminal court per year, lasting 2 to 3 weeks each. If an arrestee is finally judged innocent, compensation for unjustified detention may be awarded.

Defendants are allowed to choose their own lawyer, and bail is available for crimes carrying a penalty of less than 10 years' imprisonment. Widespread ignorance of the law and lack of financial means prevent these rights from being exercised fully.

In January the Government released 81 suspected rebel Tuaregs in Agadez for lack of sufficient evidence. In February the police in Zinder released an undetermined small number of detainees suspected of being rebels. Outside its effort to combat the rebels, the Government did not arrest people for their opinions.

Shortly after national elections in March, the Government and rebels signed a 3-month truce which was renewed for a second 3-month period. The initial truce was followed by a general amnesty. All prisoners held by the Government and Tuareg rebels were released. In September the Government and the FLT, a Tuareg splinter group, extended the truce another 90 days. From March to September, the truce accords were largely respected by the main Tuareg factions, although attacks by splinter groups continued to occur. Since September only one Tuareg faction has agreed to a continued truce, and the frequency of reported attacks has increased. The Government, through French and Algerian intermediaries, has attempted to arrange talks with all the Tuareg factions aimed at a comprehensive settlement of the rebellion based on increased local government autonomy and economic development assistance to the northern region.

The new Constitution prohibits the use of exile as a means of political control, and no instances of exile occurred.

e. *Denial of Fair Public Trial.*—The formal legal system in Niger derives from French law. Civil and criminal cases not involving security-related acts are tried

publicly. Defendants have the right to be present at their trial, to confront witnesses, to examine evidence brought against them, and to present evidence of their own. The new Constitution affirms the presumption of innocence.

Nigeriens can have cases involving divorce or inheritance heard by either a traditional chief or a customary court. Customary courts, located only in large towns and cities, are headed by a legal practictioner with basic legal education who is advised by an assessor knowledgeable in the society's traditions. The judicial actions of chiefs and customary courts are not regulated by code. Cases unresolved by chiefs or customary courts can be appealed to the formal court system. There are no religious courts.

Minors and defendants charged with crimes carrying a sentence of 10 years or more are eligible to be defended by counsel at public expense, if they cannot themselves afford a lawyer. Lawyers comply with government requests to provide counsel in these cases but generally are not paid for their services.

Defendants and prosecutors may appeal a verdict, first to the Court of Appeals and then to the Supreme Court. Both Courts are obligated to hear appeals. The Court of Appeals reviews questions of fact and law while the Supreme Court reviews only the application of the law. Nigerien law prohibits execution until the executive privilege of pardon is explicitly rejected.

The Constitution stipulates an independent judiciary. In the departmental capital of Maradi, a judge dismissed a case brought by the Government against members of an opposition political party charged with organizing an illegal political rally. The judge ruled the Government had not complied with the law in attempting to suppress the rally and, therefore, the rally must be considered legal. The integrity of the courts, on the other hand, has been called into question by credible reports of judges being influenced by family or business ties.

Official investigations continued into the 1990 and 1991 incidents in which government security forces killed civilians during political demonstrations. The Government promised that those responsible would be prosecuted, but by year's end there had been no arrests.

The Government has the legal power to constitute a State Security Court to try high crimes against the State, but had no cause to call the Court into operation in 1993. Proceedings may be held in secret at the discretion of the Court, and the names of judges are not published. Due process provisions apply in the State Security Court.

The newly elected Government launched an effort to combat illicit enrichment, corruption, and influence peddling. The Prime Minister instructed all ministers to ensure that their staffs were fully aware of the relevant provisions in the Penal Code. Shortly after the Prime Minister publicized the illicit enrichment campaign, the first arrests of officials accused of corruption were made in Maradi and Agadez.

At the end of 1993, there were no known political detainees being held by the Government. In late 1993, the Government detained several persons for questioning for their alleged involvement in a plot to destabilize the Government. According to a police source, only one or two suspects remained in custody.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—By law the police are required to have a search warrant, normally issued by a judge. The law stipulates that the police may enter a home only between the hours of 6 a.m. and 9 p.m., unless in hot pursuit. The police may search without warrants when they have strong suspicion that a house shelters criminals or stolen property. Evidence thus gained is fully admissible in court. Human rights organizations report that routine searches are often conducted without warrants and at all hours. There were no reports of interference with correspondence.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Government security forces and rebel Tuareg groups engaged in sporadic skirmishes during the first quarter of 1993, and there were credible reports of violations of human rights. The Government established a security zone in the north, and journalists and others do not have ready access to the zones or to information. Therefore, the number of civilian casualties in the fighting was unknown, but incomplete reports indicated that there were several deaths. For example, in January a Tuareg commando killed nine people, including three members of the Republican Guard, in Abala. Also, in February there were reports that Arabs of the Tessara region, allegedly supplied with arms by government forces during the period of the transitional government, killed 13 Tuaregs at Intarikad.

Despite the truce, splinter groups of rebels or bandits continued to attack civilian targets to obtain food, fuel, and other supplies, often resulting in deaths. In August a Tuareg raid left seven dead, four of whom were infants. To keep supply lines open to the north, the Government organized armed convoys. Although many of the attacks were attributable to banditry, others were attributable to armed Tuareg fac-

tions associated with the rebellion. The political goal of these attacks reportedly was to demonstrate the Government's vulnerability and inability to protect civilian populations.

While there were no reports of government forces perpetrating acts of violence against noncombatants nor using excessive force against rebels after the March truce, human rights groups reported that the military used the security zone to obscure its activities from public scrutiny. The press was not expressly forbidden from the security zone but in practice seldom ventured there. The Government was reluctant to talk openly, much less publish detailed information, on the rebellion for fear that it would compromise the truce and stop further talks with the rebels.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution explicitly provides for the rights of free speech and press and makes permanent the Superior Council of Communication (CSC), created by the National Conference in 1991, to monitor communications policy. Although members of the CSC have been elected, it is not yet operational due to a dispute over who should represent the public press. Deputies speak freely in the National Assembly and openly criticize the Government.

The most important medium in reaching the public is the government-operated national radio service. It disseminates information in eight languages, including programs to explain the meaning and function of democracy. The national radio service covers opposition activities, and there is no progovernment bias in its programming. In addition, the Government publishes the daily Le Sahel, as well as a weekend edition in French.

Several private newspapers came into existence bringing to eight the total number of French and Hausa-language weekly papers. During the transitional government's rule, there were numerous attempts to intimidate the media, including a recommendation by the Minister of Interior that publications be deposited with the Government 48 hours before their distribution. The recommendation was never implemented, however. The newly elected Government made no attempts to intimidate or interfere with the media. In fact, the media criticized the Government and even published interviews with Tuareg leaders after they were released from incarceration. When the official daily failed to cover labor's views, several independent weeklies carried full explanations of labor's reasons for opposing the Government's economic austerity program.

While Niger boasts an active association of editors of private newspapers and an association of female communications professionals, some journalists did not always substantiate their stories. As a consequence, several government officials, including the former Prime Minister, brought suits against journalists for defamation or libel. The courts found several journalists guilty of libel and in one case awarded the plaintiff $1,000, a large sum for a financially fragile independent newspaper. However, there did not appear to be a pattern of high officials routinely bringing suits to intimidate the press or inhibit press freedom.

Academic freedom is respected.

b. *Freedom of Peaceful Assembly and Association.*—Freedom of assembly and association was exercised without hindrance. The Government retains the authority to deny permission for demonstrations under tense social conditions or if notice is not provided to public authorities at least 48 hours in advance. However, permits are routinely granted. Demonstrations are free to use loudspeakers, pamphlets, signs, and other means of mass communication and openly criticize high officials, including the President.

There were several incidents testing the transitional and new Governments' commitment to free assembly. Security forces used tear gas to disperse several demonstrations: in January to disperse a demonstration demanding that the Government find the finances to save the school year; in April to halt a political rally protesting the election of the Prime Minister when demonstrators invaded the National Assembly; and in August in Maradi to disperse a demonstration against the mayor.

In the Maradi incident, the authorities made a dozen arrests and wounded three after the crowd was sprayed with tear gas. The Government claimed that the march organizers did not wait the mandatory period and consequently jailed them for 5 days. They were released when a judge ruled that the Government had acted illegally in banning the demonstration. The organizers have since sued the mayor saying they were illegally arrested at night.

Under the Constitution, Nigeriens may form political parties of any kind, except those that are based on ethnicity, religion, or region. Eighteen political parties formally registered to participate in the 1993 elections.

c. *Freedom of Religion.*—Niger's population is over 90 percent Muslim. Despite the objection of certain Islamic groups, the new Constitution defines Niger as a "nonconfessional" State.

The right to practice other religions is respected. Christians—Catholic, Protestant, and Jehovah's Witnesses—as well as Baha'i, practice freely and establish houses of worship and schools. Conservative Muslim leaders printed denunciations of Baha'is, calling them heretics. Foreign missionaries live, work, and travel freely in Niger but must be members of an internationally recognized organization and register as a Nigerien association. Dozens of such organizations operate in Niger. Only a very few have ever been denied permission to work.

Violence inspired by religious differences between the mainstream Tijaniyya Muslims and the purist Izala sect continued to occur. In August a marabout (Muslim religious leader) of the Tijaniyya was killed, and many believed that members of the rival Izala sect were responsible. An Izala marabout was detained for questioning but was ultimately released.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—In general, freedom of movement is not restricted. Among the Hausa and Fulani people in eastern Niger, however, many women are cloistered and can leave their homes only if escorted by a male and usually only after dark. Security forces at checkpoints monitored travel of persons and the circulation of goods, particularly in and near major population centers. Attacks by rebels or bandits on vehicles traveling on major routes to the north severely restricted movement. Neither emigration nor repatriation is restricted.

There are currently 3,605 Chadians (mostly women and children) in eastern Niger being supplied food, medical assistance, and educational fees by the United Nations High Commissioner for Refugees (UNHCR). In addition to Chadians, Niger is host to some 4,000 Malian Tuaregs who, according to the UNHCR, will soon gain refugee status in order to be repatriated to Mali with international assistance. Niger also hosts a small number of Togolese, Rwandese, Burundian, and Zairian refugees. There were no reports of forced repatriation of refugees.

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

Citizens exercised this right in early 1993 in parliamentary and two rounds of presidential elections. Citizens aged 18 years and over enjoy the franchise. Just prior to the elections, in December 1992, citizens voted overwhelmingly (by nearly 90 percent) to accept the new Constitution establishing the Third Republic. It sets forth a system of checks and balances, with a strong Presidency, an 83-seat National Assembly, and an independent judiciary and enumerates 30 specific civil liberties. A close working relationship has been established between the Presidency and the Prime Minister, and the coalition Government has functioned well, despite a deteriorating economic situation.

Women do not traditionally take part in political decisionmaking. Nevertheless, the new coalition Government appointed 5 women to ministerial positions in a 28-member Cabinet. Women's organizations and other human rights groups conduct educational campaigns aimed at increasing the participation of women in the political process.

The traditional practice of husbands voting their wives' proxies was widely used during the National Assembly elections and the first round of presidential elections. The attempt by some men to vote for as many as four wives caused the Electoral Commission to tighten up on the use of the proxy before the second round of presidential elections. Human rights groups seek to eliminate the practice of men voting the proxy of their wives.

The Electoral Commission (made up of officials and private citizens appointed by the Government) drew electoral districts to ensure that minority ethnic groups (Toubou, Fulani, Tuareg, and Arabs) would be fairly represented. Citizens elected members of each group to the National Assembly.

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

Independent human rights groups and associations addressed human rights concerns without governmental hindrance. Several organizations are active: the Nigerien Association for the Defense of Human Rights; Democracy, Liberty, and Development; the National League for Defense of Human Rights; and Adalci ("Dignity" in Hausa). In addition, there are women's groups and the Network for the Integration and Diffusion of Rights in the Rural Milieu (known as "Ridd-Fitila").

Human rights organizations acted mainly through public declarations, private demarches, and articles and appeals in the press to try to raise public awareness

of human rights issues. The International Committee of the Red Cross is active in Niger and had access to Tuareg detainees and rebel-held hostages during the transition period. Amnesty International has visited without government hindrance to examine human rights practices.

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

The Constitution prohibits discrimination based on sex, social origin, race, ethnicity, or religion.

Women.—Despite the Constitution, the deep-seated traditional belief in the submission of women to men results in discrimination against females in many areas, including in the political process (see Section 3), in education (see below), and in employment and property rights. The situation is particularly discriminatory in rural areas where women do much of the subsistence farming as well as the child-rearing. For example, when the transitional government appointed the first female prefect (governor), the local citizens objected so strenuously that the appointment had to be rescinded.

Women do not enjoy equal legal status with men. For example, while the head of household has certain legal rights, divorced or widowed women, even with children, are not considered the head of their household. With the draft family and rural codes now under consideration by the National Assembly, women's rights groups are attempting to strengthen women's rights in inheritance, land tenure, and child custody, and in particular to end the practice of repudiation. This latter practice permits the husband to obtain an immediate divorce without having further responsibility for the wife or children.

While tradition strongly inclines employers to favor men as employees, there is a small, but increasing, number of women professionals. About one-third of the doctors, perhaps 10 percent of magistrates, and 24 percent of the civil service are women serving mostly at the lower ranks. The first female police officers and soldiers were widely publicized in the popular press. Still, even in urban areas, women remain severely underrepresented in middle and high-ranking positions, in both the public sector and the formal private sector.

Domestic violence against women and children is widespread, though neither the Government nor women's rights groups have firm statistics on its extent. Women's groups report that wife beating is common even in upper social strata. Families often intervene to prevent the worst abuses, and women may (and do) divorce for physical abuse. While women have the right to seek redress in the customary or modern courts, few do so out of fear of the stigma of being labeled a bad wife. Furthermore, the majority of women are economically dependent, and to speak out is to risk immediate divorce by repudiation. Women's rights organizations report that prostitution is often the only economic alternative for a woman who wants to leave her husband.

There were isolated incidents of violence against women attributed to religious motivation. Some extremists physically abused African women wearing Western clothing because a religious leader had blamed the failure of the rains on immoral women.

Children.—The Government's responsibility to children is reflected in the Constitution which provides that the State's public services must be directed to promote the physical and moral health of the family, particularly the mother and children. The Government focuses its limited resources on programs which support women and children. In addition, public education through grade six is mandatory and free. Child labor is strictly limited by law.

Cultural discrimination against females starts early. The vast majority of young girls are kept home to work. Only about 25 percent of children of primary school age actually attend school and about 60 percent of those finishing primary school are male. Young girls rarely get more than a few years of formal schooling. As a result, the male literacy rate is 18 percent; for females it is 7 percent. Families of young girls enter marriage agreements on the basis of which girls are sent at the age of 10 or 12 to join their husband's family under the tutelage of their mother-in-law.

Female genital mutilation (circumcision) has been condemned by international health experts as dangerous to both physical and mental health. In Niger it is limited to one small ethnic group.

National/Racial/Ethnic Minorities.—Ethnic minorities—Tuareg, Fulani, Toubou, Kounouri, and Arab—assert that the far more numerous Hausa and Djerma ethnic groups discriminate against them. The new Government has attempted to address this issue by providing for greater representation in the National Assembly (see Section 3) and by other measures, such as providing schools and clinics in the remote

parts of the country. Still, nomadic peoples—Tuaregs and many Fulani—continue to have less access to government services, largely due to their nomadic way of life. The Hausa with about 50 percent of the population, and the Djerma with about 21 percent are sedentary, mostly urbanized, peoples who have historically dominated commerce, the professions, and the civil service.

People with Disabilities.—The Constitution charges the State with responsibility for the handicapped. In the formal economy, the handicapped (except occasionally those crippled by polio) are rarely employed. The education of those with special needs is beyond the means of an underfunded educational system. There is neither legislation mandating accessibility for the disabled nor the financial means to implement such regulations.

Section 6. Worker Rights

a. *The Right of Association.*—The right of workers to establish and join trade unions has been practiced since the 1940's and is codified in the new 1992 Constitution and in the Labor Code of 1962. However, 90 percent of Niger's work force is employed in the largely subsistence agricultural sector, which is not unionized.

In the industrial sector, the labor federation, the National Union of Nigerien Workers (USTN), comprises 42 unions representing about 70 percent of the 60,000 salary and wage earners in Niger. The vast majority of its membership is made up of government employees, i.e., civil servants, teachers, and employees in state-owned corporations like the national electrical utility. The USTN and the Teachers Union (SNEN) have stated policies of political autonomy, but all unions have informal ties to political parties. Labor challenged the Government on a wide range of issues, notably in 1993 on the reductions in the government budget.

Several unions representing professionals and high-level civil servants remain unaffiliated with the USTN. In addition, there are a hundred or more trade associations which are required, like unions, to file their bylaws with the State and must refrain from overt affiliation with any political party.

The Constitution provides for the right to strike. A minimum 3-day notice is required, and the motives for the strike must be listed. The security forces and police are prohibited from striking. In 1993 the USTN called a series of strikes by public sector employees over back pay of up to 4 months. There were general strikes for 2 days in June, 3 days in July, and 5 days in September. In the July and September strikes, the USTN also protested the Government's austerity budget and its planned deep cuts in civil service salaries. In the 5-day September strike, the USTN demanded smaller salary cuts and a reduction in the number of ministerial portfolios. Late in the year, doctors and medical workers (all state employees) and the national electrical utility went on strike, each for a few days. All these strikes were legal, and the Government did not attempt to suppress the strikes or punish strikers. Employer retribution against strikers is prohibited.

By the end of 1993, the National Assembly delayed further consideration of a new labor code, including new provisions regarding civil servants' right to strike, until March 1994. Features of the draft law include: mandatory conciliation before a strike could be legal, 7 days' notice before a strike could begin, and docking pay for the days civil servants are on strike. Private sector workers already have their pay reduced for days out on strike.

The USTN is a member of the Organization of African Trade Union Unity and abides by that organization's policy of having no formal affiliations outside the African continent. However, it enjoys assistance from some international unions, and individual unions, such as the Teacher's Union, are affiliated with international trade secretariats.

b. *The Right to Organize and Bargain Collectively.*—In addition to the Constitution and the Labor Code, there is a Basic Framework Agreement, negotiated by the USTN's predecessor, employers, and the Government, which has been in force since 1972. The Agreement defines all classes and categories of work, establishes basic conditions of work, and union activities. In the private, public, and state-owned enterprise sectors, unions widely used their right to bargain collectively with management without government interference for wages over and above the statutory minimums as well as for more favorable work conditions. Collective bargaining exists in the public sector. However, since most organized workers are government employees, the Government is actually involved in most bargaining agreements. The USTN represents all workers in the bargaining, and labor/management agreements are applied uniformly to all employees.

The Labor Code is based on International Labor Organization (ILO) principles and protects the right to organize and prohibits antiunion discrimination by employers. Labor unions reported no such discrimination in 1993. A Ministry of Labor official acts as a binding arbitrator in certain circumstances defined by law, such as

reductions in force or firing of a union delegate. In addition, the Government is involved in negotiations to resolve strikes.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Labor Code prohibits forced or compulsory labor, except for legally prosecuted prisoners.

d. *Minimum Age for Employment of Children.*—Child labor in nonindustrial enterprises is permitted by law under certain conditions. Children under 14 must obtain special authorization to work, and those aged 14 to 18 years are subject to limitation on hours (a maximum of 4.5 hours per day) and types of employment (no industrial work) so that schooling may continue. Employers are required by law to ensure minimum sanitary conditions for working children (and women).

Law and practice prohibit child labor in industrial work. Child labor laws are enforced by the labor inspections of the Ministry of Labor. In practice, child labor is practically nonexistent in the formal (wage) sector. Instead, economic necessity forces children to work in the unregulated agricultural, commercial, and artisanal sectors, usually for an immediate relative. Often the only alternative for urban children to working under Niger's difficult economic conditions is begging in the streets.

e. *Acceptable Conditions of Work.*—A minimum wage for salaried workers of each class and category is established by law. The lowest minimum is about $70 (18,000 CFA Francs) per month. Additional salary is granted for each family member and for such conditions of work as night shifts and required travel. The minimum wages are not sufficient to provide a decent living for workers and their families. Most households have multiple earners (largely informal commerce) and rely on the extended family for support.

The legal workweek is 40 hours. However, certain occupations involving irregular hours are authorized longer workweeks, with a maximum of 72 hours. The Labor Code also establishes occupational safety and health standards enforced by the Ministry of Labor inspectors. Because of staff shortages, however, inspectors focus on safety violations in the mining, building, and industrial sectors. Although generally satisfied with the safety equipment provided by employers, citing in particular adequate protection from radiation in the uranium mines, unions say workers should be better informed on the risks posed by their jobs. Workers who remove themselves from dangerous work are likely to be fired, with no legal right to be reinstated.

NIGERIA

At the end of 1993, Nigeria's military continued to rule the country. Until August 27, General Ibrahim Babangida, who had come to power in a 1985 coup, was the head of the military regime. Under Babangida, Nigeria's main decisionmaking organ in 1993 was the military-dominated National Defense and Security Council (NDSC), which ruled by decree. Amid controversy arising from his annulment of the June 12 Presidential election, Babangida resigned as President and Commander-in-Chief on August 26, installing the Interim National Government (ING), headed by businessman Ernest Shonekan. The ING included many members of the earlier Transitional Council, which had been responsible for managing day-to-day governmental affairs under the oversight of the NDSC. The ING was to organize a new presidential election and hand over authority to an elected civilian president by March 31, 1994. On November 17, the military forced Shonekan to resign, and General Sani Abacha assumed the titles of Head of State and Commander-in-Chief.

Abacha established a military-dominated "Provisional Ruling Council" (PRC), which ruled by decree, and named prominent persons from around the country to head government ministries, grouping them into a 32-member "Federal Executive Council" (FEC). Although the FEC included some holdovers from the ING, it also included some well-known prodemocracy and human rights activists. The PRC quickly dissolved the national and state legislatures and the local councils and replaced elected civilian governors with military administrators. The military regime announced it would hold a constitutional conference to plot Nigeria's future, including a timetable for return to democratic government. In the interim, the decree suspending the 1979 Constitution remained in force.

Nigeria's tightly controlled transition to civilian, democratic rule was supposed to end on August 27 with the inauguration of a democratically elected, civilian president. From February to April, Nigeria's two permitted political parties, the Social Democratic Party (SDP) and the National Republican Convention (NRC), staged presidential nominating conventions at the ward, local government, state, and national level. On June 12, the SDP's Moshood K.O. Abiola and the NRC's Bashir Tofa squared off in what national and international observers characterized as the freest

and fairest election in Nigeria's history. But this assessment did not address itself to the process leading to the election, whose integrity suffered from the military regime's extensive manipulation, including the exclusion of many prospective candidates. From early official and unofficial returns it appeared Abiola had won a landslide victory. However, before formal results were announced, Babangida again usurped the democratic process, annulling the June 12 results. Babangida rationalized his action by claiming that he and the NDSC had uncovered evidence of massive electoral fraud, but he never presented evidence to the Nigerian people and never released the June 12 results. Nigerians in the Southwest responded to Babangida's announcement with public protests and civil disobedience campaigns. In July the protests turned violent, and more than 100 people were killed.

The bicameral National Assembly was installed in December 1992, but the NDSC prohibited it from legislating on most areas of national life. The ING used other bureaucratic and political maneuvers to circumscribe sharply the Assembly's authority. In November the PRC dissolved it. The basis of Nigerian constitutional law during 1993 was unclear. Legal experts could not always agree about what document formed the basis of law at any particular point during a year when three different governments held power. Questions of which constitution, if any, was in effect are largely irrelevant. All three governments derived their authority, directly or indirectly, from military power—not from a constitution or a popular mandate. Moreover, all Nigerian constitutions contain essentially the same provisions regarding human rights, and these form the basis of most judicial decisions, unless, as was often the case, a decree specifically nullified a provision or ousted judicial authority.

The Government enforces its authority through the Federal Security System (the Armed Forces, the State Security Service, and the national police) and through the courts. In 1992 Babangida announced the creation of the National Guard, which was supposed to relieve the military of its internal security role in situations in which the police were unable to maintain public order. However, during July's prodemocracy demonstrations, the National Guard remained in its barracks, and Babangida deployed the army to help quell the disturbances. In late October, the ING failed to fund the Guard and announced plans to disperse its personnel to various army units for additional training, effectively disbanding the organization. The security forces committed many human rights violations in 1993.

Most of Nigeria's 90-million population is rural, engaging in small-scale agriculture. Nigeria depends on oil exports for over 90 percent of its foreign exchange earnings and 80 percent of its budget revenues. In order to cope with reduced oil revenues, Nigeria adopted an indigenous Structural Adjustment Program (SAP) in 1986. While the SAP was a success in some respects, economic conditions for the average Nigerian remain very difficult. The elites continue to prosper, but there is widespread unemployment, underemployment, and inflation. Large budget deficits financed by money creation pushed inflation into the 80- to 90-percent range during 1993. The majority of the Nigerian population lives in poverty.

Nigeria's human rights record worsened in 1993. Babangida's erratic political course fueled increased economic distress, heightened episodic civil unrest in urban areas and interethnic violence in some rural areas, resulting in many civilian deaths. The Babangida regime regularly relied on arbitrary arrest and detention as a means of silencing its critics. It closed media houses critical of Babangida's nullification of the June 12 election and announced a series of draconian decrees restricting press freedom. Like other military decrees, they contained clauses prohibiting judicial review. Security services routinely harassed human rights and prodemocracy groups, journalists, and student activists. Other human rights problems included extrajudicial killings, police brutality, dangerous and unsanitary prison conditions, violence and discrimination against women, and infringements on freedom of speech, press, travel, and political and labor affiliation.

Shortly after its inauguration, the ING released detained human rights activists and pledged to respect press freedoms. Activists arrested during antigovernment demonstrations in September were formally charged and released on bail. However, other human rights abuses continued, and the ING failed to honor its pledge to repeal the draconian press decrees. The PRC permitted the closed media houses to reopen and withdrew spurious charges against prominent human rights and journalists, but, like the ING, it did not repeal the press decrees.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—As in previous years, extrajudicial killings and excessive use of force by police and security services were common. The most deadly incident occurred in July after the regime deployed police and military

units to quell prodemocracy protests in Lagos. There were credible reports that security forces may have killed as many as 150 people. The regime asserted that the death toll was much lower and that security forces intervened only when confronted by violent criminals. While the victims included hoodlums and looters, who used the protests as cover to engage in violent criminal activities, eyewitness accounts indicated that security forces often fired randomly into crowds, killing innocent bystanders and peaceful demonstrators.

Security forces in eastern Nigeria demonstrated a similar willingness to use deadly force when confronted by peaceful demonstrators. In May the Movement to Save the Ogoni People (MOSOP), which alleges that the Government is systematically violating the Ogonis' human rights (see Section 5), staged a peaceful demonstration to protest an earlier violent confrontation between MOSOP sympathizers and security forces. According to eyewitness accounts, security forces fired into the protesters, killing one of them.

Although there are no definitive statistics, Nigerian human rights groups maintain that scores of people die annually while in police custody. The claims, though difficult to substantiate, are widely accepted by the Nigerian public and consistent with other credible reports of police abuse, including the use of torture to extract criminal confessions (see Section 1.c.). In March the Civil Liberties Organization (CLO) publicized the case of Johnny Eshiet, who died while in police custody in September 1992. The Ikeja police arrested Eshiet, a transport driver, after his vehicle was reported missing. The CLO reports that police officers bound Eshiet's hands and legs, hung him from the roof of an interrogation room, and flogged him with metal wires in an attempt to extract a confession from him that he arranged to have his vehicle stolen. An eyewitness reported observing Eshiet lying in a pool of blood after the interrogation. Plainclothes policemen took Eshiet to the hospital where he later died.

Police and security services are seldom held accountable for the use of excessive, deadly force or the death of individuals while in custody. The Government made no effort to investigate the conduct of security forces during July's prodemocracy protests and, despite pressure from CLO, there was no effort to investigate Eshiet's death. After the death in 1992 of an army colonel, Domven Rindam, at a police checkpoint, however, the authorities swiftly arrested and charged three policemen with murder. The celebrated case was pending before a Lagos high court at year's end. Rindam's death led police to dismantle most checkpoints, but violent crime in some parts of the country prompted police to maintain others. In June the press reported that police killed a 21-year-old truck driver at a checkpoint along the Port Harcourt-Aba expressway. No one was charged with the crime. The attempt to punish Rindam's killers contrasted sharply with the Port Harcourt case and raised questions about the willingness to investigate extrajudicial killings when the victims are nonmilitary.

b. *Disappearance.*—No politically motivated disappearances were reported. However, government detention practices have the effect of causing many detainees to be "missing" for extended periods (see Section 1.d.).

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Constitutions in effect under the NDSC, the ING and the PRC prohibit torture and mistreatment of prisoners and provided criminal sanctions for such excesses, and the Evidence Act of 1960 prohibits the introduction of evidence obtained through torture. Nevertheless, detainees frequently die while in custody (see Section 1.a.), and there were credible reports that police seeking to extract confessions regularly beat and tortured suspects. For example, the CLO reported that after police from the Adeniji Adele station arrested Uzoma Okorie and Godson Erugo they stripped them naked, suspended them by their wrists from the roof of a police interrogation room, and flogged them. While beating Ms. Okorie, police placed the neck of a beer bottle in her vagina. The CLO reports that police rearrested and beat Okorie and Erugo after they tried to file a complaint with the divisional police commander. In another case, the CLO reports that police in Port Harcourt chained the hands and feet of detainee Madufuro Igwe, suspended him upside down from a ceiling fan, and flogged him with motorbike brake wire.

In an interview with the CLO, Bertram Igwe, a public relations officer of the Rivers State Police Force sought to rationalize the use of torture: "There are helpless situations when you know that a suspect is deliberately telling lies and there is no other means you can use in cracking the case other than softening him." The Constitutional Rights Project conducted a nationwide police powers study that indicates Igwe's sentiments are shared by a large number of police officers: 67 percent of the officers interviewed conceded that, absent an efficient means of investigating a crime, torture becomes the easiest means of extracting information from suspects.

Conditions in Nigeria's prisons continue to threaten life. Lack of potable water and sewage facilities and medical supplies contribute to deplorable sanitary conditions. Disease runs rampant in the cramped, poorly ventilated facilities. A 1993 study of the Ikoyi prisons by the Lagos-based National Institute of Medical Research revealed that 28 percent of inmates had tuberculosis. The Institute warned that an epidemic could break out beyond prison walls unless steps were taken to treat inmates. At most prisons, inmates are seldom allowed outside their cells for recreation, and many must provide their own food. In those cases, only those with money or whose relatives bring food have something to eat. Poor inmates rely on handouts from others to survive.

There are credible reports that inmates are denied food and medical treatment as a form of punishment. It was widely reported, for example, that Beko Ransome-Kuti and Ken Saro-Wiwa were denied access to medical care after they were detained in July (see also Section 1.d.). Saro-Wiwa suffers from a heart condition, and his health deteriorated during his confinement. In some cases, prison officials and police deny inmates food and access to medical treatment to extort money from them.

Overcrowding in Nigerian prisons also remains a serious problem. The CLO reported that cells designed to hold four inmates at the State Intelligence and Investigation Bureau in Port Harcourt often contain more than 30. In October 1992, the Government created a task force on prison decongestion to address this problem. The task force's mandate was to review prison conditions, prisoners' jail terms, their conduct, and, when appropriate, authorize prisoners' release. According to former Secretary for Internal Affairs, Alhaji Abdulrahman, the task force had freed more than 4,000 prisoners since beginning its work. Many of those released had been detained without charge or had spent years in prison waiting for trial (see Section 1.d.).

While prison authorities are supposed to hand over to foster homes children born to women in prison, many children remain in detention with their mothers. Because prisoners are often expected to provide for themselves, it is often less costly for the Government to keep children in prison with their mothers than it would be to place them in foster care.

d. *Arbitrary Arrest, Detention, or Exile.*—Nigerian criminal justice procedures call for trial within 3 months of arraignment for most categories of criminals. Inefficient administrative procedures, petty extortion, bureaucratic inertia, poor communication between police and prison officials, and inadequate transportation still result in considerable delays, often stretching several years, in bringing suspects to trial.

Police are empowered to make arrests without warrants if there is reasonable suspicion of an offense. These provisions give the police powers that are often abused. Nigerian law requires the arresting officer to inform the accused of charges at the time of arrest and take him or her to the station for processing within a reasonable time. The suspect is supposed to be given the opportunity to engage counsel and to post bail. Credible reports indicate that the police generally do not adhere to these safeguards. Suspects are often held incommunicado under harsh conditions for extended periods without charge. Arbitrary detention occurs frequently. Relatives and friends of wanted suspects are also commonly placed in detention without charge in an effort to induce the accused to present themselves to the police.

The State Security (Detention of Persons) Decree of 1984 (Decree Two) provides that the Government may detain without charge persons suspected of acts prejudicial to state security or harmful to the economic well-being of the country. When invoked by the Vice President, the Decree suspends the detainee's civil liberties and forbids judicial review of actions taken within its provisions. Many Nigerians still consider Decree Two the main threat to their basic freedoms because the judicial ouster clause encourages arbitrary detention by allowing officers to make arrests with impunity. Also, the definition of what constitutes acts prejudicial to state security or the nation's economic well-being can be very broadly interpreted.

After July's prodemocracy demonstrations, the regime used Decree Two to arrest and silence Beko Ransome-Kuti, Femi Falana, and Gani Fawehinmi, leading members of the Campaign for Democracy (CD), an umbrella human rights organization which was openly critical of the regime's decision to nullify the June 12 election results. The CD had called for the July demonstrations. The Government charged the three men with conspiracy and sedition and held them in an Abuja prison for almost 8 weeks. The regime ignored two court orders to produce the activists in court and, citing its powers under Decree Two, did not comply with a court order granting the detainees bail. The ING released them on August 30 but did not honor a promise to submit legislation to the National Assembly which would have repealed Decree Two. The PRC subsequently withdrew the charges, but Decree Two remains in force.

The regime detained Ken Saro-Wiwa, a leading human rights monitor and government critic, on three occasions: for brief periods on April 12 and 24, and for several weeks after June 21. Saro-Wiwa and MOSOP members maintain that the regime invoked Decree Two to detain him in June. While press reports that the regime planned to charge Saro-Wiwa with conspiracy and sedition make the MOSOP's contention plausible, the regime never publicly invoked Decree Two.

The above cases were not isolated. The Government routinely detained human rights monitors, journalists (see Section 2.a.), and political opponents for making or publishing statements critical of the Government. In 1992 five human rights activists, including Beko Ransome-Kuti, Gani Fawahinmi and Femi Falana, were detained under Decree Two and charged with treason. The case, which now appears to have become moot, was adjourned to February 1994.

Most often the authorities did not charge the detainees with a crime, held them for only brief periods, and questioned them about their activities and statements. The regime detained Ransome-Kuti without charge on three occasions before arresting him in July and charging him with conspiracy and sedition. Gani Fawehinmi claimed that the Government had detained him 23 times since 1969. Fawehinmi is suing Babangida, who allegedly detained him 14 of the 23 times, for damages. In February the regime detained Panaf Olakanmi, a CD member, for 3 days, allegedly for possessing seditious materials. The same month, security agents raided the CLO's Lagos headquarters (see Section 4) and detained its President, Olisa Agbakoba and two others. After questioning them about their human rights and prodemocracy work, security agents warned the three men to refrain from engaging in subversive acts. In March security agents detained Funsho Omogbehin, a CLO member.

After the regime nullified the June 12 elections, its arrests of human rights and prodemocracy advocates increased. The regime detained leading supporters of Abiola, the apparent winner of the June 12 election, including Oyo State politician Lamidi Adedibu and former governor of Kano State Abubakar Rimi.

According to credible press reports, the Goverment asked Adedibu to sign a statement renouncing his support for Abiola and the June 12 elections. In August security agents detained 200 prodemocracy activists who staged a sit-in to protest military rule and the nullification of the June 12 election results. As the National Assembly prepared to consider a motion endorsing an extension of Babangida's rule, security agents intervened, frequently detaining members for "questioning." Some members were held for as long as 24 hours. The authorities also arrested leading human rights monitors and labor leaders in Kaduna and Jos. They released the Kaduna monitors, who were not charged with a crime, after several days in detention. However, they charged the Jos activists, who were distributing prodemocracy leaflets, with distributing seditious materials and then released them on bail.

Nigeria's total prison population is estimated at 65,000. Human rights groups estimate that as much as 46 percent of this population is awaiting trial. A precise figure for the number of individuals detained without charge is unavailable. There are no credible estimates of the number of political detainees.

There were no known instances of forced exile as a means of political control.

e. *Denial of Fair Public Trial.*—Decree One of 1984, the Basic Constitution (Modification and Suspension) Decree, the first decree promulgated by the military officers who overthrew the civilian regime of President Shagari in 1983, left the institutional framework of the judiciary relatively intact but established a parallel system of military tribunals with sole jurisdiction over certain offenses, such as coup-plotting, corruption, armed robbery, and illegal sale of petroleum. A 1991 Decree amended Decree One by providing that only sitting or retired civilian judges may preside over tribunals hearing nonmilitary cases.

In most cases before the tribunals, the accused have the right to legal counsel, bail, and appeal, though some tribunals substitute a presumption of guilt for the presumption of innocence, and conviction rates in the tribunals reportedly exceed conviction rates in the regular courts. Sentences are generally severe.

Convictions for armed robbery by the Special Robbery and Firearms Tribunals, as well as convictions under the Treason and Treasonable Offenses Tribunal, carry the death penalty with no right of appeal. In the case of armed robbery, death sentences are confirmed by the state governor. Until August 26, when General Babangida installed the ING, the NDSC was responsible for confirming treason sentences. At year's end, it was unclear what organ of the Government had assumed this responsibility. Convictions before the Miscellaneous Offenses Tribunal and the Recovery of Public Property Tribunal may not be appealed in the regular courts, though there is provision for appeal before the Special Appeals Tribunal.

The Government's reliance on tribunals, which operate outside the constitutional court system, seriously undermines the judiciary's independence and often results

in legal proceedings that deny defendants due process. For example, after 1992's ethnoreligious disturbances in Zangon Kataf, the regime created two special tribunals to try those allegedly involved in the riots. Defendants charged before the tribunals were denied the right to appeal the decisions. In early 1993, the tribunals sentenced 15 people to death. One of the tribunal chairmen, retired Justice Benedict Okadigbo, demonstrated little regard for due process throughout the hearings. There were credible reports that during the trial of six individuals, including retired Major General Zamani Lekwot, Okadigbo expressed his unhappiness with the defense attorneys' line of questioning and threatened to jail them if they continued. Human rights groups charged that proceedings before the Okadigbo tribunal were subject to political influence and that Okadigbo was more interested in securing convictions than in securing justice. The resignation of a tribunal member, who alleged that the other justices regularly met and gave judgments on cases without consulting him, lent credence to these allegations. To prevent human rights groups from challenging the tribunals' decisions, the regime promulgated a decree which removed the authority of the regular courts to hear any case regarding any abuse of constitutional rights by the tribunals. In August General Babangida commuted the sentences of those convicted by the Zangon Kataf tribunals from execution to 5 years in prison.

The regular court system is composed of both federal and state trial courts, state appeals courts, the Federal Court of Appeal, and the Federal Supreme Court. Under the 1979 Constitution, courts of first instance include magistrate or district courts, customary or area courts, Shari'a (Islamic) courts, and for some specified cases, the state high courts. The nature of the case usually determines which court has jurisdiction. In principle, customary and Shari'a courts have jurisdiction only if both plaintiff and defendant agree to it, though in practice fear of legal costs, delay, and distance to alternative courts encourage many litigants to choose these courts.

Trials in the regular court system are public and generally respect constitutionally protected individual rights. Lawyers in court frequently referred to rights protected by the (then suspended) 1979 and (unimplemented) 1989 constitutions, and in cases where the Government had no direct interest, these rights were generally respected. They include a presumption of innocence, the right to be present, to confront witnesses, to present evidence, and to be represented by legal counsel. Free legal counsel is available through the Legal Aid Council for persons charged with capital crimes, but the Council is inadequately funded to provide assistance to all persons charged with lesser crimes. There is a legal provision for bail, but many human rights groups charge that it is underutilized. Bail is denied to those charged with murder, armed robbery, and drug offenses. There are no legal provisions barring women or other groups from testifying in civil court or giving their testimony less weight. The testimony of women is, however, accorded less weight in Shari'a courts. There is a widespread perception that judges in both the regular and Shari'a courts are easily bribed, or "settled," and that the courts cannot be relied upon to render an impartial judgment.

Despite Nigeria's established legal tradition, the judiciary's independence and integrity are also undercut by the Government's frequent refusal to respect court rulings. For example, the regime ignored a court order requiring that it produce detained human rights monitors Ransome-Kuti, Fawehinmi, and Falana, in court (see Section 1.d.). While some judges, like the justice who ordered the regime to show cause for its detention of the editors of Tell magazine (see Section 2.a.), are prepared to challenge the Government, many are not. This was best illustrated in 1993 by a Supreme Court decision in a case challenging the regime's authority to nullify the June 12 elections. The Supreme Court ruled that the decrees represented the supreme law of the land.

In addition, there is a perception that in cases which touch upon important government interests, the Government manipulates the courts. Early in the year, prodemocracy groups threatened to file a suit challenging the regime's decision to cancel the 1992 primaries and extend its rule by 8 months. The regime responded by reminding Nigerians that the decrees on which its actions were based contained judicial ouster clauses, prohibiting judicial review of its actions. The regime, its spokesmen said, was not subject to any court orders touching upon the transition program. In June, however, the regime chose to respect an Abuja high court restraining order prohibiting the National Electoral Commission (NEC) from releasing the June 12 results. This decision followed an earlier government decision to ignore a court order forbidding the NEC from conducting the elections. The regime's selectivity did not escape the notice of Nigerians, many of whom charged that the regime's newfound respect for the rule of law was rooted in its unhappiness with the election results. Shortly afterward, General Babangida nullified the election.

The two civilians and nine army officers, convicted in connection with an April 1990 coup attempt after an unfair secret trial before a Special Military Tribunal,

continued to be held incommunicado at year's end. Otherwise, there were no reports of political prisoners in Nigeria.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The 1979 and 1989 Constitutions provide for the rights to privacy in the home, in correspondence, and in oral electronic communications, but those Constitutions, as noted, were suspended throughout the year. In fact, human rights leaders allege that they are regularly followed and that their organizations' telephones are cut or tapped by security agents. Given statements made by police officials in late 1992 and early 1993 that "security agencies (were) monitoring the activities of a human rights activist", these claims seem credible.

Also, in January Nobel laureate Wole Soyinka complained that immigration and customs officials harassed him at Murtala Muhammed International Airport, and in June Soyinka charged that security agents monitored his movements. Soyinka also alleged that a police helicopter frequently hovered around his home.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The 1979 Constitution provides for freedom of speech and the press, and the three governments that controlled Nigeria during 1993 repeatedly reaffirmed their commitment to both principles. In practice, however, the Babangida regime regularly violated these guarantees and conducted a vigorous campaign to silence its critics in the press. While the ING did not routinely arrest and detain journalists, neither did it honor its pledge to repeal decrees limiting freedom of the press, nor did it permit media organizations closed by the Babangida regime to reopen. The PRC permitted media houses to reopen but did not repeal the objectionable decrees.

Security agents often prevented human rights monitors from discussing the Government's human rights record and criticizing the transition program. During April security agents detained Abdul Oroh, the CLO's Executive Secretary, and Nimmo Bassey and prevented them from speaking at the opening of a new CLO chapter in Benin City. Also in April, Delta State police prevented Ken Saro-Wiwa from delivering a lecture and forcibly escorted him from the state. After General Babangida installed the Interim National Government, Attorney General Clement Akpamgbo announced that reference to the nullified June 12 election constituted a criminal act.

The Babangida regime regularly detained journalists, often charging them with conspiracy or sedition, for publishing material critical of the Government or which the Government deemed inflammatory. In March after The Reporter, a northern daily, published a front-page commentary titled, "Nigeria's prevailing mess: (Babangida) to blame," the regime proscribed the newspaper and jailed its editor, Mallam Hayatu. Also in March, security agents arrested the editors of The News and charged them with contempt of court, allegedly for publishing sealed court documents. There are credible reports, however, that the regime arrested the editors to punish them for their magazine's consistent criticism of government policies. In April the Government arrested Innocent Okoye, editor of The Satellite, and Chris Okolie, publisher of Newbreed magazine after they printed articles critical of the regime. The regime arrested the editors of Tell magazine in May and again in August. In the second instance, the regime ignored a court order to produce the editors in court and provide a justification for their detention. It subsequently released the editors but charged them with possessing seditious documents. The PRC dropped the charges on November 30.

The Babangida government waged an aggressive campaign (often relying on informers) to silence Tell and The News, magazines which consistently published articles critical of the regime and its transition program. In April and May, security agents seized thousands of issues of both magazines—at one point seizing three successive issues of Tell. In May security agents seized 42,000 copies of an edition of The News which contained an article characterizing General Babangida as "careless, incompetent, and unprincipled." The authorities frequently detained vendors caught selling either magazine without bringing charges. The regime justified its seizures of Tell and The News by alleging that two unpublished decrees proscribed the magazines' circulation.

On May 2, the regime promulgated the Treason and Treasonable Offenses Decree, which permits it to prosecute "anyone who conspires either with himself or any other person in Nigeria or outside Nigeria by words or publication to disrupt the general fabric of the country or any part of it." The Government may impose the death penalty on individuals convicted under the Decree, which is so broadly worded that almost any criticism of the Government could violate its provisions. On May 22, the regime, perhaps in response to intense domestic and international criticism, reaffirmed its commitment to freedom of the press and announced that it was "setting aside" the Decree. The regime did not repeal the Decree, however, and on the

same day it made the announcement, State Security Service agents seized 80,000 copies of The News.

In June the regime promulgated the Offensive Publications (Proscription) Decree, Decree 35, which empowered it to proscribe or order the seizure of any publication containing any article or material likely to disrupt the transition to democracy. Like the treason Decree, Decree 35 is so broadly worded that almost any criticism of the transition program could provide sufficient grounds for the seizure or proscription of the publication in which it appeared.

Regime attacks on the press intensified after nullification of the June 12 election results. In July it closed six media houses, including the Concord group, owned by M.K.O. Abiola, the apparent winner on June 12. All six media houses were strongly critical of the regime's nullification of the election and repeatedly urged the government to release and respect the results. Secretary for Information and Culture, Uche Chukwumerije, claimed the media houses were closed because they had "mortgaged their professional ethics for money" and engaged in "irresponsible journalism." Official anger over the media houses' criticism is a much more plausible explanation for their closure. The regime permitted two of the media houses to reopen, though one was open only "commercially" and restricted from publishing. The Babangida regime promulgated a decree banning 10 publications of the other 4 media houses, including The National Concord, The Punch, The Sketch, and The Observer. The PRC allowed them to reopen in November.

Also in August, the Babangida regime promulgated Decree 43, which prescribed new registration guidelines for all newspapers and was designed to control the press and silence its criticism of the regime. The guidelines require the payment of registration fees of approximately $10,000 and approval of a registration application by a newspaper registration board whose members are appointed by the Secretary for Information and Culture. The Decree lays out tough penalties, including prison terms and fines, for the circulation of unregistered newspapers and publication of false statements. It requires also that every issue display the names and addresses of its owners, publishers, and printers. Registration must be renewed annually. In September the Interim National Government intimated that it would delay enforcement of Decree 43 until December. It also announced that it was the responsibility of the National Assembly, not the ING, to repeal the Decree. The Assembly was not able to do so before General Abacha's military regime dissolved it.

Nigeria's universities were closed on May 3 because of a strike by the Academic Staff of Universities Union (ASUU, see Section 6). In early October, the strike ended and the universities reopened. The Government lifted its bans on the ASUU and the National Association of Nigerian Students (NANS) in 1993. Academic freedom is generally respected, although some groups allege that government security agents maintain an active undercover presence on the campuses and that university authorities act at the behest of the Government to suspend or expel student activists. Student political activists continued to face harassment from university and security officials.

b. *Freedom of Peaceful Assembly and Association.*—Although all Nigerian constitutions have provided all citizens the right to assemble freely and to associate with other persons in political parties, trade unions, or other special interest associations, only two political parties were permitted in 1993, and the PRC dissolved them on November 18. In addition, Abacha's first speech as Head of State declared that "all processions, political meetings and associations of any type in any part of the country are hereby banned."

The PRC's predecessors did not normally require permits for public meetings indoors, and permit requirements for outdoor public functions were often ignored. However, on the authority of Decree Five the Babangida regime banned gatherings whose political, ethnic, or religious overtones it feared might lead to unrest. In January Osun State authorities, fearing protests by prodemocracy activists, banned public demonstrations and processions. In June Bauchi State authorities announced a similar ban aimed at preventing prodemocracy demonstrations in the wake of the regime's nullification of the June 12 election. Open-air religious services away from places of worship remain prohibited in most states due to religious tensions in various parts of the country.

Nigerians form and participate in a wide variety of special interest organizations, including religious groups, trade groups, women's organizations, and professional associations. Such organizations need not register with the Government and are generally permitted free association with other national and foreign bodies. Members of the Nigerian Bar Association (NBA) accused the regime of interfering with their right to freedom of association, however. In February 1993, the regime promulgated Decree 21, the Legal Practitioners (amended) Decree, which empowered Nigeria's attorneys to manage the NBA's affairs and conduct elections for its national executive

committee. After a disputed presidential election in 1992, the NBA was thrown into crisis. The regime allegedly tried to take control of the NBA by backing a candidate (ING Secretary for Transport and Aviation and PRC Minister for Power and Steel Alhaji Dalhatu) friendly to it but, having failed, used the NBA's internal disarray as an excuse to try again by means of Decree 21. The NBA was challenging Decree 21 in court at year's end.

In May the regime banned several political organizations which it contended were founded primarily along ethnic, tribal, religious, or other parochial lines for the purpose of sponsoring various political candidates. The organizations remained banned under the ING and the PRC.

c. *Freedom of Religion.*—Decree One (suspending most of the 1979 Constitution) and the unimplemented 1989 Constitution prohibit federal and state governments from adopting an official state religion. In addition, the PRC has made it clear that, whatever emerges from the planned constitutional conference, Nigeria will remain a secular state. The 1979 and 1989 constitutional provisions for freedom of belief, practice, and education in regard to religion are generally respected. The Government instituted a ban in 1987 (which is still in effect) on religious organizations on schoolgrounds at the primary level. Individual students retain the right to practice their religion in recognized places of worship.

Distribution of religious publications is generally unrestricted. There is a lightly enforced ban on published religious advertisements, and religious programming on television and radio remains closely controlled by the Government. Both Christian and Muslim organizations allege that the Ministry of Foreign Affairs and the Immigration Department were restricting the entry into the country of certain religious practitioners, particularly persons suspected of proselytizing. Religious practitioners operating schools, institutions, or medical facilities generally were not affected, nor were those seeking renewal of existing residence permits.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Nigeria's 1979 and 1989 Constitutions entitle its citizens to move freely throughout the country and to reside where they wish. They also prohibit expulsion or the denial of exit or entry to any Nigerian citizen. In practice, Nigerians travel abroad in large numbers, and thousands are engaged overseas in work and study. Exit visas are not required.

However, the Babangida regime for political reasons occasionally prevented travel. In June the regime seized Ken Saro-Wiwa's passport and refused to release Olisa Agbakoba's passport, which it had seized the previous year, preventing them from traveling to Vienna to attend the World Conference on Human Rights. The regime returned Saro-Wiwa's passport in September after his release from detention (see Section 1.d.) and Agbakoba's shortly afterwards. In September authorities briefly seized and held Wole Soyinka's passport. Citizens leaving Nigeria have the right to reenter, and citizenship may not be revoked for any reason.

Nigerian law and practice permit temporary refuge and asylum in Nigeria for political refugees from other countries. Nigeria supports and cooperates with the Lagos office of the United Nations High Commissioner for Refugees (UNHCR). A Liberian refugee camp, with an estimated population of 3,000, continued to operate in Ogun state. There is also an undetermined number of Chadian refugees residing primarily in the northern border area. There were no reports that refugees were expelled from Nigeria in 1993.

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

Citizens did not have this right in 1993. Throughout most of 1993 the NDSC, headed by General Babangida, remained the highest authority in the land. On August 26, Babangida announced that he was leaving office and installed an Interim National Government (ING) headed by Ernest Shonekan, a civilian. The ING, which was supposed to organize new elections and hand over power in March 1994, included a number of officials, civilian and military, from the Babangida regime and continued to rule by decree. The PRC, which took power November 17, banned all political institutions and parties. It announced plans for a constitutional conference, but national elections before 1995 are unlikely.

After canceling presidential primaries in late 1992, General Babangida promulgated Decree 52, which extended military rule by 8 months until August 27, 1993, and laid out a new election process and schedule. Presidential candidates were required to win nominating conventions at the ward, local, state and, finally, the national level before squaring off in June 12 elections. The 23 individuals who competed in the canceled 1992 presidential primaries were banned from contesting the new election.

In 1989 the Government created the Social Democratic Party (SDP) and the National Republican Convention (NRC), wrote their manifestos, constitutions, and platforms, and gave them the exclusive right to contest elections. From February to April 1993, the SDP and the NRC conducted nominating conventions under the close supervision of the Government. M.K.O. Abiola emerged as the SDP presidential candidate, while Bashir Tofa secured the NRC nomination.

On June 12, Nigerians voted in what national and international observers judged the freest and fairest election in the country's history. However, this assessment did not take account of the process leading to election day which was marred by extensive manipulation by the military regime, including the exclusion of many prospective candidates. Early official results and unofficial returns appeared to indicate that Abiola had won a landslide victory. However, before the National Electoral Commission could announce formal results, an Abuja high court issued a restraining order blocking their release. The court issued the order after an organization seeking to extend military rule filed a suit challenging the election's validity. On June 23, General Babangida nullified the election results, claiming that he and the NDSC had uncovered evidence of widespread electoral fraud, but he never presented any evidence to substantiate his allegation. Many Nigerians believe that he canceled the election because he opposed the results.

General Babangida's action in nullifying the June 12 election results produced massive public protests and civil disobedience campaigns. It lead to a standoff between Babangida and the unofficial winner, Abiola, with strong elements of a struggle between military and civilians. His action also ignited longstanding ethnic animosities and briefly raised the spectre of civil war. Subsequently, Olusegun Obasanjo, a former head of state, and others played important mediating roles in advocating an all-civilian interim government.

The ING, however, proved incapable of dealing with Nigeria's problems. At the urging (some say demand) of General Abacha and others, ING Chairman Shonekan resigned on November 17. Abacha installed himself as Head of State and established the military-dominated PRC. He also named a largely civilian cabinet which included some prominent prodemocracy and human rights activists. Reneging on an earlier promise, Abacha named military officers rather than civilians to replace the elected civilian governors whom he had dismissed. Local Government councils were left in the hands of civilians, but Nigerians will not have an opportunity peacefully to change their government at any level until the proposed constitutional conference completes its work and a timetable for the return to democracy is implemented.

At the party conventions and in the June 12 election, votera cast their ballots by a "modified open-secret system." Under this system voters balloted privately but remained at the conventions and polling stations while election officials publicly tabulated the results.

Men continue to dominate Nigerian politics. However, there are no legal impediments to political participation or voting by women or any other minority group. One woman served in the 91-member Senate, and 6 women served in the 589-member House of Representatives. Several women ran for President and at the SDP convention one woman, Sarah Jibril, finished fourth in the balloting. One woman held a cabinet position in the Interim National Government, and there were two female deputy governors. There is 1 woman in the 32-member FEC, but no woman is a member of the PRC.

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

Human rights groups across a broad spectrum are engaged in the vocal and public campaign for the promotion of human rights in Nigeria. Among the most active are: the Civil Liberties Organization (CLO); the Committee for the Defense of Human Rights (CDHR); the Constitutional Rights Project; the National Association of Democratic Lawyers; Human Rights Africa; the Legal Research and Resource Development Center; the National Association of University Women; the International Federation of Women Lawyers; and the Human Rights Committee of the Nigerian Bar Association. A number of prominent authors, including Nobel laureate Wole Soyinka, artists, educators, and jurists, in addition to professional and labor organizations, have spoken out frequently on human rights issues.

The Government often interfered with the activities of human rights organizations, detaining their membera (see Section 1.d.) and preventing them from criticizing the Government's human rights record (see Section 2.a.). Detentions increased after the Government nullified the June 12 election. In addition to incidents outlined in other sections of the report, in February police and security agents raided the CLO's Lagos office and confiscated membership lists, financial statements, and the manuscript of a report titled, "Prisoner in the Shadows—a report on women and

children in selected Nigerian prisons." On the same day, security agents searched the home of CLO President Olisa Agbakoba and the home of CDHR member Chima Ubani. Security agents also detained Agbakoba (see Section 1.d.). On occasion, the Government harassed family members of human rights leaders.

High-level government officials regularly denounced the activities of Nigeria's human rights community, often accusing its members of participating in foreign-inspired plots to destabilize the country. There are credible reports that the State Security Service engaged in a campaign to discredit human rights leaders by distributing leaflets and hanging posters alleging that they were interested only in political self-promotion or stirring up ethnic divisions (see also Section 1.f.).

In June the regime sent a diplomatic note to all diplomatic missions and international organizations present in Nigeria deploring diplomatic contact with human rights groups, which it labeled "subversive." The note threatened that the regime would "take approriate measures to protect its national security" if diplomats continued meeting with human rights groups. U.S. and other diplomats continued to meet with such groups. Foreign human rights groups are permitted to visit Nigeria. The Government occasionally responds to domestic human rights charges, though often not constructively. For example, the Government often claims that its attacks on the press (see Section 2.a.) are a response to irresponsible journalism.

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

Women.—There are no laws barring women from particular fields of employment, but women often experience discrimination because the Goverment tolerates customary and religious practices which adversely affect them. Women do not receive equal pay for equal work and often find it extremely difficult to acquire commercial credit or obtain tax deductions or rebates as the heads of households.

While some women have made considerable individual progress, both in the academic and business world, most women are underprivileged. According to a 1990 U.N. Children Fund's (UNICEF) report, fewer than 10 percent of Nigeria's women are employed in nonfarming occupations. Though women are not legally barred from owning land, under customary land tenure systems only men own land, and women gain access to land through marriage. In addition, under law a woman may not inherit her husband's property unless she can prove that she contributed to the acquisition of the property. Many customary practices do not even recognize a women's right to inherit her husband's property, and many widows are rendered destitute when their in-laws take virtually all of the deceased "husband's property," often leaving the woman with barely the clothes she is wearing. Polygamy is widely practiced among all Nigerian ethnic groups in both Christian and Islamic communities.

Reports of wife abuse are common, especially in polygamous families. Police do not normally intervene in domestic disputes, and they are seldom discussed publicly. In more traditional areas, it is questionable whether the courts and police actively intervene to protect women who formally accuse their husbands if the level of alleged abuse does not exceed customary norms in the area. Purdah, the Islamic practice of keeping girls and women in seclusion from men outside the family, is prevalent in parts of Nigeria's far north. A number of factors affect the strictness with which seclusion is enforced, including the husband's wishes and his socioeconomic status.

An estimated 100,000 Nigerian women suffer from vesico-vaginal fistula. Approximately 83 percent of the cases result from prolonged labor among underage women. Another 13 percent reportedly result from the primitive Hausa/Fulani practice known as "gishiri cut," whereby a pregnant woman is cut open through the genital organs, damaging the bladder or rectum, in a frantic bid to release the fetus.

Children.—The Government's commitment to children's welfare has been more sporadic than deliberate, and it devotes only limited resources to children's welfare, though the amount of money spent on children's health projects has increased in recent years. Nigerian laws designed to protect the rights of children, such as child labor laws and the 1964 Children and Young Persons Act, are often obsolete, inadequate, and seldom enforced. Although the law stipulates that "no child shall be ordered to be imprisoned" in Nigeria, juvenile offenders are routinely denied bail and incarcerated along with hardened criminals. Juvenile courts often ignore proper procedures, and there is little effort to explain the nature of the offense to defendants. The Government only occasionally condemns child abuse and neglect and makes little effort to stop customary practices, such as the sale of children into marriage. "Remand homes," as Nigerian reform schools are known, are very protective of their inmates, but necessary elements such as varied and sufficient food, medical care, health precautions and recreation are lacking.

Nigerian law provides that "no child should be engaged or be employed in street trading." However, the Government condones street trading, and young boys and girls are prevalent in Nigeria's market stalls and hawking a variety of wares in the ubiquitous traffic jams. Inordinate numbers of street children are prevalent throughout Nigeria and many, known as "area boys," often resort to crime and harassment of traders, pedestrians, and drivers. The Government periodically rounds up and detains these children with no regard for due process.

Despite government efforts, labor, political, and other problems plague Nigeria's education system, and many children go without any formal education. Parents are often forced to remove children from school for economic reasons. There are credible reports that poor families often sell their daughters into marriage as a means of supplementing their incomes. There are also reports that many young girls are forced into marriage as soon as they reach puberty, regardless of age, to prevent "indecency" associated with premarital sex.

The Government publicly opposes female genital multilation (circumcision). Nigeria was one of five countries which sponsored a resolution at the 46th World Health Assembly calling for the elimination of harmful health practices, including female genital mutilation. However, most Nigerian ethnic groups circumcise young females. Nigerian experts estimate that as many as 50 percent of Nigerian girls/women—virtually 100 percent in the primarily Christian south, and fewer in the Muslim north—have undergone female genital mutilation which varies from simple removal of the labia minora to removal of the clitoris to the most dangerous form, infibulation. The age at which females are circumcised varies from the first week of life to after a woman delivers her first child. Some groups circumcise prior to marriage; others during pregnancy, believing that if the head of the child touches the clitoris during delivery, the child will die. The Federal Ministry of Health and nongovernmental organizations sponsor public awareness and education projects to inform communities of the health hazards associated with female genital mutilation.

National/Racial/Ethnic Minorities.—There is no official policy of discrimination against any of Nigeria's 250 ethnic groups, and laws do not favor one group over another. However, Nigeria has a long history of tension among its diverse ethnic groups. Clashes between rival ethnic groups in Delta, Rivers, and Taraba States often resulted in bloodshed. Tradition continues to impose considerable pressure on individual government officials to favor their own ethnic group, and ethnic favoritism persists.

The Ogoni, an ethnic group indigenous to Rivers State in eastern Nigeria (Nigeria's oil producing region), charge that the Government engages in a systematic campaign to deprive them of their land and its wealth. The Ogonis claim that the Government seizes Ogoni property without fair compensation, ignores the environmental impact of oil production on Ogoni land, and fails to provide adequate social services, such as water and electricity. The Movement to Save the Ogoni People, which is campaigning for greater Ogoni autonomy, often describes government policy towards the Ogoni as genocide. While the confrontation between the Government and the Ogoni has occasionaly turned violent (see Section 1.a.) and Ogoni concerns about environmental degradation and the quality of social services in the oil producing region have some merit, accusations that the Government is engaged in a genocidal campaign against the Ogoni are unfounded.

Religious Minorities.—Nigerian law prohibits religious discrimination. Nonetheless, it is commonly reported that government officials often discriminate against persons practicing a religion different from their own. Religious tensions often lead to violence, as in 1992 when clashes between Muslims and Christians in Kaduna State resulted in hundreds, perhaps thousands, of deaths. Many Christian leaders allege that the civil disturbance tribunals established to try those accused of inciting the Zangon Kataf riots were biased against Christian defendants. The composition of the six-member Okadigbo tribunal, which included four Muslims, reinforced this impression. While it is unclear if a defendant's religion influenced the tribunal's judgments, accusations that the tribunal did not adequately safeguard defendants' right to a free and fair trial are credible (see Section 1.e.).

People with Disabilities.—The Government called for private businesses to institute policies ensuring fair treatment for the 2 percent of the work force that it claims is disabled. It has not, however, enacted any laws nor formulated any policy which specifically ensures the right of the disabled to work, nor has it mandated what action should be taken if employers discriminate against the disabled.

While there is nothing which would indicate systematic discrimination against the disabled, disabled workers must compete in an economy in which many nondisabled are unemployed and underemployed. In addition, Nigeria's poor infrastructure makes it difficult for the disabled to get to work, making them less attractive to employers. Few office buildings have access ramps for wheelchairs, and many have ele-

vators that work sporadically, if at all. Public transportation, when and where available, is not equipped to handle wheelchairs.

While the Government appears desirous of providing education for all handicapped children and adults, Nigeria's economic crisis and lack of adequate infrastructure make it difficult to allocate sufficient resources to meet the disabled population's needs.

Section 6. Worker Rights

The Babangida regime and the interim government that succeeded it made few changes in labor law. The interim government restructured the Nigeria Labour Congress in August, merging unions to reduce the number of affiliates from 41 to 29.

a. *The Right of Association.*—Nigerian workers, except members of the armed forces and employees designated essential by the Government, may join trade unions. Essential employees include firefighters, police, employees of the Central Bank, the security printers (printers of currency, passports, and government forms), and customs and excise staff. Primary, secondary, and university teachers were added to the list of essential personnel in May. They fall into a special category, however, as they are allowed to organize but not to strike. The National Labour Congress (NLC), Nigeria's umbrella labor federation, repeatedly called on the regime to reinstate unions in all sectors of the economy except for the armed forces, firefighters, and police. Neither the ING nor the PRC rescinded the relevant decree.

The vast majority (approximately 72 percent) of the Nigerian work force is employed in agriculture. No agricultural workers are unionized. Domestic workers, most of the informal sector, and practically all small industries and businesses remain nonunionized. Approximately 11.5 percent of the total work force belong to unions. Government decrees and policy continue to restrict labor freedoms. In contravention of the International Labor Organization (ILO) Convention on Freedom of Association, the Government has decreed a single central labor body, the NLC, and deregistered all other union federations.

The Government continued to resist attempts by senior government staff to form and register as an independent labor association the Senior Staff Consultative Association of Nigeria (SESCAN). It refused to register SESCAN affiliates as authorized labor organizations and did not allow employers to deduct SESCAN dues from employees' paychecks.

The NLC claims 3.5 million members out of a total work force of over 30 million, but this figure is difficult to verify. Although the population has grown and the work force has increased, endemic economic problems have probably contributed to a decline in union membership.

Under Nigerian labor law, any nonagricultural enterprise which employs more than 50 employees is obliged to recognize trade unions and must pay or deduct a dues checkoff for employees who are members. The NLC has complained that some employers deliberately organize their industries into multiple units employing less than 50 workers to avoid unionization. When the NLC called a general strike in August, the regime threatened to withdraw the dues checkoff provision and make the payment of union dues completely voluntary. Organized labor condemned this proposal, and the ING dropped it when the strike ended.

The right to strike is recognized by law, except in the case of essential services as defined by the Government. There are no laws prohibiting retribution against strikers and strike leaders. However, strikers who feel they are facing unfair retribution may submit their cases to the Industrial Arbitration Court. Its decisions are binding on all parties.

During 1992 and 1993, a rapidly declining economy and the regime's annulment of the June 12 election resulted in a growing wave of protracted labor disputes, culminating in the NLC's August 28-September 6 general strike and a series of general strikes sponsored by the Campaign for Democracy (CD) and other government opponents. Although the security forces detained and harassed some of the more outspoken labor leaders, they did not make a systematic attempt to stop the strikes. There were no mass arrests of striking workers or violent confrontations between strikers and the security forces.

In May the regime promulgated the Teaching Essential Services Decree, which declared education an essential service. Although education-sector unions were not proscribed, the Decree called for the dismissal of teachers who participate in a strike that is longer than 1 week in duration. In July the regime banned the Academic Staff Union of Universities, which had been on strike since May, and issued dismissal notices to striking university teachers. The strikers ignored the dismissals, and the regime later rescinded the ban and reinstated the strikers without penalty.

The ILO continues to criticize the Nigerian Labor Code, which it asserts allows a number of practices that run counter to ILO conventions. These include Nigeria's

single trade union system, the ban on organizing for certain categories of workers, the broad powers of the Government to supervise union accounts at any time, and restrictions on the right to strike.

In August 1991, the regime's Decree 32 amended a policy held since 1975 which permitted international labor affiliation only with the Organization of African Trade Union Unity (OATUU) and affiliated pan-African labor federations. Decree 32 partially repealed the ban by allowing affiliation with non-African international labor organizations, but only for training and education assistance.

The transition to civil rule program promulgated during the Babangida regime made it illegal for the NLC to engage in partisan politics. Despite this, the NLC publicly endorsed the Social Democratic Party (SDP), and NLC President Paschal Bafyau lobbied vigorously to be named the SDP's vice presidential candidate in the June 12 election. Neither the NLC nor Bafyau was sanctioned for their political activities.

b. *The Right to Organize and Bargain Collectively.*—The labor laws permit both the right to organize and the right to bargain collectively between management and trade unions. Collective bargaining is, in fact, common in many sectors of the economy. However, the Government retains broad authority over labor matters and can intervene forcefully in labor disputes which it feels contravene its essential political or economic programs.

There are provisions against antiunion discrimination in the Trade Dispute Act of 1976. Nigerian law further protects workers against retaliation by employers for labor activity through an independent arm of the judiciary, the Nigerian Industrial Court, which handles complaints of antiunion discrimination. The NLC has complained, however, that the Nigerian judicial system is often slow to handle labor cases and that this constitutes a denial of redress to those with legitimate complaints. Courts have compelled several employers to reinstate fired union activists.

The Ministry of Labor has tried to restrict its role to the enforcement of minimum wage and freedom of association laws. In January 1991 the Government abolished the uniform wage structure for all government entities. Now each tier of government—federal, state, local, and state-owned firms—is free to negotiate its own level of wages, benefits, and conditions of employment. As a result, negotiations, previously conducted on a nationwide basis under the direct supervision of the Labor Ministry, are now conducted on a local, often plant-wide, basis with less government involvement.

General Babangida laid the cornerstone for an export processing zone in Calabar on November 8, 1991. As of the end of 1993, the regime had not addressed the shape of labor relations within the zone.

c. *Prohibition of Forced or Compulsory Labor.*—The 1979 Constitution (and the 1989 Constitution, which formed the basis for most jurisprudence during 1993) prohibit forced or compulsory labor, and this prohibition has long been generally observed in practice. The ILO, noting that the 1989 Constitution had been suspended, asked the Government to indicate how the ILO Convention against forced labor would be enforced in the absence of constitutional guarantees. The ILO has also pointed out that Nigerian legislation regarding punishment for illegal strikes, breaches of labor discipline by merchant seamen, and compulsory arbitration may be in violation of the ILO Convention of the Prohibition of Forced or Compulsory Labor.

d. *Minimum Age for Employment of Children.*—The 1974 Labor Decree prohibits employment of children under 15 years of age in commerce and industry and restricts other child labor to home-based agricultural or domestic work. The labor law prohibits the employment of children in agricultural or domestic work for more than 8 hours per day. The 1974 Decree allows the apprenticeship of youths aged 13 to 15 under specific conditions. Apprenticeship exists in a wide range of crafts, trades, and state-owned enterprises.

Primary education is compulsory in Nigeria, though the law is rarely enforced and recent studies show declining enrollment. The Government and UNICEF estimate that in 1987 primary school enrollment probably peaked at around 61 percent, declined steadily thereafter, and may have dropped below 50 percent during 1993. The principal cause for the decline has been continuing deterioration of public schools. This lack of sufficient primary school infrastructure has denied some families access to education, contributing to the number of children on the employment market.

The ILO and UNICEF, in consultation with the NLC, have concluded that child labor, while not yet endemic, is on the increase in the unregulated and nonunionized informal sector and could become a serious problem. Nigeria's export industries do not employ children. The United Nations has proposed a study to determine more precisely the extent of child labor in Nigeria. It also proposes to work together with the NLC, nongovernmental organizations, and the Nigerian Govern-

ment to devise strategies to combat child labor abuses. Under the provisions of ILO Convention 123, the ILO requested the Government to supply it with a list of Nigerian children who may be employed in mining. The regime had not yet responded to the request by year's end.

e. *Acceptable Conditions of Work.*—The 1974 Labor Decree establishes a 40-hour workweek, prescribes 2 to 4 weeks of annual leave, and sets a minimum wage of $14 (450 Naira) per month. The Government's Structural Adjustment Program (SAP), coupled with a high inflation rate, has reduced the buying power of many Nigerian workers and led many within the NLC to criticize the SAP as an unfair imposition on the workers. The minimum wage as currently stipulated does not allow a worker's wages to keep pace with inflation nor provide a decent standard of living. Rising inflation is a frequent cause of strikes. Nigerian labor law stipulates that workers are to be paid extra for hours worked over the legal limit. Labor law also states that workers who work on Sundays and statutory public holidays must be paid a full day's pay in addition to their normal wages. There is no law prohibiting excessive compulsory overtime.

The 1974 Decree contains general health and safety provisions, some aimed specifically at youth and female workers, enforceable by the Ministry of Labor. Employers must compensate injured workers and dependent survivors of those killed in industrial accidents. The Labor Ministry, which is charged with enforcement of these laws, has been largely ineffective, and violations are common and go largely unpunished. Workers have the right to remove themselves from dangerous work situations without jeopardy to continued employment. However, such requests are rare, as dire poverty often compels workers to remain in dangerous jobs although they may be fully aware of the possible consequences.

In 1991 Nigeria invited an ILO tripartite team from the Committee of Experts (COE) to evaluate the country's labor inspection system. The COE determined that Nigeria was not yet fully in compliance with the relevant ILO conventions, as it did not maintain adequate statistics on its inspection program. Despite extensive ILO-sponsored training programs for factory inspectors, at the end of 1993 the ILO had not yet ruled that Nigeria was in compliance.

RWANDA

Rwanda is governed by an interim Government under a powersharing arrangement in which President Juvenal Habyarimana retains predominant executive, legislative, and judicial authority in accordance with the 1991 Constitution. Responsibility for day-to-day government operations rests with a five-party coalition Government headed by a Prime Minister from an opposition party.

The interim Government took a major step forward in its promised transition to multiparty democracy when it signed a Peace Accord on August 4 with the Rwandan Patriotic Front (RPF), ending 3 years of war. The Peace Accord, the result of more than a year of intense negotiations between the two sides, is designed to overcome the major cause of the war, ethnic rivalry between Hutus and Tutsis, who comprise about 85 and 14 percent of the population respectively. The United Nations Security Council voted on October 5 to send a peacekeeping force to Rwanda to assist in the implementation of the Accord.

The Peace Accord had not been implemented by year's end, but, when implemented, will shift many presidential powers to a new multiparty government, create a transition national assembly composed of deputies appointed by 17 political parties, and establish a joint high command for an integrated (government and RPF) army and gendarmerie. The establishment of these transition institutions will usher in a 22-month transition period intended to end with multiparty elections.

The Peace Accord calls for an integrated army and gendarmerie composed of 60-percent government and 40-percent RPF forces. Rwanda's security apparatus consists of the Armed Forces (FAR), including the army, responsible for external security, and the gendarmerie, responsible for internal security; the local police; and the internal and external intelligence services. A National Security Council, consisting of the Ministries of Defense, Interior, and Justice, which are responsible for these services, coordinates the activities of the security institutions. In the wake of renewed hostilities between the Government and the RPF in February, members of both armies committed serious human rights abuses against civilians.

The overwhelming majority of Rwandans are subsistence farmers. The modest industry and food production has barely managed to keep pace with the high population growth rate. The economy depends heavily on exports of coffee and tea, and on foreign aid. Rwanda has an agreement with the World Bank and the Inter-

national Monetary Fund for a structural adjustment program, but the war has disrupted economic recovery; and economic growth remains dependent on postwar economic recovery.

Human rights abuses that plagued the first quarter of 1993 diminished considerably as the peace process progressed toward the signing of the Peace Accord and its implementation. Those abuses stemmed from dissatisfaction on the part of the former sole party, the National Revolutionary Movement for Development (MRND), over the powersharing arrangement agreed to on January 9 between the multiparty Government and the RPF. That dissatisfaction triggered ethnic violence that killed over 300 persons and displaced 4,000 persons, mainly minority Tutsis and opposition political party members. Citing this violence as a cease-fire violation, the RPF attacked in February, killing a number of civilians, mostly Hutus, including some who were politically prominent. In withdrawing, government soldiers looted, raped, and killed a number of civilians. The February fighting temporarily displaced another 600,000 people, bringing the total number of those displaced by war to nearly 1 million.

During this same period, security forces responsible for civilian safety outside the war zone occasionally arrested, beat, and sometimes tortured and killed persons suspected of sympathy with the RPF. Early in the year, an international commission composed of 10 specialists from various countries investigated past and present human rights abuses. The commission's report, issued in March, and the unresolved political killings in May and August of a prominent politician and a well-known local government official kept alive fears of the possible existence of a death squad. As installation of the broad-based government approached following signing of the August 4 Peace Accord, sporadic incidents of violence claimed the lives of several civilians in widely scattered rural areas.

Despite the disruptions of the first quarter, the Government was able subsequently to hold elections in many localities based on competition among multiple candidates from different political parties, including the RPF. Opposition parties won about half of those local elections. Women, however, are poorly represented in the present and emerging political system. They face extensive legal and societal discrimination and are often victims of domestic violence. In the first quarter, they were frequently victims of rape by soldiers.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were extensive political and other extrajudicial killings in the ethnic and political violence which erupted in northwestern Rwanda in January following discontent over the powersharing agreement between the Government and the RPF. The violence, which targeted Tutsis and supporters of political parties other than the MRND, resulted in over 300 deaths and the temporary displacement of 4,000 persons. Youth from the MRND and their ally, the Coalition for the Defense of the Republic (CDR), were responsible for carrying out many of the killings. Women and children were among the victims. (See also Section 1.g.)

Subsequently, under pressure from the RPF in peace talks, the Government removed several local and regional officials for suspected involvement in this ethnic and political violence. However, an interministerial commission found that local authorities had, by and large, responded appropriately to the violence, and the Government took little disciplinary action. It reassigned many of these local officials to important posts, and none had been brought to trial on either civil or criminal charges by year's end.

In the aftermath of the ethnic violence in the first quarter, the authorities charged about 400 persons with arson or murder. Approximately one-third of these had been tried by year's end, and 77 were convicted in trials generally believed to be fair, with sentences ranging from prison terms to the death penalty.

The RPF was guilty of political and extrajudicial killings during its February offensive, including targeting local officials such as judges (see Section 1.g.).

Following the RPF attack, persons suspected of being RPF sympathizers, usually Tutsis but sometimes opposition party members, lost their lives at the hands of the Rwandan military or other party members. Human rights organizations documented cases north of Kigali, just south of the war front, where the military shot to death Tutsis, sometimes whole families or sometimes just the men, usually at checkpoints. Other cases indicated that the military beat to death detainees, usually held for lacking proper identification, including at least five detainees in a military camp in central Kigali. Gendarmes abducted three Tutsi (Bagogwe) students from the campus of an Adventist University in February. Their bodies, along with two others,

were subsequently found near the school. Human rights monitors reported that as many as four unclaimed bodies, showing signs of beatings or bullet wounds, were buried in Kigali each day in late February. Most of these extrajudicial killings remain unsolved, although a military court has convicted some soldiers for vengeance killings.

Allegations of the existence of Rwandan death squads persisted. In May unknown assailants killed a prominent opposition politician and in August a well-known local official. A report in March from an International Commission of Inquiry into Violations of Human Rights in Rwanda since October 1, 1990, also gave some support to these allegations. The Commission, comprised of human rights monitors from eight countries, spent 2 weeks in Rwanda in January, and its report identified individuals suspected of involvement in death squad activity. Several persons identified in the report subsequently denied the allegations, and the credibility of one of the Commission's witnesses, who claimed he had participated in death squad activities, had not been established by year's end.

b. *Disappearance.*—Local human rights monitors documented at least 10 disappearances in 1993. Most cases involved individuals suspected of being RPF sympathizers who were last seen in the custody of gendarmes or government military personnel or are believed to have been arrested or abducted by government authorities. In one case, a returning Rwandan refugee of Tutsi origin was stopped and questioned by MRND youth and subsequently beaten and taken to a gendarme brigade headquarters in Kigali on suspicion of being an RPF sympathizer. He has not been seen since. In addition to these documented cases, local human rights organizations looked into several other cases of reported disappearances. In most cases, however, the local human rights monitors were unable to verify that the individuals existed.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture, although not explicitly outlawed, is contrary to the Constitution and Peace Accord, which together constitute the fundamental law of the land.

Early in the year, security forces sometimes used torture as part of interrogations. During the first quarter, their mistreatment of civilians, especially Tutsis, increased sharply. Security forces responsible for civilian safety outside the war zone occasionally arrested, beat, tortured, and killed persons suspected of sympathy with the RPF (see Section 1.a.). These abuses decreased markedly after the Minister of Defense ordered an end to abusive behavior at military checkpoints.

There were many incidents of arbitrary beatings by security forces and political party youth groups in the politically charged atmosphere of January and February. In January MRND and CDR youth blocked roads and attacked Tutsis and political opponents in the northeast of the country. In one case, MRND/CDR youth beat Rwandan employees of Care International in their homes for suspected sympathy with the RPF. Local security forces did not intervene to end the violence.

Government soldiers frequently raped women and high school girls as they withdrew from the front in the face of the RPF advance (see also Sections 1.g. and 5).

Credible reports indicate that one gendarme in the gendarmerie interrogation unit, which was trained in non-abusive interrogation techniques in 1992, tortured at least five persons in 1993. One victim, a soldier detained in a military camp on suspicion of attempted assassination, was later transferred to the Kigali prison and released after being acquitted of illegally carrying a grenade. The gendarme was transferred to another post after human rights watchers alerted superiors to his behavior.

Prisons are overcrowded, poorly maintained, and occasionally the site of deadly violence among prisoners. Delegates of the International Committee of the Red Cross (ICRC) have regular access to prisoners and gendarme brigades. ICRC also has access to military camps but not to detainees, if any, held there.

d. *Arbitrary Arrest, Detention, or Exile.*—Except for suspects caught in the act of committing crimes, the law requires that arrests be made with a warrant following an investigation. Under the law, persons may be detained for no more than 48 hours without a warrant. Within 5 days of arrest, charges must be stated formally in the defendant's presence, or the Court of Appeals must approve a public prosecutor's request for a 30-day preventive detention order.

Preventive detention is permitted if public safety is believed to be threatened, if the accused might flee, or if the penalty carries a minimum sentence of 6 months. Detention may be prolonged indefinitely, but judicial review is mandatory every 30 days. Detainees may appeal their incarceration, and the appeal must be heard within 24 hours by a competent judicial authority. These procedures apply to all persons suspected of crimes and are generally respected in practice. Failure to meet any of these requirements constitutes grounds for release of the arrested person and dis-

missal of the case. Bail is not available under Rwandan law, but suspects are often released on their own recognizance pending trial.

During February, following resumption of hostilities between government forces and the RPF, the military arrested and detained a number of civilians, usually Tutsi, suspected of complicity with the RPF. They were detained temporarily by the military in military camps in Gisenyi, Gitarama, and Kigali, allegedly for not having proper identification papers. Intervention by the Minister of Defense or action by human rights groups generally resulted in the release of these detainees or their transfer to civilian prisons. These arrests were not widespread, as was the case after the outbreak of war in 1990, and the judicial system was not involved.

There are no known cases of politicians or journalists being arrested or detained in 1993 for expressing views critical of the Government. No action has been taken in the security cases pending since 1992 against three journalists who remain at liberty. Illegal detentions in criminal cases continue to be common due to delays in processing and unfamiliarity of untrained magistrates with judicial procedures.

Pretrial detainees, who comprise the majority of prisoners, may wait for a year or more for a court date due to the backlog of cases. There are no known cases of political detainees still in custody, either in prisons or military camps. Following the signing of the Peace Accord, the ICRC returned 12 prisoners of war (POW's) held by the RPF to the Government and the Government returned 6 POW's to the RPF.

Exile is not practiced as a form of punishment. However, thousands of Rwandans, mainly Tutsi, have been in exile for over 30 years in neighboring countries and abroad. Between 2,000 and 4,000 such exiles or their children comprised the RPF invasion force in October 1990. The Peace Accord incorporates into law the right of return; a December 1991 law grants blanket amnesty to refugees and exiles who choose to repatriate.

e. *Denial of Fair Public Trial.*—The judicial system has separate court systems for criminal/civil cases and military cases. Decisions may be appealed to the appropriate regional court of appeals. At the request of counsel or of defendants, the Cour de Cassation will review civil and criminal cases for errors in procedure or in the application of the law. Errors can result in retrial by another panel of judges. The State Security Court, abolished by the Peace Accord, had been defunct since the coalition Government announced its abolition in mid–1992.

The judicial system is susceptible to government influence and manipulation. Although the Constitution provides for an independent judiciary, it also makes the judicial system dependent on the executive branch and gives the President ultimate authority to appoint and dismiss judges. Also, the judicial system is hampered by the low educational level of the vast majority of judicial officials, the lack of material and equipment for the courts, and the absence of compiled jurisprudence.

The revitalization of the magistrature, anticipated following passage of a law in 1992 enhancing the role of magistrates in decisions affecting the judiciary, did not occur. Instead, controversy over the legality of the leadership and initial decisions of the newly constituted Superior Council of Magistrates paralyzed the judicial system. In addition, Rwanda had no Minister of Justice during the first 6 months of 1993.

All trials are public. Defendants are constitutionally entitled to counsel but often are not represented at trial by counsel because of a shortage of lawyers. There are only about 40 trained private lawyers in Rwanda, mostly in Kigali, and approximately 100 officially recognized "legal agents" who may represent defendants in court.

There were no known political prisoners in custody at year's end.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the respect of privacy of individuals, correspondence, and communications and declares that the home is inviolable. These provisions are generally respected, but occasionally Rwandans are subject to interference in their private lives. During a brief period following renewed hostilities in February, gendarmes looking for hidden weapons entered homes in several parts of Kigali without the required warrants, sometimes in the middle of the night or just before dawn. The military conducted a predawn search of homes of suspected RPF sympathizers in the commune of Murambi in December, beating occupants in the course of searching for weapons.

Surveillance of political parties, associations, and individuals is not practiced.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Both government and RPF forces committed extensive violations of humanitarian law. A cease-fire established in July 1992 between the Government and the RPF held until February and then was reestablished in March. During the month-long RPF offensive, an undetermined number of deaths and injuries to combatants and civilians occurred from artillery, mortars, and small arms fire.

Retreating soldiers came to be regarded with fear by the populace because of their undisciplined looting and raping. They—not the fighting—were responsible for much of the damage to houses, schools, and clinics in the war zone.

Both the military and the RPF are suspected of responsibility for a "killing field" containing scores of human skeletons in the war zone of northeastern Rwanda, in an area that changed hands several times during the February hostilities.

The RPF committed many human rights abuses against civilians during its February offensive. Credible reports indicate that in the first days of the attack in the Ruhengeri area, the RPF used grenades against groups of civilians and targeted for death specific authorities, including several judges and a local administrator implicated in the deaths of Bagogwe, a Tutsi subgroup. There was no evidence, however, to support allegations that the RPF used chemical weapons against displaced persons or that it massacred hundreds of Rwandans trapped behind RPF lines.

The number of displaced persons reached nearly 1 million, 600,000 displaced for the first time and 350,000 re-displaced, some for the fourth time. A massive relief operation to assist displaced persons was mounted by the Government, the ICRC, the local Red Cross, international organizations, nongovernmental organizations, and bilateral donors. Relief assistance continued, but most of the newly displaced had returned to their homes by the end of August, following the signing of the Peace Accord. The combatants permitted the ICRC and the World Food Program to bring in relief supplies from Uganda through the combat zone before and after the February offensive, although there were substantial interruptions.

There were also random acts of violence involving grenades, land mines, and bomb explosions for which no one claimed responsibility. About 50 judicial cases involving mines are pending, but none had come to trial by year's end. Armed robbery, often involving use of grenades, common in urban areas, resulted in numerous deaths and injuries. Some such robberies may have been linked to political intimidation.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and press. Except in areas experiencing violence, freedom of speech was widely exercised by political parties, human rights associations, the private press, and the government media.

Although the electronic media is expanding, the government-owned and operated radio station dominates the media and is the most important means of reaching the public. Since the opening to a multiparty system in 1991 and the appointment of an opposition minister to head the Ministry of Information in 1992, the radio commonly airs opposing viewpoints, including criticism of government policies. Political groups have complained about being denied access for their press releases and coverage for their political activities and positions. The new government-owned and operated television station, which broadcasts on weekends and now reaches 70 percent of the country, is considered more balanced in its news coverage than the radio.

The press, both government and private, became more professional in its reporting and, consequently, more tolerated by authorities and prominent individuals. Three newspapers dominate the print media: a government-owned weekly, an independent Catholic biweekly, and a private rural-oriented monthly.

The press law provides for stiff penalties for insulting the President and requires editors to file copies of each edition of their papers with specified authorities, including the public prosecutor, prior to distribution, but this has resulted neither in censorship nor self-censorship. The authorities did not arrest or detain any journalists during 1993 and took no action against three journalists, who remain at liberty, charged with security violations pending since 1992. Unknown persons assassinated a television journalist in front of his home in April, but it is unclear whether his death was connected with his work. No one was arrested for the crime. Another journalist, Afrika Janvier, who claimed while in custody that he had participated in "death squad" activities, chose to remain in prison pending appeal of his conviction for defamation of the President.

Political, ethnic, and regional tensions often affect professorial appointments in the national university system, but there was no apparent ideological pressure on teaching, research or curriculum.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly. Permits for outdoor rallies, demonstrations, and meetings require 6-day advance notice, but political party rallies are routinely held throughout the country, except in combat zones, without official interference or obstruction.

Unauthorized demonstrations in January, particularly by party youth, both in Kigali and in the north of the country, resulted in property damage, numerous inju-

ries, and some deaths. After hostilities resumed, the President called on political parties to suspend party rallies and meetings. Opposition parties objected publicly to this proposal, but they never tested it. Normal political activity resumed after a cease-fire was reestablished in March.

Citizens were generally free to join the political party of their choice, but sometimes MRND and CDR party youth used violence against persons affiliated with a different party or with no party (see Sections 1.a and 1.c.). Political parties, now numbering 18, and civic associations, which have proliferated since 1991, must register with the Ministry of the Interior and with the Ministry of Justice, respectively. There were no instances of registrations being denied.

c. *Freedom of Religion.*—Freedom of religion is provided for in the Constitution and is generally accorded to religious communities. At the end of 1992, the Government dropped its objections to the Jehovah's Witnesses, who are now free to practice their religion. Christianity predominates with the largest segment of the population adhering to Catholicism. Muslims constitute a small minority but freely practice their religion.

There was no discrimination against foreign clergy, and no restrictions on construction of places of worship, training of clergy, religious publishing, or religious education.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Freedom of movement and residence are restricted by laws and regulations which require all residents to hold national identity cards and residence and work permits. Police conduct periodic checks, especially in urban areas, and return all those not registered in the locality to their own commune. Property owners who do not require tenants to show valid documentation are subject to fines and even imprisonment. Undocumented tenants are subject to expulsion.

A nightly curfew, introduced following the outbreak of war in 1990, was extended following resumption of hostilities in February, and then lifted after the Peace Accord was signed, except in the former war zone. Military checkpoints, too, were increased when hostilities resumed but nearly eliminated after August.

Passports for foreign travel are normally obtained by Rwandans who seek them. Following the signing of the Peace Accord, the Government began issuing passports upon request to Rwandan refugees and exiles. Emigration is not restricted.

The Peace Accord protocol on refugees incorporates into law the right of refugees to return. Estimates of refugees and exiles living in neighboring countries and elsewhere range from 500,000 to more than 1 million. Most are ethnic Tutsis, and their descendants, who fled Rwanda in 1959 and during subsequent ethnic violence associated with independence in 1962. Individual refugees and exiles, including some Tutsis from Burundi, began to return in 1993, but planning continued for organized return of those who desire government assistance. A 1991 law grants amnesty to refugees for crimes committed before the law went into effect.

Nearly 300,000 refugees from Burundi poured into Rwanda in October to escape ethnic violence following the abortive coup attempt and assassination of Melchior Ndadaye, Burundi's first president of Hutu origin. These refugees are situated in camps along the length of the Rwandan border with Burundi. Prior to this recent influx, Rwanda was hosting approximately 23,000 refugees, mainly Hutus from Burundi, most of whom had fled massacres in 1972. Most retained Burundi citizenship but were integrated into Rwandan society. Between the time of the Burundi President's election in June 1993 and his assassination in October, more Burundi refugees sought repatriation than could be immediately accommodated. During this period, almost all who had fled to Rwanda after violence in 1988 and 1991, as well as some who had been in Rwanda since 1972, repatriated under the auspices of the United Nations High Commissioner for Refugees. Some of these repatriates returned to Rwanda after the coup attempt, having lost family members in the subsequent ethnic violence.

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

Citizens did not have the ability to change their government through democratic means. Nevertheless, under a powersharing agreement reached in 1992, four opposition parties participated in a five-party coalition Government with President Habyarimana and the former sole party, the MRND. Nearly one-quarter of the deputies in the legislature declared themselves members of parties other than the MRND. The Peace Accord, which had not gone into full effect by the end of the year, defers nationwide, multiparty elections for President and Parliament, called for under the 1991 Constitution, until the end of the 22-month transition period.

The U.N. Security Council voted on October 5 to send a new U.N. force to Rwanda to assist with implementation of the Peace Accord. The U.N. mission will be respon-

sible for assisting in providing security for Kigali so that the broad-based government can be installed, for monitoring government and RPF observance of the cease-fire and adherence to the Peace Accord provisions on the integration of the armed forces, for assisting in providing security for returning refugees, and for monitoring the security situation in the period leading up to elections.

The Peace Accord signed in August and the 1991 Constitution together constitute the Fundamental Law of Rwanda. The Accord calls for President Habyarimana to remain President during the transition period with the prime minister to come from a different political party. Government ministers a ıd deputies in the 70-person legislature, the transition national assembly, are to be named by their political parties to positions distributed among the parties according to formulas worked out at the peace negotiations. Six parties, including the RPF, will comprise the government and 17 parties are authorized to hold seats in the legislature (two parties declined). The enlarged transition government will be responsible for developing an electoral law, establishing an electoral commission, and drafting a new constitution, to be submitted to national referendum.

There are no legal restrictions on the participation of women in political life, but women are poorly represented in politics and government. Three women held ministerial portfolios, including that of Prime Minister, and several, representing different parties, served as deputies in the legislature. Toward the end of the year, political parties began selecting deputies to be named to the new transition national assembly. While the selection process was not yet complete at year's end, it appears that the new Assembly will have considerably fewer female deputies than the previous legislature. Former female deputies report that their chances of competing on an equal footing with men within a competitive party system are nil.

Although there are no legal restraints to their participation in the political process, the Twa (Pygmies) are not represented in key positions, including any in Rwanda's emerging political parties.

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

Rwanda has nine human rights organizations, five formed in 1990 and 1991 and four formed in 1993. Those formed earliest, which have joined together in a consortium, regularly investigate allegations of human rights abuses, make representations to public officials, publish press releases and reports of investigations, and generally seek redress on behalf of victims. These organizations have been instrumental in alerting officials to abuses of authority and in prompting early interventions to redress or contain ethnic violence, arbitrary arrest, or torture (see Sections 1.a. and 1.d.).

While their work was generally unhindered, individual human rights monitors experienced intimidation and sometimes violent harassment from unidentified sources. For example, an unknown assailant attempted to assassinate human rights monitor Alphonse Nkubito on November 14. He sustained injuries from grenade fragments. Local officials in some areas where abuses occurred prevented access to human rights monitors or warned citizens against talking to them. Prominent human rights monitors frequently received threatening anonymous phone calls.

The more recently formed associations trace all human rights problems in Rwanda to the war launched by the RPF in 1990, a view shared by the MRND and authorities supportive of the President. They were largely inactive, but one published a commentary criticizing the International Human Rights Commission's findings (see below). A National Human Rights Commission with investigative authority, called for in the Rule of Law Protocol of the Peace Accord, has yet to be established.

Rwanda cooperates with outside governmental and nongovernmental human rights groups. In January an "International Commission of Inquiry on Violations of Human Rights in Rwanda since October 1, 1990," composed of experts from eight countries, spent 2 weeks investigating past and then-current human rights abuses. Its report, released in March, accused government officials, including President Habyarimana, of responsibility for massacres. In response, the President and Prime Minister issued a joint statement acknowledging past wrongs and setting forth proposals for preventing future abuses. There has been minimum followup.

Rwandan human rights monitors are in frequent contact with international human rights groups and receive considerable financial support from abroad. The International Committee of the Red Cross (ICRC) continued to have unrestricted access to prisons and gendarmeries, but the Government again denied the ICRC request for access to detainees, if any, in military camps.

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

The Constitution provides that all citizens are equal before the law, without any discrimination because of race, color, origin, ethnicity, clan, sex, opinion, religion, or social standing. Rwanda's political parties' law bans parties based on ethnic origin or religious affiliation. In practice, a number of groups experience discrimination.

Women.—Despite Constitutional provisions, women continue to face serious de facto discrimination. Women play only a minor role in political life and the modern economy and traditionally perform most of the subsistence farming. They have limited opportunities for education, employment, and promotion. According to a 1991 U.N. study, females receive only 33 percent of the schooling of males. In support of women's rights, President Habyarimana encouraged family planning, and a new Family Code went into effect in 1992. The Code generally improves the legal position of women in marriage, divorce, and child custody, but it still does not meet Rwanda's international and constitutional commitments to gender equality. For example, it formally recognizes men as heads of households. Also, the absence of succession laws limits a woman's right to property, thus jeopardizing her status and ability to provide for her family, should she survive her husband.

Violence against women, including wife beating, occurs and is thought to be widespread. Cases involving domestic violence rarely come before the courts. Instead, wife beating and domestic violence are normally handled within the context of the extended family. A woman seeking family help is generally thought to be seeking advice about how to improve her conduct. Only if family counseling fails is the matter likely to be taken to outside entities, such as the courts, and divorce is usually the next step. Although the number of groups promoting women's interests have proliferated since the opening to democracy, none addresses directly the issue of violence against women.

Rape became a major issue as soldiers left the front following renewed hostilities in February (see Section 1.c.).

Children.—The Government does not have a specific policy nor any resources earmarked for children's welfare.

By law, the State is required to pay for the education of orphans, prohibit imprisonment of minors with adults, protect minors from labor exploitation, and provide for a foster parent system. In practice, funds and oversight mechanisms to implement these programs do not exist.

Indigenous People.—Less than 1 percent of the population comes from the Twa ethnic group. These indigenous people, survivors of the Pygmy tribes of the mountainous forest areas bordering Zaire, exist on the margins of society and continue to be treated as second-class citizens by both Hutus and Tutsis. The Twa have not been able to protect their interests which center on access to land and housing. Few Twa have gained access to the education system, resulting in minimal representation in government structures.

National/Racial/Ethnic Minorities.—Ethnicity is a sensitive issue as a result of Rwanda's ethnic imbalance and its historical legacy. About 85 percent of the population is Hutu, 14 percent Tutsi, and 1 percent Twa. Citizens carry identity documents that clearly identify ethnic origin, but the Peace Accord requires that this reference be eliminated. A policy of ethnic quotas, which allocates positions to ethnic group members in proportion to their numbers, has in practice limited access of Tutsis to education, training, and government employment. No provision is made for the Twa. Procedures introduced by the coalition Government in place since 1992 have reduced the impact of the quota system on access to secondary school and eliminated some employment barriers. The projected integration of government and RPF armed forces, part of the peace settlement, would redress the virtual absence of Tutsis in the security apparatus of the country. Apparently as a consequence of public sector discrimination, Tutsis are well represented in the private sector and the clergy.

People with Disabilities.—There are no laws restricting people with disabilities from employment, education, or other state services, but in practice, few handicapped persons have had access to education and thus to employment. Nor are there any laws or provisions to assure access of the disabled to public premises. The number of handicapped is increasing among both civilians and military injured in bomb, landmine, and grenade incidents associated with the war or armed assaults. The military is in the process of training war-wounded soldiers for productive employment within or outside the military.

Section 6. Worker Rights

a. *The Right of Association.*—The 1991 Constitution provides all Rwandans the right of association and freedom to create professional associations and labor unions.

Union membership is open to all salaried workers, including public sector employees, and is optional. There are no restrictions on the right of association but all unions must register with the Ministry of Justice for official recognition. There are no known cases in which the Government has denied such recognition. Unions are prohibited by law from having political affiliations.

Organized labor represents only a small part of the total work force; most Rwandan workers—over 90 percent—are engaged in small-scale subsistence farming. About 7 percent of the total labor force is employed in the modern (wage) sector, including both public and private industrial production, and about 75 percent of those active in the modern sector are members of labor unions.

Before 1991 the Central Union of Rwandan Workers (CESTRAR) was the only authorized trade union organization in the country. With the political reforms introduced by the 1991 Constitution, CESTRAR officially became independent of the Government and the MRND, but in practice it still has close informal ties to that party. CESTRAR, which is a federation of 17 labor unions, has approximately 70,000 members and represents about 42 percent of the labor force in the modern sector.

In 1993 the Government officially recognized the Union of Primary Schoolteachers, bringing to five the number of unions recognized since 1991. In competing for membership with CESTRAR, these five unions have decided to consolidate their recruitment efforts and enhance their bargaining power by forming a loose confederation to be called the Confederation of Liberal Syndicates (COSYU). The other independent unions in COSYU are: The United Association of Health Personnel in Rwanda; the Interprofessional Union of Workers of Rwanda; the Union of Secondary Schoolteachers; and the Association of Christian Unions (representing public and private sector workers, small businessmen, and some subsistence farmers).

The Constitution provides to all workers, except workers in the public service sector, the right to strike. Union members have the right to strike with the approval of their executive committee, provided they first try to resolve their differences with management according to certain steps prescribed by the Ministry of Labor and Social Affairs. Laws prohibiting retribution against strikers exist but have never been enforced.

In 1993 there were several strikes against public and private sector firms. One involved workers within CESTRAR's own executive bureau who had not been paid in several months. Neither CESTRAR nor the other labor unions officially organized these strikes. Workers' demands focused on wages, benefits, and working conditions. Although the strikes were wildcat in nature, the Government treated them as legitimate and acted as a facilitator in the workers' negotiations with management. In most cases, CESTRAR played a supporting role (except in its own labor dispute).

Labor organizations may affiliate with international labor bodies. CESTRAR is affiliated with the Organization of African Trade Union Unity and the International Confederation of Free Trade Unions.

b. *The Right to Organize and Bargain Collectively.*—The Constitution grants workers the right to defend their rights through collective action. Only CESTRAR has an established collective bargaining agreement with the Government. Although newly established labor unions have yet to develop similar procedures, their members are not prevented from engaging in collective bargaining. In practice, as most workers are in the public sector, the Government is intimately involved in the process (see Section 6.c. below).

There are no legal bars to antiunion discrimination, but such discrimination has not occurred in practice. There are no formal mechanisms to resolve complaints involving discrimination against unions.

There are no export processing zones.

c. *Prohibition of Forced and Compulsory Labor.*—Forced labor is prohibited by law and is not known to occur in practice.

d. *Minimum Age for Employment of Children.*—Except in the subsistence agriculture sector, which involves most Rwandans, by law children under 18 are not permitted to work without their parents' or guardians' authorization, and they may work at night only under exceptional circumstances on a temporary basis. Labor laws set the minimum age for full employment at 18 years and for apprenticeships at 14 years, providing the child has completed primary school. The Minister of Labor, who is responsible for enforcement, has the right to permit a child under the age of 14 to work, but this has reportedly never been tested in practice. Enforcement of child labor laws is lax; nevertheless, apart from children working in family-owned businesses, child labor outside the agricultural sector is uncommon.

e. *Acceptable Conditions of Work.*—Minimum wage rates in the small modern sector of the economy are set administratively by the Ministry of Labor. The minimum wage is $1.08 (150 Rwandan francs) for an 8-hour workday. The Government, the

main employer in the country, effectively sets most other wage rates as well. The minimum wage is inadequate to provide a decent standard of living for urban families and is often supplemented by work in small business or subsistence agriculture. In practice, the minimum wage rate is self-enforcing since workers will not work for less.

Government offices have a 40-hour workweek by law. Negotiations between the unions, government, and management are under way to reduce the workweek from 45 to 40 hours a week in the private sector as well. Hours of work and occupational health and safety standards in the modern wage sector are controlled by law but only loosely enforced by labor inspectors from the Ministry of Labor. Workers do not have the right to remove themselves from dangerous work situations.

SAO TOME AND PRINCIPE*

In 1991 Sao Tome and Principe became a multiparty democracy, and citizens changed their government through free and fair elections. Independent candidate Miguel Trovoada became President, and the Party of Democratic Convergence (PCD) toppled the former single ruling party, the Movement for the Liberation of Sao Tome and Principe (MLSTP), in legislative elections to win control of the Government. In 1993 the PCD continued to dominate the Government and the National Assembly, but there were new political tensions between the two parties and between the President and the PCD Prime Minister and his Government over interpretation of the separation of powers provisions in the 1990 Constitution. In December 1992, the MLSTP came back to score a series of landslide victories in municipal elections, taking firm control of six of eight regional governing bodies. The elections took place peacefully, and, after some initial disputes over transfer of government offices, the municipal committees began to work alongside the Government.

External and internal security is provided by a 300-person military force, composed mainly of part-time farmers or fishermen, and a 300-person paramilitary police force. In 1993 the Government began a process of shifting the police force fom the jurisdiction of the Minister of Defense to the Minister of Justice, Labor, and Public Administration. There were no reports of abuses by military or police forces in 1993.

In contrast to progress on the political front, there was little improvement in 1993 in Sao Tome's export economy, which relies almost exclusively on a single cash crop, cocoa, and an archaic, state-run system of plantations (called "empresas"). Almost all other production on the islands is for subsistence or local consumption. In 1993 the Government continued to implement strict structural adjustment measures, emphasizing privatization, including of empresas, and currency reform to reduce the country's $200 million foreign debt. However, by the end of 1993 only a handful of plantations had managed even the first small steps away from state control, and the structural adjustment program tended to exacerbate economic hardship.

The human rights situation continued to be encouraging in 1993. The Government showed a continued respect for the rights of its citizens, and the young multiparty political system operated well in the face of new challenges. Nevertheless, there remained serious problems in the judicial system, notably long delays in bringing cases to trial, and societal discrimination against women. Also, worker rights remained limited in practice with the economy dominated by the plantation system.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of political or other extrajudicial killing by the Government.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There were no reports of such abuses. The Constitution, promulgated in 1990, states explicitly that no one shall be subjected to torture or cruel and inhuman punishment. Prison conditions are harsh but did not result in any known deaths in 1993.

d. *Arbitrary Arrest, Detention, or Exile.*—There was no evidence of arbitrary arrest or detention, but there was very little information available on the laws regulating these practices or the manner in which the authorities carry them out. The Con-

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*There is no American Embassy in Sao Tome and Principe. Information on the human rights situation is therefore limited.

stitution provides for the right to challenge the legality of detention through habeas corpus procedures.

Exile is not used as a punishment in Sao Tome, and all those exiled under the former regime have been given the opportunity to return. Former president Manuel Pinto da Costa, who voluntarily left the country following current President Trovoada's election in 1991, returned in 1993. He was warmly received and was often seen in public.

e. *Denial of Fair Public Trial.*—For civil cases, the Constitution states that all citizens shall have access to fair public trial and have the right of appeal. For criminal cases, it provides for a public trial before a judge. The accused are entitled to legal representation; however, there is a shortage of trained judges, lawyers, and judicial infrastructure. The Government has been slow to institute reform, in part because of budgetary constraints. As a result, there are long delays in bringing cases before the courts, and there were instances in 1993 of the authorities simply dismissing criminal cases. In at least two confirmed cases, the Government did not bring to trial persons charged with assault because of insufficient personnel to conduct proper investigations.

There were no known political prisoners or detainees held during the year.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution states that personal identity and the right to privacy are inviolable; it provides for privacy of the home, correspondence, and private communication. In 1991 the new democratically elected Government ended the intrusive monitoring practices of the past.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of expression and freedom of the press. The 1992 municipal elections were conducted freely, with opposition parties publicly campaigning and openly criticizing the Government. The opposition had access to, but used sparingly, the limited facilities of the government-controlled national television and radio stations. Three newspapers appeared irregularly; one newspaper presents mainly the views of the Government and the others generally support opposition positions. There was one report in 1993 of a minister warning an independent publisher about the content of certain critical articles. However, the Government took no action against the publisher and did not attempt to censor the newspaper.

b. *Freedom of Peaceful Assembly and Association.*—Under the Constitution, citizens have the right to associate freely and to demonstrate publicly, provided they obtain legal authorization 48 hours in advance of planned events. This authorization is usually granted. Although bureaucratic delays often hold up such authorizations, there were no known instances of authorizations being withheld for purely political reasons in 1993. In December 1992, municipal elections took place nationwide; numerous rallies and demonstrations occurred, and even those that did not receive government sanction took place peacefully and without police restriction.

Following its resounding victory in these elections, the MLSTP took control of the newly created municipal committees in six of eight districts. The Government, under provisions in the Constitution, had called for formation of these municipal committees in order to add a measure of decentralization to government administration, and the elections determined their first members. Tension arose in two districts—including Aguas Grandes, where Sao Tome City is located—when the police barricaded buildings in which the committees were to meet. The committees, despite bitter complaints, were not afforded a place to meet for 2 months. In May, however, the PCD-controlled Government relented, and the committees began meeting regularly.

c. *Freedom of Religion.*—Religious freedom is provided for in the Constitution and in practice. The three major religious communities—Roman Catholic, Protestant, and Seventh-Day Adventist—are allowed to practice freely. There are no restrictions on the activities of foreign clergy.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens move freely around the island of Sao Tome, as well as between it and the smaller island of Principe, 90 miles away. Interisland transport, however, is infrequent and slow. Under the Constitution, citizens have the specific right to move freely to any part of the national territory and are free to emigrate and to return. In July the Government repealed a law that required Sao Tomeans who wished to travel abroad to obtain exit visas.

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

Citizens have this right. Less than 2 years after ousting the MLSTP from power, Sao Tomean voters peacefully returned to the polls in December 1992 to give the former single ruling party an overwhelming victory in municipal elections. The MLSTP took the majority of seats in six of eight municipal districts, forming new committees that were designed to improve citizen participation in government administration at the village level.

Throughout 1993 there were serious political differences between the opposition and the Government, initially when the PCD Government withheld budgets and refused to allow two of the MLSTP-dominated municipal committees to meet for 2 months. In the National Assembly, the PCD Government of Prime Minister Norberto Costa Alegre defeated the MLSTP's efforts to institute a vote of no confidence. The disputes were conducted and resolved entirely within the existing constitutional framework.

Other constitutional disputes arose in 1993, notably between the independent President and the PCD Prime Minister over authority for handling foreign and internal economic policies. According to the findings of a panel of Portuguese jurists brought in to assist in interpreting the Constitution, foreign policy is solely the domain of the Chief of State, while economic policy is the province of the Prime Minister and his Cabinet. Nevertheless, given the close interrelationship of the two responsibilities, the controversy continued throughout much of the year and led to new discussions concerning amendment of the Constitution's separation of powers provisions. By year's end, however, there had been no action toward amending the Constitution.

There are no restrictions in law or practice on the participation of women in politics. Women currently occupy important posts in the National Assembly, the Cabinet, and the municipal committees.

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

Since the elections of 1991, a few small domestic groups have formed with various objectives, including the protection of human and civil rights. Traditionally, Sao Tome and Principe has had limited contact with international human rights groups, mainly due to its small population and the absence of allegations of human rights abuses. In a report published in 1993, Amnesty International named Sao Tome and Principe as one of three countries worldwide in which there were no serious government-sponsored violations of human rights.

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

The Constitution states that all citizens, regardless of sex, race, social origin, political tendency, creed, or philosophic conviction, are equal under the law. With more than 80 percent of the population (estimated at 94,000 on Sao Tome and 20,000 on Principe) able to understand Portuguese, the country also enjoys the advantages of being a relatively homogeneous society.

Women.—The Constitution stipulates that women and men have equal rights to full political, economic, social, and cultural participation. Women have access to opportunities in education, business, and government. However, in practice women encounter substantial discrimination. In particular, traditional beliefs concerning the division of labor between men and women leave women with much of the hard labor in agriculture, most of the child-rearing responsibilities, and less access to education and the professions. In addition, the general lack of public services and health care serve to disadvantage women more than men in these traditional roles.

Violence against women in Sao Tome and Principe is believed to be infrequent. However, there is no specific information available on domestic violence, including data on instances of wife-beating and rape, and the small media rarely cover cases. Women have the right to legal recourse against men—including spouses—in cases of rape, domestic violence, and other abuses. In practice, however, police rarely intervene, and tradition and/or ignorance of the law may keep women from filing complaints or seeking outside intervention. The Government is actively trying to address women's issues through various programs.

Children.—There are a number of government and donor-funded programs aimed at improving conditions for children, and great strides have been made in pre- and post-natal care, infant nutrition, and access to basic health services. Family planning practices have not changed significantly, though, and Sao Tome may soon face more serious challenges to limited resources. According to recent estimates, nearly half the population is under the age of 15, and documented research in some rural

areas indicates the percentage may be as high as 75. According to health officials, the Government is beginning to make efforts to include family planning in its maternal and child health care programs, but traditional beliefs and cultural practices inhibit acceptance.

National/Racial/Ethnic Minorities.—There are two minority groups which speak their own dialects: the Angolares, who are distant descendants of an Angolan ethnic group, and ethnic Cape Verdians, most of whom are second- or third-generation Creole speakers. The Angolares principally inhabit the south of Sao Tome Island, making their living through subsistence fishing; the Cape Verdians still mainly work on the cocoa plantations, where they were brought by the Portuguese during colonial times. Both of these principally rural groups enjoy fewer opportunities in terms of health care, education, and social advancement than urban Sao Tomeans, although this is not due to any specific government action against them. Lack of government resources has also contributed to continuing complaints from inhabitants of Principe of governmental neglect. However, the newly named Minister for the Region of Principe—a cabinet-level post—has specifically addressed some of these issues.

People with Disabilities.—There is no officially sanctioned discrimination against physically handicapped individuals. As far as known, there is no law specifically mandating accessibility to buildings for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for freedom of association and the right to strike, and a newly formed union federation, the Independent Union Federation (IUF), began to take advantage of these provisions. However, the formation of unions remained at an early stage, and in 1993 there was a significant increase in the activities of cooperatives, many of which began independent activities on formerly state-owned land. These cooperatives tended to represent more tangible goals and results than unions, thus attracting greater participation on the part of plantation and other wage workers.

Unrelated to the former sole union and unaffiliated with any political party, the IUF is still in its organizational stages and hobbled by the country's general poverty. Nevertheless, it seeks to represent workers in all sectors, including the large state-owned plantations (empresas) which employ a majority of the working population. It made only slight organizational progress in this respect in 1993. Workers do not often leave the estates, which generally provide all community facilities.

Essential workers are allowed to strike in practice, and in November 1993, mid-level functionaries in the Ministries of Health and Justice briefly went on strike to demand higher wages.

In 1992 the Government announced an ambitious plan to privatize most of the state-owned industries, including the cocoa empresas. This move was seen as a positive step not only for the economy as a whole, but also as part of the effort to improve the lot of workers, especially on the large plantations. At year's end, however, only one of these state-owned enterprises, the National Printing Press, had actually been privatized.

In March workers at the largest state-run empresa, Monte Cafe, staged a strike to demand higher wages and more time off. Plantation managers requested government intervention, and there were reports of minor clashes between police and strikers. However, there were no reports of serious injuries or arrests, and, after 4 days, work was resumed. Sporadic strikes by government employees were less common in 1993 than in previous years.

There are no restrictions barring trade unions from joining federations or becoming affiliated with international bodies.

b. *The Right to Organize and Bargain Collectively.*—Workers may organize and bargain collectively under the Constitution. However, in practice, since privatization steps have not yet reduced the relative role of the Government as employer, the Government remains the key interlocutor for labor on all matters, including wages. As far as is known, there are no laws prohibiting antiunion discrimination.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited by law and is not practiced.

d. *Minimum Age for Employment of Children.*—The legally mandated minimum employment age of 18 years in the modern wage economy is generally respected in practice. The Ministry of Justice, Labor, and Public Administration is responsible for enforcing this law. However, in the subsistence agricultural sector, children work on family plots from an early age.

e. *Acceptable Conditions of Work.*—Work conditions on the state-owned empresas—the biggest wage employment sector—border on medieval. There is no legally mandated minimum wage, and the average salary for empresa workers does

not permit a decent standard of living. Workers are, however, provided free (but poor) housing, rudimentary education and health care, and—in theory—the right to reduced prices and credit at the "company store." Clothes and foodstuffs are subsidized, but corruption at all levels is rampant, and the parallel market finds goods selling for far above the prices stipulated by the Government.

Recently, in conjunction with the Government's privatization efforts, some empresas allotted workers small plots to raise noncash crops for their own consumption or sale. Nevertheless, most empresas still do not allow private farming on company land. The current system of state control, and the corruption associated with it, is so entrenched that on most plantations, privatization is still a long way off.

Implementation of an International Monetary Fund structural adjustment program continues to cause hardship for workers, both on and off the empresas.

Basic occupational health and safety standards are contained in the Social Security Law of 1979, which is loosely enforced by inspectors from the Ministry of Justice, Labor, and Public Administration.

SENEGAL

Senegal is a Republic with an elected President, Abdou Diouf, who has been in office since 1981, and a unicameral legislature controlled by the President's Socialist Party (PS) since independence from France in 1960. Diouf and the PS again won presidential elections in February and legislative elections in May (gaining 84 of the National Assembly's 120 seats). The opposition parties, led by the Senegalese Democratic Party (PDS, which won 27 seats), charged extensive fraud in the presidential and legislative elections. However, after much controversy and delay, the Constitutional Court subsequently certified the presidential and later the legislative results as official. International observers noted that there had been irregularities in the presidential voting, but declared the election had been generally "free and fair."

The postelection period was further marred, first by the assassination of Babacar Seye, the Vice President of the Constitutional Court (Supreme Court), as votes were being certified for the National Assembly election, and then by the Government detaining and later charging several opposition figures, including Abdoulaye Wade, presidential contender on the PDS ticket, with the Seye murder.

The Senegalese armed forces, numbering about 15,000, are professional and disciplined. They traditionally remain aloof from politics. The paramilitary gendarmerie reportedly is less professional and less disciplined. The armed forces became the center of controversy in operations in the southernmost region of Senegal, the Casamance region, against the separatist group, the Movement of Democratic Forces of the Casamance (MFDC). There were a number of reports of serious abuses by both the military forces and particularly by the MFDC (see below and Section 1.g.). Eventually, the Government signed a cease-fire agreement on July 8 with the MFDC. At year's end, the cease-fire agreement appeared to be holding.

Senegal is overwhelmingly agricultural, with more than 70 percent of the labor force engaged in farming, largely in peanut production. Since 1983 the Government has pursued a structural adjustment program, supported by the International Monetary Fund, the World Bank, and major bilateral donors, intended to reduce the role of government, to encourage the private sector, and to stimulate economic growth. Nonetheless, the economy remained depressed. An emergency plan adopted in August by the National Assembly, which included a 15 percent reduction in civil servants' salaries, met strenuous opposition from trade unions, opposition parties, and merchants' associations in the form of repeated strikes.

Although traditionally Senegal has had a strong record in support of human rights, there were serious human rights abuses in 1993 against a background of deepening internal political conflict over the elections and the Seye assassination, declining economic performance with several general strikes, and extensive military and terrorist operations in the Casamance with high death tolls (over 200 persons killed). The MFDC, in particular, committed many acts of violence, including torture, beatings, and extrajudicial killing of villagers in the Casamance. On February 21 alone, the day of the presidential elections, MFDC members killed 24 persons, thereby carrying out a previously issued threat to attack Casamance voters and politicians, and a landmine reportedly planted by the MFDC killed 20 others. Government troops reportedly killed 80 MFDC rebels and took no prisoners during a March battle; the press and local human rights groups charged the army with committing extrajudicial killings. The Government failed, however, to investigate. According to the independent press, the army also reportedly engaged in indiscriminate shelling of civilian targets in the Casamance. There was one credible report

that police tortured a prominent Member of Parliament (M.P.)—the Government was extremely slow to investigate and has yet to punish the perpetrators—and police reportedly sometimes use force in questioning suspects. Few, if any, police are tried and punished for such abuses. Other human rights problems include some restrictions on freedom of the press (including government domination of the electronic media), and on freedom of association, and domestic violence and discrimination against women.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There was one death as a result of police firing on an unarmed political demonstration by opposition M.P.'s and others in November (see Section 2.b.). For details on killings connected with separatist-related violence in the Casamance region, including the deaths of seven Red Cross workers by a landmine explosion see Section 1.g. In that violence, MFDC rebels assassinated the president of the rural community of Oukou, Omar Diatta, on April 13 because of his support for the Government.

Unknown assailants killed the first Vice-President of Senegal's Constitutional Court, Babacar Seye, on May 15. Seye was killed as he drove home from downtown Dakar following the first day of the Court's deliberations on the provisional results of Senegal's May 9 legislative election. On May 18, police apprehended PDS opposition leader Abdoulaye Wade and two senior advisers, Ousmane Ngom and Jean Paul Dias, for questioning.

On May 19, police arrested two more alleged PDS supporters, Cleodore Sene and Pape Ibrahama Diakhate, in The Gambia. Sene reportedly confessed to driving the hit car and implicated PDS supporter Assane Diop, Wade's financial counselor, Samuel Sarr, and PDS deputy Mody Sy. On May 28, Sene recanted his testimony in letters to Wade and to the independent press. Sene claimed that members of the ruling PS planned and financed the murder in order to discredit the PDS. On June 9, the National Assembly set up a commission to follow developments in the investigation of the Seye assassination. It had not issued a report by year's end.

Subsequently, on October 1, the governmental authorities charged Abdoulaye Wade, his wife, Viviane, and PDS deputies Abdoulaye Faye and Ousmane Ngom, with complicity in the assassination and compromising the security of the State. All four remained free. According to the Constitution, since Wade, Faye, and Ngom are sitting members of the National Assembly, the Assembly would have to waive their immunity before they could be tried. The five others arrested in connection with the Seye murder remained in jail at year's end; Sene, Diakhate, and Diop on charges of murder, and Sarr and Sy on charges of complicity.

b. *Disappearance.*—There were no reports of politically motivated disappearances. Ibou Sagna and Famara Bodian, two MFDC rebels who, according to a September 1992 report in the independent press, disappeared after being detained by the army near Kaguite, have not been found.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—While the authorities generally respect the legal prohibition on physical abuse, there are credible reports that police sometimes subject detainees to beatings and other mistreatment, often during the "garde a vue" (detention) period between arrest and appearance before a magistrate. Moreover, there was credible evidence that Mody Sy, PDS M.P., was subjected to electroshock torture immediately after his arrest on May 20. The Government took 9 days to comply with the request by Sy's lawyer for a medical examination and was otherwise slow to investigate this matter. At year's end, he remained in jail. No trial date had been set.

There were credible reports of torture of villagers by factions of the MFDC. These usually consisted of beatings, some of which resulted in death. There were also credible reports that women were raped by MFDC forces prior to the July 8 cease-fire. There were no reports of rape or abuse by government officials. Some of the MFDC violence was aimed at 1993 electoral activities (see Section 1.g.).

Prisons are overcrowded, and food and health care are inadequate. As a result, prisoners may suffer life- or health-threatening conditions.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution's prohibitions against arbitrary arrest and detention are generally respected. However, there was considerable question regarding the evidence used as the basis for the arrest and detention of PDS members for the assassination of Constitutional Court Judge Seye. One of the major witnesses in the case first implicated the other defendants and then recanted his testimony. However, the lawyers for the defendants continue to request evidence from the court to support the charges.

Warrants, issued by judges, are required for arrests. A person suspected of a crime may legally be held without charge for 48 hours after arrest and may be held up to 72 hours if ordered by a public prosecutor. This period may be doubled legally in the case of crimes against the security of the State. Senegalese law has no writ of habeas corpus.

During temporary detention, the prisoner has no access to family or to an attorney. After the prisoner is charged, both the family and an attorney are permitted visits. In the case of the PDS members, on October 8 the detainees claimed that they were denied family visiting privileges. Temporary custody is valid for a maximum period of 6 months, but it may be renewed for additional 6-month periods if the investigating magistrate certifies that more time is required. Extended "temporary" detention or custody is permitted when civil authorities determine that there is a threat of civil unrest or that a person is a threat to himself or others. Courts may review decisions of extended detention or custody.

In May the authorities arrested in Dakar six M.P.'s, members of two opposition parties, for participating in a demonstration which the Government had banned. They were released shortly afterwards. The deputies were demonstrating for the release of opposition PDS deputy Mody Sy. The PDS alleged that the arrest and indictment of its members in the Seye murder case was arbitrary and politically motivated.

In July, 256 Senegalese, who were being held on separatist activity charges, were released from jail. Their release came as part of the implementation of the cease-fire accord signed between the Government and the MFDC on July 8, 1993.

Exile is not used as a means of political control. The leader of the southern front of the MFDC, Abbe Diamacoune Senghor, reportedly lived in self-exile in Guinea-Bissau for 8 months. On March 20, Senghor returned to Ziguinchor, in the Casamance region of Senegal. Police did not attempt to take him into custody.

e. *Denial of Fair Public Trial.*—Senegal has an active and well-trained judiciary, which is constitutionally independent of the executive, the legislature, and the armed forces. However, low pay, poor working conditions, and family and political ties make magistrates vulnerable to outside pressures. Moreover, the role of the Constitutional Court became highly controversial and political in 1993 in certifying national elections. The Court President, Keba Mbaye, resigned in March before the presidential vote was certified, admonishing politicians to respect the electoral process. There were reports that the PS had pressured Mbaye to change the election results. The Court subsequently dismissed opposition claims of election malpractices in May 1993.

Constitutionally, defendants are presumed innocent until proven guilty. Trials are public, and defendants have the right to be present in court, to confront witnesses, to present evidence, and to have a defense attorney. Despite a provision for defendants to have a lawyer at public expense, in practice some defendants are denied legal assistance due to lack of funding.

Ordinary courts are presided over by a panel of judges. In criminal cases ordinary citizens also serve on the panel. Although three new courts were created in May 1992 to replace the Supreme Court, which was abolished in accordance with the Election Code, they are understaffed and in some cases are not fully functional. The new courts are the Council of State for Administrative Questions, the Constitutional Council for Matters Relating to the Constitution, and a Court of Appeals.

There are three other categories of special courts, two of which have rarely met, i.e., the High Court of Justice, created for the sole purpose of trying senior government officials for treason or malfeasance, and the Court for the Repression of the Unlawful Accumulation of Wealth, and the military court system. Civilians may not be tried by military courts. The right of appeal exists in all courts except military courts and in the special "illegal enrichment" Court.

There were no political detainees or prisoners at the end of 1993 except for those held in connection with the Babacar Seye assassination and religious leader Moustapha Sy, who is also being detained for "various offenses against the Head of State."

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits arbitrary invasion of the home, and there is relatively little government interference in the private lives of citizens, particularly in the rural areas. Search warrants normally are required and may be issued only by judges and in accordance with procedures established by law. In practice, however, searches without warrants occasionally take place.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—There have been repeated violations of human rights in the southernmost region of Senegal, the Casamance region, mainly committed by the MFDC, but also by the army and the gendarmerie. Most of the violations took place prior to the

cease-fire on July 8 between the Government and the MFDC. The MFDC, a predominantly Diola minority ethnic group, has been campaigning for the independence of the Casamance region for over 10 years. Until August 1992, the military and gendarmes had been restricted to their barracks as required by the May 1991 Agreement of Bissau between the Government and the MFDC. However, as rebel activity increased in the Casamance, government forces redeployed and engaged the MFDC units in several battles.

Several MFDC-initiated incidents heightened tensions, beginning with the death of seven Red Cross workers on January 25 by mine explosions. On the day of the presidential election, February 21, MFDC troops killed 24 persons, following MFDC threats to attack Casamance voters and politicians. The separatist movement had previously announced a ban on politics and voting in the Casamance. The MFDC was also held responsible for the deaths of 20 other persons that day when a mine blew up under a van rented by the Socialist Party to bring its members to the polls.

In larger engagements between the Senegalese army and MFDC rebels, the fighting in March at Badem, near Ziguinchor, left 80 dead, and a major battle in April near the town of Oussouye resulted in at least 100 rebels and 3 government soldiers dead. While estimates varied widely, the two battles resulted in the highest death tolls in the recent history of Casamance violence. As the military held few MFDC rebel prisoners following these significant engagements, the local press and local human rights associations charged that the army had engaged in extrajudicial killings. These charges could not be confirmed, and there had been no followup official investigation. As the MFDC normally does not leave their dead or wounded members behind in battle, this could also be a possible explanation.

The press and other observers not only questioned the military's action in these major battles but also criticized the army for periodic indiscriminate shelling of suspected rebel areas, which jeopardized the lives of innocent civilians. There were several incidents following the July 8 cease-fire, including in September the killing of a young MFDC member during a search at a police checkpoint.

The number of civilian deaths due to the fighting in the Casamance in 1993 could not be determined but was believed to be as high as 250. No one has been charged in any of the above killings.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—While the Constitution provides for freedom of speech and press, the press is restricted by laws prohibiting the expression of views which "discredit" the State, incite the population to disorder, or disseminate "false news." No one was prosecuted under these laws in 1993, although religious leader Moustapha Sy has been charged with offenses against the State. In 1993 numerous daily and weekly independent newspapers began circulation. Prior to this, Le Soleil, a newspaper controlled by the Government, had been the sole daily. A broad spectrum of thought and opinion is available through regularly published magazines and newspapers. The broadcast media is controlled, not through self-censorship, but by government licensing arrangements for radio and by the fact that the government operates the only television station.

Political views expressed in the independent press are often critical of the Government and its programs; government officials, politicians, and the political parties participating in the Government are not immune. Publishers are required to register with the Central Court prior to starting publication, but such registrations are routinely approved. Publications, including foreign publications critical of the Government, were not censored or banned. Press coverage of the 1993 presidential and legislative elections was extensive in all dailies, although Le Soleil heavily weighted its coverage towards the ruling party.

Access to the electronic media is controlled by the Government and continued to pose problems for opposition parties in the 1993 elections. The authorities expanded broadcast media coverage of opposition party activities but relegated it to off-peak hours. There is no other television service available to the general public, and the only domestically produced radio broadcasting is from the government station. The Government approved an application for a private radio station but with conditions that made it financially unrealistic for the owner to begin operating, i.e., high payments to the state-owned radio and television corporation and limitations on advertising.

Schools and universities enjoy academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—In general, Senegalese freely exercise their constitutional rights of assembly and association, although demonstrations or protest meetings against government policies are monitored closely by security forces. Prior authorization for public demonstrations is required. During the 1993 election period, the Government allowed the opposition parties to hold

preelection rallies, but it also arrested six opposition members in May for participating in a demonstration not authorized by the Government (see Section 1.d.). Three M.P.'s and some 87 others were found guilty on November 12 of participating in an illegal demonstration called for by the political opposition on November 5 to protest cuts in civil service salaries and the jailing of Moustarchadine leader Moustapha Sy. The police retaliated with heavy doses of tear gas to disperse the crowd and at one point used live ammunition, killing one person.

Senegalese wishing to form associations must register with the Ministry of Interior except for business-related associations, which are registered with the Ministry of Commerce. By law and in practice, the Ministry of Interior is obliged to register such groups, so long as the objectives of association are clearly stated and are not in violation of the law.

c. *Freedom of Religion.*—Senegal is a secular State, and freedom of religion, a legal right, exists in practice. Islam is the religion of 94 percent of the population; other religions are also practiced freely. Missionary activity is permitted, and foreign Protestant missionaries are active in several regions of the country.

Conversion is permitted, and there is no discrimination against minority religions. In theory, adherence to a particular religion confers no official advantage or disadvantage in civil, political, economic, military, or other sectors. In practice, membership in an Islamic sect may afford certain political and economic privileges. Both Islamic and Christian organizations publish periodicals. Koranic and Catholic schools exist alongside the public school system, and the Mouride Brotherhood, an Islamic sect, has an Islamic university in its headquarters city of Touba.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides all citizens the right to travel and establish themselves freely anywhere in Senegal, a right respected in practice. Exit visas are not required for travel outside the country.

There is no restriction on emigration, and repatriates are not disadvantaged on their return to Senegal. A Senegalese citizen by birth may not have his citizenship annulled for any reason. A naturalized citizen may have his citizenship revoked if it is proved in a court of law that he obtained his citizenship fraudulently or if he has been convicted of a crime and has been a citizen less than 15 years.

Ethnic violence against Senegalese in Mauritania and Mauritanians in Senegal in 1989 resulted in the breaking of relations between the two countries and the repatriation of thousands of Senegalese and Mauritanian nationals. Senegal accepted back its own nationals and provided asylum to Afro-Mauritanians expelled by the Government of Mauritania. At year's end, the United Nations High Commissioner for Refugees (UNHCR) had registered 55,000 refugees from Mauritania, most from the Toucouleur and Peulh ethnic groups.

Refugees have freedom of movement and are not subject to forced repatriation. An estimated 80 percent would like to return to Mauritania. Refugees say that their return is hindered by problems of identity and citizenship documentation, by lack of funds, and by the refusal of the Government of Mauritania to guarantee their security, indemnify them, and recognize their citizenship.

While relations between the Governments of Senegal and Mauritania were reestablished and borders were reopened in 1992, indemnification talks between the two Governments in Paris had not yet resolved the issue of voluntary repatriation for Mauritanian refugees by the end of 1993.

Because of violence and instability in the Casamance region of Senegal, approximately 18,000 Senegalese refugees remained in Guinea-Bissau and 2,000 in The Gambia at the end of 1993. Several thousand more villagers were displaced within the Casamance region prior to the July 8 cease-fire because of MFDC rebel activity, interethnic violence, and Senegalese army operations.

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

Senegalese have the constitutional right to change their government through periodic multiparty elections. Even so, the domination of Senegalese political life by the Socialist Party, which has held power since independence, has called into question the extent to which citizens have been able to exercise that right. President Abdou Diouf was declared reelected in February 1993 with 53 percent of the vote, a victory that gives him a 7-year term in office. (His previous two terms were for 5 years.) The closest presidential contender, Abdoulaye Wade, received 32 percent of the vote, and the other six candidates, collectively, received just under 10 percent. Approximately 60 percent of the 2.5 million registered voters participated in the election. Under the new Electoral Code, the secret ballot was introduced and the voting was lowered to 18 years.

Despite the new Electoral Code, which had been drafted with the opposition, opposition party members alleged that the governing Socialist Party had orchestrated fraud in the preelection phase and on election day. These charges were given credibility when the new all-party National Tabulation Commission (NTC) was unable to reach consensus, and the head of NTC suddenly resigned implying she had been under pressure from the Government. Opposition parties petitioned the Constitutional Court to reject a number of votes said to have been invalidated by irregular procedures. Amidst much controversy, the Constitutional Court finally certified the results of the February 21 presidential election 3 weeks after the vote, ruling that the voting irregularities did not affect the integrity and validity of the election outcome.

In the May legislative elections, the ruling party, the PS, won 84 of 120 assembly seats, followed by the PDS with 27. Four other opposition parties divided the remaining nine. Following the procedural revisions of Senegal's new Electoral Code, enacted by the National Assembly prior to the May elections, the Constitutional Court certified the May 9 legislative election results within the newly mandated period of 10 days. While there are 20 legal political parties, most with small memberships, the 1993 elections pointed to the possibility of an emerging two party system, the PS, and the PDS.

Of the 29 ministers who make up the President's Cabinet, only 2 are women. There are no women heading a political party, and only 9 women deputies are represented in the 120-member National Assembly. Their underrepresentation reflects the disparity in education, as many girls are not educated beyond the primary level. It also represents, in part, cultural pressures that dictate women should assume subservient roles.

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

There are at least eight Senegalese human rights associations. All are free to criticize the Government publicly, although none has done so directly.

The Government allows international human rights groups to investigate allegations concerning human rights abuses and generally responds to requests for information about allegations. However, the Government did not undertake a formal investigation after Amnesty International asked the Government to look into the May 1993 charges by Mody Sy that he was tortured after arrest (see Section 1.c.).

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

The Constitution states that "men and women shall be equal in law." Officially, there is no discrimination based on race, religion, sex, or language, but de facto discrimination against women is pervasive.

Women.—Despite constitutional provisions, women face extensive societal discrimination, especially in the rural areas where Islamic and Senegalese customs, including polygyny and Islamic rules of inheritance, are strongest and where women are confined to traditional roles. There is no legal discrimination against women in the law of inheritance. In the countryside, women perform much of the subsistence farming and childrearing and have only very limited opportunities for an education. Traditional practices, for example, make it difficult for women to acquire sufficient collateral to obtain bank credit. According to a U.N. study, only 20 percent of Senegalese women are in paid employment. Women usually marry young (the majority by age 16 in rural areas), average seven live births, and die relatively young. About 57 percent of women between the ages of 40 and 45 live in polygynous unions.

Despite government encouragement, there is still much discrimination against females in educational opportunities. Overall, females receive less than one-third of the schooling received by males.

In the urban areas, women are active in government, political life, and business—although few are in top positions—and the Government has taken some steps to change the laws. For example, modifications to the law on family matters, adopted by the National Assembly in 1988, reinforced women's rights to divorce, alimony, child support, and employment, although such laws are often not effectively enforced, particularly in the rural areas where the majority of women live. Women receive equal pay for equal work. Among the women's groups working for change are Women, Rights, and Development, Yewwe Yewwe, Women for Development and Enterprise in Africa, the African Federation of Women of Senegal, and the African Center for Integrated Development.

There are credible reports that violence against women, usually wife beating, is common, particularly in rural areas. Police do not normally intervene in domestic disputes, and women are reluctant to go outside the family for redress. Persons con-

victed of rape may be sentenced for up to 10 years in prison, and more if the victim is a minor.

Children.—The Government supports the protection of children's rights and welfare. It established in 1990 the Ministry of Women, Children, and the Family which has the responsibility for promoting children's welfare. Organizations active in support of children's rights include the Senegalese Association for Education and the Promotion of Human Rights, and the Inter-African Committee on Traditional Practices Affecting the Health of Women and Children.

There are no laws or regulations prohibiting female genital mutilation (circumcision), which has been condemned by international experts as damaging to both physical and psychological health. Female circumcision is not practiced by Senegal's largest ethnic group, the Wolofs, but it is performed on girls belonging to other ethnic groups. According to an independent expert, the percentage of Senegalese girls who have undergone this procedure may be as high as 50 percent. Genital mutilation generally occurs at the age of 9. Infibulation, the most extreme and dangerous form of genital mutilation, is practiced only by the Toucouleur and Peulh ethnic groups. Perhaps 6 percent of Senegalese women have undergone this procedure. Among other activities, the Ministry of Women, Children, and the Family promotes programs to educate village women to the dangers of genital mutilation.

People with Disabilities.—There is no overt discrimination against the handicapped. In practice, persons with physical disabilities are unable to participate in almost all mainstream occupations due to physical barriers and lack of equipment that would make such participation possible. There are no laws or regulations that mandate accessibility.

Section 6. Worker Rights

a. *The Right of Association.*—The rights of workers in the formal wage sector are protected by the proworker Labor Code of 1961. All workers have the right of association and are free to form or join unions. A minimum of seven persons, each having worked within the trade for at least 1 year, may form a trade union by submitting a list of members and a charter to the Ministry of Interior. Not all unions, however, get registered. The International Labor Organization's (ILO) Committee on Freedom of Association, in November 1993, while ruling on the case presented by the General Confederation of Democratic Workers of Senegal (CGTDS), deplored the fact that for 17 years the Ministry of Interior has not provided the CGTDS with a formal acknowledgement of the deposition of its bylaws. A union may be disbanded by the Ministry if the union's activities deviate from its charter. The Labor Code is not applied to the informal and agricultural sectors.

Although unions sometimes fail to obtain initial recognition, once received, recognition is virtually never withdrawn. Even though they represent a small percentage of the working population, unions wield significant political influence because of their ability to disrupt vital sectors of the economy.

The small industrial component of the total work force of 3.9 million is almost totally unionized. More than 70 percent of the labor force is engaged in agriculture. There are no unions in the agrarian sector except for the workers employed at the Senegalese Sugar Company (CSS). The CSS is the only plantation in Senegal, and it offers its employees about the same standard of living as those in industry.

The National Confederation of Senegalese Workers (CNTS), the largest union organization, has close ties to the ruling PS, and its members hold a considerable number of government positions as well as 12 of the PS seats in the National Assembly. While ostensibly an independent organization, the umbrella CNTS has supported government policies.

The rival to the CNTS is the National Union of Autonomous Labor Unions of Senegal (UNSAS). UNSAS is a federation of strategically important unions, such as those of electricians, telephone and telegraph workers, teachers, water technicians, hospital and railroad workers, and sugar producers. UNSAS reportedly has no specific political orientation.

The smaller union organizations include the Democratic Union of Senegalese Workers, which is composed mostly of unskilled workers in the private sector, and the Coordination of Autonomous Trade Unions, composed of some teachers, urban transit workers, and two smaller organizations.

The unions continue to operate under the Labor Code of 1961. A revised code, put forward in 1989, has still not come before the National Assembly. The Government has not renewed its efforts to revise the Labor Code, reportedly in an attempt to appease the unions. Some suggested revisions, for example granting more employer flexibility on terminating and laying off employees, would dilute the power of the unions.

The right to strike is provided for in the Constitution and in the Labor Code. However, there are restrictions. Unions representing members of the civil service must request permission to strike 1 month in advance. Private sector unions must request permission 3 days in advance. The Government has the right to approve or disapprove a strike request. Four trade union federations—CNTS, UNSAS, and two smaller organizations—conducted a 1-day general strike on September 2. The peaceful strike protested the August 24 adoption by the National Assembly of austerity measures, including a 15-percent cut in civil service wages and a 4-percent reduction in private sector wages. A series of 3-day, less successful general strikes and demonstrations against the cuts took place in October, with sporadic acts of violence, some directed toward those transportation workers who did not participate in the strike.

The September 2 strike successfully closed down most businesses and the airport. Subsequent, unauthorized strikes were relatively unsuccessful. The Government responded by first firing and then reinstating some civil service personnel who were absent from work and by using large amounts of tear gas to disperse crowds. On November 16 and November 23, the Government authorized a labor group, the National Union of Autonomous Unions (UWSAS), and one political party, the Party for Democracy and Socialism, to hold sit-ins and demonstrations. The reason for the strikes continued to be opposition to the government-mandated civil service wage cut.

The Labor Code permits unions to affiliate with international bodies. CNTS is active in regional and international labor organizations and is the dominant Senegalese member of the Organization of African Trade Union Unity. The UNSAS is not affiliated with any regional or international labor organization.

b. *The Right to Organize and Bargain Collectively.*—Senegalese unions have the right by law to organize and to bargain collectively, and these rights are protected in practice. There are also legal prohibitions governing discrimination by employers against union members and organizers. Employers found guilty of antiunion discrimination are required to reinstate workers. During 1993 there were no known instances of workers being forcibly discouraged from exercising the right to organize and bargain collectively. The Ministry of Labor will intervene in disputes between labor and management when requested, and it plays a mediation and arbitration role in the private and state enterprise sectors.

Senegalese labor laws apply in principle to all industrial firms, including those in the export free zone in Dakar. However, firms operating in the free zone and those eligible for benefits under the Investment Code enjoy certain exceptions to the Labor Code. Unlike other businesses in the formal sector, these firms do not need prior government authorization to dismiss employees, and they may hire workers on renewable temporary contracts for a period of up to 5 years.

c. *Prohibition of Forced or Compulsory Labor.*—There were no reports of forced labor, and it is prohibited by law.

d. *Minimum Age for Employment of Children.*—The minimum age for employment is 16 years for apprenticeships and 18 for all other types of work. Inspectors from the Ministry of Labor closely monitor and enforce these restrictions within the formal wage sector, which includes state-owned corporations, large private enterprises, and cooperatives. On the other hand, children under 15 frequently are employed in the much larger traditional or informal sector, and minimum age and other workplace regulations are not enforced on family farms in rural areas or in small businesses. Hours of young workers are not limited compared to the regular work force.

e. *Acceptable Conditions of Work.*—Legislation mandating a monthly minimum wage has been in force since independence in 1960. The actual rate is determined by the Ministers of Labor and Finance after negotiating with the unions and management councils. The minimum wage of about $0.70 (200 CFA) per hour is not adequate to support a worker and family, and workers must frequently supplement incomes through second jobs and reliance on the extended family.

Within the formal economic sector, Senegalese law mandates: a standard workweek of 40 to 48 hours for most occupations, with at least one 24-hour rest period; 1 month per year of annual leave; enrollment in government systems for social security and retirement; safety standards and a variety of other measures. These regulations are incorporated into the Labor Code and are supervised by inspectors from the Ministry of Labor. Enforcement, however, appears to be uneven, especially outside the formal sector.

There are no explicit legal protections for workers who file complaints about unsafe conditions. While there are regulations on the books concerning workplace safety, they are often not enforced.

SEYCHELLES

In June 1993, 73 percent of voters approved a new Constitution providing for a multiparty system of government, after an open bipartisan drafting process. Both the Seychelles People's Progressive Party (SPPF) of President France Albert Rene and the Democratic Party (DP) of former President James Mancham campaigned actively for the Constitution's adoption. Presidential and national assembly elections, which were judged free and fair by national and international observers, were held on July 23, the first such multiparty elections since Rene came to power in a June 1977 military coup.

Rene's party decisively defeated the opposition parties, with only one opposition candidate from the DP gaining a directly elected seat in the National Assembly. Due to an additional number of seats distributed on the basis of the percentage of the total vote, the final composition of the National Assembly was 27 SPPF members and 8 opposition members.

The security forces, including about 400 Army personnel, a National Guard of undisclosed confidential size, and the armed "Police Mobile Unit" of 95 officers, have close ties to the ruling party.

Although private enterprise and private property are permitted, the public and quasi-public sectors drive the economy. The Government, through the Seychelles Marketing Board, other state organizations, and the use of banking regulations, controls the importation, licensing, and distribution of virtually all goods and services and exercises significant control over all phases of the economy. Tourism is the most important sector, directly accounting for over 10 percent of the gross domestic product.

In 1993 Seychelles made substantial progress in respecting the rights of its citizens. The Government became responsive to human rights issues and placed considerable political effort into reforming governmental institutions to accord with international standards of human rights practice. One remaining problem is an excessively legislated regard for the "privacy" of public figures, which serves as a veiled threat to press freedom.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and other Extrajudicial Killing.*—There were no such killings in 1993.

b. *Disappearance.*—There were no reports of disappearance.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution expressly forbids torture, and in 1993 this prohibition was respected in practice. There was one instance of police brutality in late 1993 when the police beat up a imprisoned juvenile offender. At year's end an investigation was in progress. There was also one abuse of deadly force, when police officers, mistaking a passer-by for an escaped convict, shot at his car and severely wounded him. The policemen were subsequently jailed.

Living conditions at Police Bay prison are Spartan. Access to the facility is limited. SPPF and opposition members of the committee drafting the Constitution were allowed to visit the prison in 1993, and both delegations expressed satisfaction with conditions there. Family visitation is allowed on a weekly basis, and prisoners are allowed access to reading materials.

d. *Arbitrary Arrest, Detention, or Exile.*—The Penal Code provides that persons arrested must be brought before a magistrate within 48 hours. This provision is applied in practice to the extent possible (residents of the outer islands are in practice detained for longer than 48 hours, as the boat trip to Victoria, where the courthouse is located, can take 3 or more days from such islands as Assumption and Aldabra). Detainees can effectively seek judicial review of the legality of detention. Bail is available in most cases, as is free legal counsel for indigents. Defense attorneys have ready access to detainees.

The new Constitution guarantees that "every person has a right to liberty and security of the person," to privacy, to freedom of conscience, and to freedom of expression. However, the Constitution allows the curtailment of the right to freedom of expression "for protecting the reputation, rights, and freedoms of private lives of persons."

In 1992 most dissidents who desired to return to Seychelles, including former President Mancham, returned from exile.

In late 1992 and again in 1993, President Rene pledged to reexamine land acquisition cases of individuals whose lands were not used by the Government after being expropriated. Cases were taken up by the court in 1993. No final dispositions were made by year's end.

e. *Denial of Fair Public Trial.*—The judicial system is patterned on English common law (e.g., public trial by jury) but influenced by the Napoleonic Code, particularly in civil matters (e.g., torts and contracts). The judiciary includes the Magistrate's (or small claims) Court, the Supreme (or trial) Court, and the Court of Appeals. Criminal cases are heard by a magistrate or by the Supreme Court, depending on the gravity of the offense. A jury is called only in cases of murder or treason. Trials are public, and the State bears the burden of proving the defendant's guilt. The defendant has the right to be present at the trial, to confront witnesses, and to appeal. Indigent defendants are provided free legal counsel.

The Constitutional Commission lauded the principle of an independent judiciary. However, under certain conditions the mechanism set up for judicial appointments, the Constitutional Appointments Authority (CAA), allows the ruling party to control appointments.

Participants in President Rene's 1977 coup d'etat and high government officials (and those related to them) are generally shielded from prosecution by the judicial system. In addition, an investigation by an opposition paper indicated that, on at least one occasion, President Rene intervened with the chairman of the CAA in order to expedite a case of personal interest before the courts.

Seychelles law requires that a member of the armed forces be tried by court-martial unless the President decrees otherwise. In the past, this allowed criminals with military ties to protect themselves from prosecution for offenses committed against civilians. In 1993 there were no reported cases of abuses by military personnel, although the failure of the Government aggressively to pursue criminal charges against the brother of a high-ranking Coast Guard official raised questions about governmental resolve in prosecuting family members of the political and military establishment.

In 1993 there were no political detainees or prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The new Constitution provides for a wide variety of individual, family, and home protections, and establishes a series of fundamental rights which are largely inalienable, including the "right to liberty and security of the person" and to privacy.

Under the previous Constitution, which was law until mid-1993, the authorities had broad powers for search and seizure without a warrant and used this authority to suppress dissenting opinion. In early 1993, the Government harassed a resident foreigner married to a Seychellois for allegedly supporting the Democratic Party. After the foreigner proved that he was not involved in politics, he was allowed to continue to work and reside in Seychelles. The Government could also legally open domestic and international mail, but this practice appears to have ended with the advent of the new Constitution.

Responding to public opinion, the Government in 1993 abolished the requirement that all students applying to the Polytechnic, Seychelles' most prestigious learning institution, attend National Youth Service (NYS). NYS is a year-long paramilitary, political, and social training program run by SPPF partisans who attempt to indoctrinate the young to support the Rene regime.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Guarantees of freedom of speech as provided for under the new Constitution were respected. However, the Constitution allows the curtailment of the right to freedom of expression "for protecting the reputation, rights, and freedoms of private lives of persons." Thus, freedom of speech and press is constrained by the legal ease with which journalists can be penalized for alleged libel through civil law suits. Certain subjects, such as high-level corruption, remain largely taboo.

The Ministry of Information publishes the only local daily newspaper, The Nation, which presents the news with a government bias and does not publish independent viewpoints on political matters. Despite oblique threats from the Minister of Communications, criticism of the President (including innuendo regarding corruption) was widely seen in political posters and carried in the opposition press, including Regar and the Seychelles Weekly (former President Mancham's newspaper). The Catholic Church published a monthly magazine, Echo des Iles, which often ran editorials and letters criticizing the Government. International political journals and general interest magazines (except those with nudity) are imported without hindrance.

Through an independent, bipartisan Board of Directors endorsed by the leader of the opposition, the Government controls all local radio and television broadcasting. The meetings of the Constitutional Commission prior to the June referendum were televised daily for many weeks, and fierce criticism of the Government's position was routinely heard.

However, towards the end of 1993 some observers noted a subtle chilling of tho move towards a more objective media, and it appeared that state-owned radio and television were discreetly adopting a less critical, more partisan tone in their news stories. The Government determined that any attempt to import satellite antennas capable of receiving international broadcasts would have to be approved on a case-by-case basis and expensively licensed.

All films shown, rented, or sold in Seychelles must be approved by the National Censorship Board. This is increasingly a rubberstamp process, although government laws restrict the distribution of pornography.

There are no universities in Seychelles; higher education is generally limited to practical training and vocational school. Faculty members are largely apolitical, as most opponents of the Rene regime fled abroad during the worst period of oppression. Most of these opponents have not returned, and the current teachers are generally either politically silent or supportive of the party in power.

b. *Freedom of Peaceful Assembly and Association.*—The rights to freedom of peaceful assembly and association were honored in 1993. The Government tolerated opposition parties and organizations and permitted political demonstrations and meetings. Political parties planning to hold rallies are required to submit notice to the police beforehand; there were no known denials of rallies in 1993.

c. *Freedom of Religion.*—There is no religious persecution in Seychelles, and church services are widely attended. The Roman Catholic, Anglican, and other Christian denominations worship freely, and Muslims and Hindus are not restricted in their religious practices. The Government routinely approves local church requests to bring in foreign missionaries, provided that they are working solely to preach a religious message. The Government does not accept, however, missionaries who apply to come as social workers, family counselors, or Sunday school teachers. Roman Catholics make up about 90 percent of the population, and Anglicans account for another 5 percent. There are also active and growing Pentecostal, Seventh-Day Adventist, and other evangelical Protestant churches.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The 1991 Passport Act allowed the Government to deny passport services to any Seychellois citizen if the Minister of Defense found this in "the national interest." The new Constitution, however, expressly guarantees the right of freedom of movement to Seychelles citizens. There were no known asylum requests in 1993.

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

Although in 1993 President Rene and the Seychelles People's Progressive Front (SPPF) continued to dominate the political process, Seychellois exercised their right to change their government in the June 1993 referendum on the Constitution and the July 1993 national assembly and presidential elections. These were held by international and national observers to have been free and fair. While the Government continued to be heavily dominated by a single party, this domination reflected the party's considerable popularity, as well as the Government's pervasive influence on employment and housing opportunities. Under laws passed under the authority of the new Constitution, the "Leader of the Opposition," James Mancham, was made a government employee with official status, a salary, financial allowances, and an annual gratuity.

There are no legal restrictions against the participation of women or minority groups in politics. The white minority of Seychelles continues to dominate governmental institutions, but some Creoles (African Seychellois) have risen to senior positions of responsibility, particularly in the military. The Ministers of Foreign Affairs and Tourism are women, and there are women in other high positions. The Geneva-based Inter- Parliamentary Union cited Seychelles as having the world's highest percentage of female representation in its Parliament (at 45.8 percent of the total delegates).

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

There are no private groups devoted exclusively to investigating human rights practices in Seychelles. However, the churches have been strong voices for human rights and democratization. They and other organizations critical of the Government have not been harassed by the Government for their activities.

Requests for information from foreign organizations are sent to the Chief Justice of the Supreme Court, who acts as an interlocutor between human rights groups and the Government. There were no known international requests for investigations in 1993.

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

There is no overt discrimination in housing, employment, education, or other social services based on sex or racial, ethnic, national, or religious identification.

Women.—Women have the same legal, political, economic, and social rights as men. There are female government ministers, businesspeople, doctors, and attorneys.

Violence against women, particularly wife beating, occurs, but according to medical personnel, is not widespread and not tolerated by the Government or the courts. Women frequently use a procedure providing for a bond to keep the peace" of up to $200 on someone using or threatening violence. Married women may easily obtain exclusion orders against abusive husbands and frequently do. Violence against women, whether domestic or otherwise, is considered assault and is subject to criminal prosecution. Police have no hesitation in intervening in domestic disputes in which violence has occurred or is threatened.

Children.—Children in Seychelles are protected from labor abuse by law, and are required to attend school. Children are also protected from abusive parents by legislation.

National/Racial/Ethnic Minorities.—There is a historical educational gap between Creoles (Seychellois of African origin) and Seychellois of white and Asian origin, which has been a factor in the continuing political and economic domination of Seychelles by whites and Asians. Despite a significant Creole majority, the President, the Health Minister, the Foreign Minister, most principal secretaries, and almost the entire merchant and financial class are white and Asian. The Government is attempting to close this gap through universal access to public education. Empirical evidence suggests that this gap is gradually closing, and that increasing numbers of young Creoles are receiving higher education.

People with Disabilities.—People with disabilities are not discriminated against either de facto or de jure in housing, jobs, or education. There is no legislation guaranteeing universal access to public buildings.

Section 6. Worker Rights

a. *The Right of Association.*—As a result of the new Trade Union Industrial Act passed by the National Assembly in November 1993, Seychellois workers now have the right to form and join unions of their own choosing. However, the Act limits unions' ability to organize on a large scale so that they cannot become competitors of the government- run National Workers' Union (NWU), formerly the only legal union. The Government is a member of the International Labor Organization (ILO) and has ratified ILO Convention 87 on freedom of association.

Under the law in place for most of 1993, all workers (except for some temporary workers) had to belong to the National Workers Union (NWU), and a percentage of their social security contributions financed the NWU. The SPPF still controls the NWU's funds and appoints its leaders. The NWU sought to coerce Seychelles employers to sign closed shop agreements. Furthermore, strikes were illegal unless approved in advance by the SPPF Central Committee. The only strike in 1993 was a brief action in November by Indian contract workers protesting that their contract violated Seychelles' labor laws. It ended when the Government decreed that their employer was exempt from these laws and threatened to deport the workers.

b. *The Right to Organize and Bargain Collectively.*—With only one party-dominated union confederation permitted, there were serious limitations on workers' rights to organize for most of 1993. Following the passage of the Trade Union Industrial Act, other unions were permitted, but the NWU retained a dominant position due to the character of the legislation (see above). One independent union formed in late 1993.

The NMW Constitution calls for union members to be protected "from victimization in the carrying out of legitimate trade union activity" and requires its executive board to investigate shop steward dismissals to ensure that the dismissals are not based on union-related activities. In the event of a disagreement between the NWU and a company over a shop steward's dismissal, the SPPF would make the final determination.

Free collective bargaining is not practiced in Seychelles. The Government has the right to review and approve all collective bargaining agreements from the public and private sectors. There is little flexibility in the setting of wages. The Government and state-owned companies, which employ about 70 percent of the labor force, have mandatory wage scales for their employees, based on job classification. Most private employers run very small establishments, and wages in the private sector are generally set by individual agreements between employer and employee; however, in

the few larger businesses where collective bargaining is used, wage scales are subject to the Government's right of review and approval.

In practice, private employers often follow public sector wage scales when setting salary levels, although they frequently pay more than the Government in order to attract qualified workers. The Employment Act of 1985, Seychelles' basic labor law, vests the Ministry of Employment and Social Affairs with authority to establish and enforce employment terms, conditions, and benefits. Workers have frequently obtained recourse against their employers through the Ministry. Although amendments passed in 1990 resulted in a modest simplification and liberalization of the basic labor law, they did not significantly modify the Governments' dominant role in setting terms and conditions of employment.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited by law and does not exist.

d. *Minimum Age for Employment of Children.*—The minimum age for employment is 15, and children are required to attend school until the 10th grade or the age of 17, whichever occurs first. The Government strongly encourages children to fulfill a year of National Youth Service (NYS) before entering the work force at the age of 18 or the Polytechnic School for Vocational Training, and it discourages public or private sector employment of workers under 18 years of age. The Government offers voluntary short-term (up to 6 months) work programs for school leavers not participating in NYS. Children in these programs receive a training stipend which is below the minimum wage. The Government effectively enforces its child labor laws through regular inspections by the Ministry of Employment and Social Affairs.

e. *Acceptable Conditions of Work.*—Seychelles has a complicated minimum wage scale, administratively regulated by the Government, which covers the public and parastatal (state-owned) sectors and differentiates among various job classifications. Given the free public services that are available, primarily in the areas of health and education, a single salary at the low end of the pay scale provides a family with a decent, if Spartan, standard of living.

Many families deal with Seychelles' high cost of living by earning two or more incomes. The Ministry of Employment and Social Affairs enforces minimum wage regulations. The official minimum wage is about $120 (600 Seychelles Rupees) a month. However, due to a labor shortage, the prevailing wage rates in the private sector are considerably higher than the legal minimum, and workers have little reason to accept a lower than minimum wage.

In recent years there has been a growing trend for the Government to import foreign workers, primarily from India and Asia, to work in the construction and industrial fishing sector. Although it is difficult to determine the living and working conditions of these workers, there is strong empirical evidence that Seychelles labor laws are routinely flouted by their employers, with government knowledge (see Section 6. a.). These workers are paid lower wages and forced to work longer hours than Seychellois.

The legal maximum workweek varies from 25 to 40 hours, depending on the economic sector. Each full-time worker is entitled to a half-hour break per day and a minimum of 21 days of paid annual leave. Workers are permitted to work overtime up to 60 additional hours per month. The Government enforces these ceilings, though it is possible that occasional abuses occur. As noted above, foreign workers do not enjoy the same legal protections.

The Government issued comprehensive revised occupational health and safety regulations in October 1991. The Ministry of Employment and Social Affairs is responsible for enforcing these regulations. Inspectors enforce safety standards through regular workplace visits, and the Government protects the identity of workers who complain of hazardous conditions. Occupational injuries are most common in the construction and marine and port industries.

SIERRA LEONE

The National Provisional Ruling Council (NPRC), which was formed in 1992 after a military coup led by Captain Valentine E.M. Strasser and a small cadre of soldiers from the Sierra Leone-Liberia war front, continued to rule Sierra Leone. The coup ended the government of President Joseph Momoh and his All Peoples' Congress (APC) party, which had held power since 1978. Captain Strasser is Chairman of the NPRC and Head of State. The Deputy Chairman of the NPRC, Julius Maada Bio, is Chairman of the Supreme Council of State (SCS), which includes NPRC members and other military officers, plus one civilian. The NPRC and the SCS formulate gov-

ernment policy; day-to-day government operations are overseen by the department secretaries, who comprise the Cabinet.

Following the coup, the NPRC dissolved Parliament and political parties and, ruling by decree, controlled all aspects of government. The 1991 Constitution technically remains in force under the NPRC, but its status has been diminished by a series of decrees and public notices. On November 26, Captain Strasser announced several important policy moves: a unilateral cease-fire in the fighting with the rebel forces, known as the Revolutionary United Front (RUF); an amnesty for surrendering rebels and RUF sympathizers; and a timetable for a transition to democracy, culminating in general elections in late 1995. In December the NPRC released a "Working Document on the Constitution" to serve as the basis for public debate leading to a referendum on a new constitution in May 1995.

The Sierra Leone military forces (RSLMF), supported by Special Army and Police Units (SAPPS) and the regular police force, are responsible for both external and internal security. The RSLMF continued active operations against the RUF forces, which are supported by the National Patriotic Front of Liberia (NPFL). The 1992 coup was in part motivated by dissatisfaction among frontline troops (including Strasser), and the NPRC set as its primary objective bringing the war to an end. Significant progress was made toward achieving that goal in 1993, with the recapture of large areas that had been subject to rebel control. There continued to be reports of human rights abuses on all sides in the internal conflict, including summary executions and torture, as well as abuses by the police and military against criminal suspects outside the war zone.

More than 70 percent of the 4.3 million population is involved in some aspect of agriculture, mainly subsistence farming. Although the country is rich in minerals, including titanium-bearing rutile, gold, and diamonds, official receipts from legal exports of gold and diamonds have decreased over recent years; significant portions of these resources leave the country outside legal, authorized channels. The major diamond-producing area was under rebel control from late 1992 until late 1993, which further disrupted diamond earnings. Despite the difficult security situation, the Government adhered to an International Monetary Fund structural adjustment program which has produced major improvements in the stability of exchange rates and reduced inflation.

There were many human rights abuses, notably, but not only, in the areas of fighting along the Liberian border, where the RSLMF and rebel units committed extrajudicial killings and torture. In August RUF rebels ambushed an aid convoy of the International Committee of the Red Cross (ICRC), killing two of the relief workers and wounding a third before burning the vehicles. Additionally, both the police and army summarily executed criminal suspects and beat and otherwise abused suspects during arrest and interrogation.

The NPRC continued to maintain firm control over government and society with tight restrictions on freedoms of speech, press, assembly, and association. Discrimination and violence against women remained widespread.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were numerous reports of extrajudicial killings and summary executions by military and the SAPPS, often in connection with criminal arrests. Many reports suggest that undisciplined military personnel inflicted civilian deaths while engaging in looting, robbery, and extortion (see Section 1.g.).

b. *Disappearance.*—There were continuing reports of the disappearance of suspected NPFL rebels, captured in the conflict. The NPRC denied these reports and took the offensive by announcing an amnesty program for civilians and rebels returning from disputed territories.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the 1991 Constitution prohibits torture, there were reports of police and military mistreatment of detainees during interrogation and arrest. The practice of mutilating prisoners continued. In one well-publicized case, security forces cut off the ears of two criminal suspects. Military personnel sometimes physically abused civilians (see Section 1.g.). In December the press reported an incident in which soldiers beat and kicked a child in order to ascertain where the child had obtained the military boots he was wearing. Officials responsible for such abuses were sometimes punished.

Prison conditions remained life threatening; deaths in prison due to malnutrition and inadequate medical attention are common. Detainee cells often lack beds or toilet facilities. Overcrowding is the norm at Freetown's Pademba Road prison. These

prison conditions are of particular concern because shortcomings in the legal system often result in prolonged detention. Men and women are segregated in the prisons, but separate facilities for incarceration of juveniles do not exist. Homosexual rape is not uncommon.

Throughout the year, the Government granted the International Committee of the Red Cross (ICRC) access to prisoners, including some alleged rebel prisoners. Amnesty International (AI) requested access to prisoners one time, and access was granted. In May AI reported that some prisoners were being held in secret and that boys as young as 7 years of age were being incarcerated. The Government denied these charges.

d. *Arbitrary Arrest, Detention, or Exile.*—There are inadequate safeguards against arbitrary or unjust detentions and no provisions for their formal review in either criminal or political security cases. The laws provide that, after an initial 24-hour detention, detainees must have access to legal counsel, families, and medical care, but authorities rarely respect these provisions unless detainees can afford legal counsel to demand compliance.

In political and security cases, police and security agencies have additional detention authority. Under NPRC decrees, any police officer or member of the armed forces, with approval of the SCS or NPRC, may arrest without warrant and detain indefinitely any person suspected of posing a threat to public safety. In practice, soldiers commonly arrest or detain civilians without charge. Relatives are not formally notified, but the authorities generally respond to inquiries. Arrested foreigners are often released but may not depart the country.

The Government provides legal representation for the indigent only in cases of capital offenses. Lack of counsel in other cases frequently leads to abuse. Many indigent detainees are ignorant of their rights and assume, sometimes correctly, that law enforcement or judicial authorities will be paid by the accuser to rule against them. The Society for the Protection of Human Rights provides free legal counsel to some indigent detainees.

During the year, the NPRC reviewed the cases of individual prisoners, resulting in the release of over 300 prisoners.

The first anniversary of the April 1992 coup saw the release to house arrest of the more than 20 members of the former government who had been detained at the time of the coup. In December the Government announced that all suspected rebels had been released from detention, and one political detainee was released under the year-end amnesty.

No one was exiled by the Government, but some persons chose to leave or, as in the case of some officials of the previous regime, remain outside the country rather than face possible retribution.

e. *Denial of Fair Public Trial.*—The NPRC has not fundamentally altered the previously existing judiciary, but it has circumvented some of the authority of judicial institutions by the use of special commissions of inquiry.

There are three judicial systems: regular courts, local or traditional courts, and courts-martial which try only military cases. The judiciary is subject to political manipulation. There is strong evidence that favoritism plays a role in court decisions.

The regular court system is based on the British model and consists of a Supreme Court, an intermediate Court of Appeals, a High Court of Magistrates, and magistrates' courts. There are criminal and civil courts. Decisions by lower courts may be appealed. The courts frequently grant attorneys' requests for adjournment or postponement; there are delays of up to 5 years in bringing cases to trial.

Indigenous elected ethnic leaders preside over local courts and administer tribal law in civil cases, e.g., dealing with family and property matters. These local courts are often the only legal institutions in rural areas.

The court-martial system, based on British military codes and the common law, provides for commander adjudication of minor offenses. More serious offenses are deferred from field units to force headquarters. There are allegations that enlisted personnel subjected to punishment by field commanders have in some cases appealed to friends in the NPRC and had sentences overturned. During 1992, in an effort to curb military excesses, a standing court-martial was established to try military personnel for serious crimes (e.g., murder, manslaughter or aggravated robbery). Death sentences pronounced by this court must be reviewed and approved by the Head of State. None of the death sentences given by the standing court-martial in 1993 had been carried out by year's end.

Under a December 1992 decree, the Government has the authority to create a Special Military Tribunal to try "any person, whether or not a member of the Armed Forces" who, in connection with or in furtherance of any act of rebellion against the NPRC, commits treason, murder, manslaughter, aggravated robbery or any other se-

rious offense under Sierra Leonean law. In 1993 the decree was amended to permit appeal of the Tribunal's decisions to the courts.

In a separate set of quasi-judicial proceedings, NPRC-appointed commissions of inquiry, investigating corruption under the previous Momoh regime, held public hearings during 1993. At year's end, the commissions continued to submit findings to the NPRC. After reviewing the findings, the NPRC issues a "white paper" containing decisions on sanctions against officials of the previous regime found to have engaged in malfeasance. The NPRC has taken such actions as confiscating or ordering restitution of property and banning some persons from future public office.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—While the 1991 Constitution prohibits arbitrary invasion of the home, NPRC Decree 25 had given broad authority to military and police personnel to enter and search any premise without warrant. During April the NPRC published amendments to the Decree, curtailing that authority. However, officials still have wide authority under other NPRC decrees to monitor actions or conversation within homes, to prevent a person from acting in a manner prejudicial to public safety, to impose restrictions on employment or business, to control association or communication with other persons, and to interfere with correspondence.

In practice, there were numerous occasions of abusive treatment of ordinary citizens by ill-disciplined soldiers and police, both within and outside of the war zone. These abuses included forced entry into homes, robberies, and assaults, some of them fatal. Offending soldiers have frequently been punished when caught; several remained under death sentences for the most serious crimes (see Section 1.e.).

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—There were serious violations of human rights in the conflict centered in the eastern and southern provinces along the Liberian border. There, RSLMF forces fought the Revolutionary United Front forces, which are supported in part by Charles Taylor's NPFL forces from Liberia. The RSLMF was also involved in fighting bandits and groups of military deserters. This conflict involves different ethnic groups and has resulted in an unknown number of deaths. Some estimates indicated that more than 8,000 civilians have been killed since 1991 and that hundreds of thousands of people within Sierra Leone and adjacent countries have been displaced.

Government forces took severe action against suspected rebels and their supporters. There were credible reports of summary executions of prisoners by RSLMF troops. Troops also engaged in public humiliation and torture of captives, including by disfigurement, beatings, and parading captives naked. Some RSLMF troops displayed human skulls on military vehicles.

Many reports indicated that RUF rebels took similarly severe action against civilians and RSLMF soldiers. In August the RUF attacked an ICRC aid convoy, killing two ICRC workers and wounding a third. Also, there were reports that the RUF leaders in Kailahun District executed 16 of their own troops and 5 noncombatants for allegedly plotting to overthrow RUF leader Foday Sankoh. In December RUF forces reportedly killed about 20 civilians in two villages near Pujehun. They also pressed youths aged 12 to 15 into combat service.

At times, the RUF controlled parts of the eastern areas along the Liberian border, but by the end of the year government forces had regained the initiative, and RUF did not control any specific areas. In early December, the NPRC declared a 4-week cease-fire, but, due to numerous new RUF attacks on government forces during the month, the cease-fire was not extended when it expired.

The RUF does not appear to promote a coherent political philosophy. Most of its members are of the Mende and Kissy ethnic groups, but other members of those groups have not been immune from RUF aggression.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Although the Constitution provides unequivocally for freedom of speech, NPRC decrees permit the Government to abridge freedom of expression if it deems national security to be endangered. Criticizing government leaders or offending the dignity of the State are criminal offenses. In practice, freedoms of speech and press were severely circumscribed.

In May the NPRC repealed the section of its 1992 decree that had empowered the Government to prohibit attempts to influence public opinion in a manner likely to be prejudicial to public safety, public tranquility, or public order. However, a restrictive set of conditions for registration of newspapers instituted in February reduced the number of newspapers by more than 50 percent and silenced some of those most openly critical of the Government.

At the end of 1993, there were 10 active newspapers, 2 of which were controlled directly by the Government. The Government warned and castigated editors who

published articles displeasing to the NPRC. It detained several editors for 1 to 3 days and suspended one newspaper for several weeks. The then-deputy Chairman of the NPRC kicked one journalist because of an offending article. In these circumstances, editors continued to exercise self-censorship.

In October the authorities arrested five employees of a Freetown newspaper and six others, who have played roles in Sierra Leone politics in the past, after the newspaper published an article from a Swedish newspaper alleging corruption in the NPRC Government. The newspaper's office was ransacked. The Government released seven of the detainees a short time later, but four journalists remained in jail for more than 2 weeks. They were then released on bail equivalent to $200,000 each, an extremely high sum by Sierra Leone standards. The newspaper has not published since the incident.

One of the capital's two radio stations is government controlled and reflects only the views of the Government. The other is operated by Christian missionaries and broadcasts religious programming and Voice of America news. A third radio station operates in one of the provincial cities. The Government owns and operates the only television station, which resumed broadcasting after a hiatus of several years.

Academic freedom does not appear to have been impaired by the NPRC. There were no reports of educators being detained or threatened for their teaching activities, and university students who staged protests over campus issues were not subjected to government retribution.

b. *Freedom of Peaceful Assembly and Association.*—Although the 1991 Constitution provides for freedom of assembly and the right of citizens to form economic, social, and professional organizations, freedoms of assembly and association were not respected. All political parties remained banned.

Under antidisturbance decrees, the NPRC may grant broad powers of arrest to public, military, or other authorized persons in any area or situation in which, in its opinion, there is likely to be difficulty in preserving "public safety" and "order." In practice, the NPRC permitted peaceful demonstrations.

c. *Freedom of Religion.*—Freedom of religion is provided for by the 1991 Constitution, and historically the ruling government has displayed religious tolerance. Muslims, the largest religious group (comprising about 60 percent of the population), Christians, animists, and adherents of other faiths practice their beliefs freely; they may publish and distribute religious materials and conduct religious education without government interference.

Although most clergy are indigenous, foreign Christian missionaries are active and there is a small number of Muslim clerics from other countries.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are currently no legal restrictions on travel within the country; however, for a substantial portion of 1993 three of the eastern districts were closed to civilian travel due to the rebel incursion. Military and paramilitary checkpoints also delayed travel, with soldiers frequently demanding money, transport, or goods. NPRC decrees permit senior police and military officers to stop and question any person.

The Government requires all citizens to carry a national identification card which must be presented on demand to security personnel at checkpoints. However, as the Government was unable to provide cards for everyone, the requirement was only selectively enforced.

Exit visas are required for anyone, except diplomats, seeking to travel outside the country. There are no restrictions on emigration or repatriation.

Continuing conflict in the primarily agricultural eastern and southern provinces at times internally displaced as many as 400,000 Sierra Leoneans during 1993, reducing food production and placing a severe strain on the local economy. In addition to the internally displaced, an estimated 300,000 Sierra Leonean refugees sought refuge in Guinea and Liberia. There was considerable movement among the internally displaced Sierra Leone populations and the Liberian refugees in response to the ebb and flow of the civil wars in Sierra Leone and Liberia.

Sierra Leone continued to be host to thousands of Liberian refugees, although the number declined from 14,000 at the end of 1992 to an estimated 10,000 at the end of 1993. The United Nations High Commissioner for Refugees (UNHCR) provided relief aid to 6,000 refugees at the Waterloo refugee camp near Freetown. The Government did not force refugees to repatriate to countries in which they fear persecution.

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

Citizens do not have this right. Captain Strasser and a small group of military officers control all institutions of government, and the NPRC appoints all senior gov-

ernment officials. The NPRC appointed an advisory Commission for the Return to Democracy, and the Commission submitted the draft of a new constitution to the NPRC for review. In December a "Working Document on the Constitution" was released to serve as the basis for public debate leading to a referendum on a new constitution in May 1995. The NPRC timetable announced in December also calls for nonpartisan district council elections in November 1994; the formation of political parties in June 1995; and general elections late in 1995.

Meanwhile, the ban on political parties remained in effect, and the Government qualified implementation of these steps by stating that the border fighting must end before elections could be held.

Women are poorly represented in government. In December the NPRC appointed a woman as undersecretary in the Department of Education, the highest position held by a woman in the Government. A few senior civil service and judicial positions are held by women.

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

Local human rights groups are allowed to operate. The League for Human Rights and Democracy, a local organization, studies all human rights issues but concentrates on issues related to freedom of the press and conditions of prisoners. Its effectiveness is hampered by government intimidation and a lack of resources. In at least one instance in 1993, the League's director was summoned by police for questioning regarding his activities.

The Government allows visits by international human rights organizations. The ICRC visited prisoners in Pademba Road prison and in various military barracks where suspected rebels are sometimes detained. Amnesty International had access to prisoners in 1993 (see Section 1.c.).

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

Women.—Although women have equal rights under the Constitution, in practice they face both legal and societal discrimination. The rights and status of women under traditional law vary significantly, depending upon the ethnic group. The Temne and Limba tribes, for example, accord more rights to a woman to inherit her husband's property than do the Mende, who give preference to male heirs and unmarried daughters (in that order).

In the broader society, women do not have equal access to education, economic opportunities, health facilities, or social freedoms. In rural areas they perform much of the subsistence farming and all of the child-rearing and have little opportunity for education. The average schooling level for women is markedly below that of males. A 1991 U.N. study showed that females receive one-fourth the schooling of males; only 6 percent of women are literate. At the university level, men predominate. There is at least one recently formed rights group which has as its purpose improving economic opportunities and access to health services for women.

Violence against women, especially wife beating, is common. The police are unlikely to intervene in domestic disputes except in cases of severe injury or death. Few cases of such violence go to court. The issue is not recognized as a societal problem and receives no high-level attention by the Government. Rape is a problem in Sierra Leone.

Children.—The Government recently signed the U.N. Convention on the Rights of the Child and in 1993 began addressing, with the help of nongovernmental organizations, the integration of "boy soldiers" back into society. Many underage boys had been allowed to join military operations early in the war.

There are reported instances of ritual murders of boys and girls, as well as of adults, associated with animist religious groups in the provinces. These murders have been widely reported in the press and openly discussed in public. The Government arrests and prosecutes suspects in ritual murder cases.

Female genital mutilation (circumcision), which has been condemned by international health experts as damaging to both physical and psychological health, is not addressed in Sierra Leonean law and is widely practiced on girls at a young age, especially in traditional tribal groups and among the less educated. According to an independent expert in the field, the percentage of females who have undergone this procedure may be as high as 80 percent.

National/Racial/Ethnic Minorities.—Discrimination between people of different tribal groups is not officially sanctioned, but tribal loyalties remain important factors in government, military, and business transactions. The Momoh government was accused of discriminating in favor of persons of Limba descent (Momoh's ethnic group). The NPRC is heavily Mende in composition, and many high-level appointees

are from that ethnic group. Complaints are common of corruption and ethnic discrimination in government appointments, contracts, military commissions, and promotions.

Residents of non-African descent face institutionalized political restrictions. Current law restricts citizenship to people of Negro-African descent following a patrilineal pattern, effectively denying citizenship to many persons, notably in the Lebanese community, the largest affected minority. Residents of non-African descent are often victims of harassment.

People with Disabilities.—Questions of public facility access or discrimination against the disabled have not become public policy issues. There are no laws that mandate accessibility to buildings or provide for other assistance for the handicapped. There does not appear to be discrimination against the handicapped in housing or education, but, with the high rate of unemployment, few handicapped people are found working in offices or factories. The difficulty the handicapped face in finding employment places many facilities and services beyond their financial means.

Section 6. Worker Rights

a. *The Right of Association.*—Unions have continued their activities under the NPRC. The 1991 Constitution provides for the right of association, and all workers, including civil servants, have the right to join trade unions of their choice. Unions are independent of the Government. Individual labor unions have by custom joined the Sierra Leone Labor Congress (SLLC), and all unions are members of the SLLC. Membership is, however, voluntary. There is no legal prohibition against the SLLC leadership holding political office, and leaders have held both elected and appointed government positions.

Under the Trade Union Act, any five persons may form a trade union by applying to the Registrar of Trade Unions, who has statutory powers under the Act to approve the creation of trade unions. Applications may be rejected for several reasons, including an insufficient number of members, proposed representation in an industry already served by an existing union, or incomplete documentation. If the Registrar rejects an application, his decision may be appealed in the ordinary courts, but such action is seldom taken.

Approximately 60 percent of workers in urban areas, including government employees, are unionized, but unions have had little success in organizing workers in the large agricultural and mining sectors.

Unions have the right to call a strike without exception, but the Government may require 21 days' notice. In September teachers staged a strike demanding salary increases. The NPRC did not interfere, but NPRC decrees, which prohibit disruption of public tranquility or of supplies, could be employed to prevent a prolonged strike. The Sierra Leone Labor Congress is reviewing the labor law and hopes to have legislation approved in 1994 that would prohibit firing of a union member for participation in a legal strike.

Unions are free to form federations and confederations and affiliate internationally. The SLLC is a member of the International Confederation of Free Trade Unions, and there are no restrictions on the international travel or contacts of trade unionists.

b. *The Right to Organize and Bargain Collectively.*—The legal framework for collective bargaining is the Regulation of Wages and Industrial Relations Act. Collective bargaining must take place in trade group negotiating councils, each of which has an equal number of employer and worker representatives. Most enterprises are covered by collective bargaining agreements on wages and working conditions. The SLLC provides assistance to unions in preparing for negotiations. In case of a deadlock, the Government may intervene.

There is no law that prohibits retribution against strikers; however, if an employee is fired for union activities, he may file a complaint with a labor tribunal and seek reinstatement. Complaints of discrimination against unions are made to the Industrial Court for arbitration. Individual trade unions investigate alleged violations of work conditions and ensure that employers take the necessary steps to correct abuses.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Under the Chiefdom's Council Act, compulsory labor may be imposed by individual chiefs, requiring members of their villages to contribute to the improvement of common areas. This practice exists only in rural areas. There is no penalty for noncompliance. The International Labor Organization's (ILO) Committee of Experts repeated its earlier request to the Government that it amend provisions of this act that violate ILO Convention 29 on forced labor.

Although the NPRC does not require compulsory labor, a decree requires that homeowners, businessmen, and vendors clean and maintain their premises. Failure to comply is punishable by fine or imprisonment. Determinations of such cleaning and maintenance may be made by any health officer, police officer, or member of the armed forces. The last Saturday of every month is declared a national cleaning day, and there were instances of security forces beating citizens to ensure compliance.

d. *Minimum Age for Employment of Children.*—The minimum age for employment is officially 18 years, but in practice there is no enforcement because there is no Government entity specifically charged with this task. Children routinely assist in small family businesses, especially those of vendors and petty traders. In rural areas young children work seasonally on family subsistence farms.

Because the adult unemployment rate is high (60 percent in some areas), few children are involved in the industrial sector. There have been reports that young children have been hired by foreign employers to work as domestics overseas at extremely low wages and in appalling conditions. Following an investigation, the Government announced that the Department of Foreign Affairs would review overseas work applications to ensure that no one under 14 was being employed for this purpose and to enforce certain wage standards.

e. *Acceptable Conditions of Work.*—There is no legislated minimum wage. Purchasing power continued to decline, and most workers have to pool incomes with their extended families and engage in subsistence food production in order to maintain a minimum standard of living. The Government's suggested standard workweek is 38 hours, but this is not mandated and most workweeks exceed 38 hours.

The Government sets health and safety standards, but the standards are outmoded and often not enforced. The Health and Safety Division of the Department of Labor has inspection and enforcement responsibility, but inadequate funding and transportation limit its effectiveness. The SLLC is currently negotiating with the Government to update these standards.

Health and safety regulations are included in collective bargaining agreements, but there is no evidence of systematic enforcement of those safety standards. Trade unions provide the only protection for workers who file complaints about working conditions. Initially, the unions make a formal complaint about a hazardous work condition. If this is rejected, the unions may issue a 21-day strike notice. If workers remove themselves from dangerous work situations without making a formal complaint, they risk being fired.

SOMALIA

Following 2 years of civil war and total anarchy, Somalia continued in 1993 to be without central authority of any kind. In the 2 years since the fall of Siad Barre in January 1991, traditional means of social control and administration of justice have not been reestablished. Even with the presence of United Nations peacekeepers, many Somalis remain beyond the rule and protection of recognized law and social order. Almost 20 percent of the population is displaced or has sought refuge abroad. Communities, ravaged by war and famine, have disappeared in some regions. Somalis of every clan and faction live in fear for their lives and property. Traditional authorities, unable to cope with the unprecedented conditions of the country, have often withdrawn from their historical function, leaving the clans and subclans without the restraints that would serve to protect human rights.

The United Nations Operations in Somalia (UNOSOM) and its predecessor the United Nations Task Force (UNITAF) have attempted to protect the lives and property of both Somalis and foreign relief workers. However, in doing so and in attempting to carry out its mandate to support a broad agreement by Somalis in March, 1993 in Addis Ababa, U.N. forces were attacked and drawn into violent confrontations in which they and Somalis were killed, creating an atmosphere of wariness between the peacekeepers and some of those they were sent to protect. Some foreign forces were accused of mistreatment, even murder, of Somalis and in several instances from June to October, 1993, U.N. peacekeepers were attacked and killed by Somalis. In response, under the authority of the United Nations, U.S. forces attacked and apprehended Somalis believed to be responsible for the attacks upon U.N. peacekeepers. UNOSOM detained these Somalis without trial. All but eight were released by year's end.

In the months before the attacks on the peacekeepers, the United Nations was largely successful in ensuring the flow of food to the starving population by ending large-scale looting of relief supplies and extortion of humanitarian agencies by ban-

dits and warlords. The early months of 1993 saw a rapid drop in death and malnutrition rates measured by international relief agencies. Despite this amelioration, lawlessness continued in parts of Somalia. Conditions varied widely. In some towns, a semblance of civic order remained, with local populations respecting the traditional authority of clan elders. However, no central authority was acknowledged; power rested in the hands of clan-based warlords and heavily armed gangs of looters; more than half a million refugees fled to neighboring countries over the past few years; and there was no functioning network of police, courts, or civil administration. In the second quarter of 1993, the United Nations made a start in addressing these problems.

The Addis Ababa accords, which the 15 major Somali faction leaders signed in March, outlined steps toward political reconciliation and the formation of a Transitional National Council (TNC). The accords committed all signatories to disarmament and the reconstruction of Somali society in a fashion consistent with the Geneva Universal Declaration of Human Rights.

Building on the March accords, the U.N. Security Council (UNSC) passed several resolutions establishing and defining UNOSOM II. UNOSOM II, created under UNSC Resolution 814, had broad responsibilities, including the basic reconstitution of Somali civic society and the creation of preconditions for the observance of human rights. It was tasked with creating a secure environment; promoting political reconciliation; disarming clan factions; re-establishing the police and judiciary; and prosecuting those responsible for serious violations of international law.

Informal talks held among faction leaders in Addis Ababa in November and December did not produce agreement on how to implement the Addis Ababa accords, but did not repudiate their commitments to these accords.

As UNOSOM II began the task of disarmament in Mogadishu, it met sudden, violent resistance from one of the signatories of the Addis Ababa accords. In response to a UNOSOM arms sweep, the SNA (Somali National Alliance, led by Mohamed Farah Aideed) reportedly organized an ambush of UNOSOM Pakistani troops on June 5, killing 24 and wounding another 50. On June 6, the UNSC passed Resolution 837, condemning the armed attacks upon U.N. peacekeepers and authorizing the U.N. Secretary General, under Chapter VII of the U.N. Charter, to take all necessary measures against those responsible for the attacks, including arrest, detention, trial, and punishment. In November the UNSC created a commission of inquiry to investigate this and other incidents.

Throughout June, July, August and September, UNOSOM II forces, including U.S. forces working with UNOSOM contingents, made efforts to capture Aideed and other key SNA personnel in accordance with UNSC Resolution 837. SNA forces countered by conducting ambushes of UNOSOM forces in which armed attackers were shielded by civilians, especially women. Peacekeepers from Italy, Pakistan, Nigeria, the United States, and Morocco, as well as hundreds of Somalis, died during such incidents. In September and October, SNA rocket and mortar attacks on the U.N. facility and U.S. Liaison Office in South Mogadishu became more frequent. SNA forces unlawfully detained two peacekeepers, a Nigerian and an American (see Section 1.d.), the American after an attack October 3 on an SNA stronghold in Mogadishu.

Outside Mogadishu, progress was made in reestablishing local police forces and courts and with the establishment of new district and regional councils.

Faction militia, bandits, and clan militia are routinely charged with using intimidation, detention, rape, kidnaping, murder, and looting to gain or maintain power over the Somali population but these charges have been difficult to investigate. Relations between UNOSOM forces and local populations varied widely from region to region, and were often dependent on relations between UNOSOM and local faction or traditional leaders. In general, the forces enjoyed good relations with the people, but there were some complaints that Belgian, Canadian, and U.S. forces used extreme or inappropriate force against Somalis, including incidents which resulted in deaths. The governments involved launched investigations, some of which continue, of these incidents.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Political violence and banditry have been endemic to Somalia since the overthrow of Siad Barre. Levels of violence were significantly reduced with the establishment of UNITAF, followed by UNOSOM II. Within areas controlled by UNITAF, the efforts of volunteer, unpaid former policemen appear to have aided the return of stability. However, in the past year, attempts have been made on the lives of several politically active Somalis. Although

large scale interclan clashes in Mogadishu diminished with an interclan cease fire in October, gun fights between rival factions were still common and lethal attacks by bandits in the city increased, as did interclan fighting outside Mogadishu.

Some foreign forces were accused of extrajudicial killings. Canadian peacekeepers stationed at Belet Weyne were alleged to have been responsible for two civilian Somali deaths. On March 4, a Somali attempting to break into the Canadian base was shot while fleeing, and allegedly shot again while lying on the ground. While in Canadian custody on March 16, Shidane Omar Aroni was allegedly beaten to death . Canadian authorities conducted a full investigation and launched judicial proceedings which had not been concluded by year's end. In April, a U.S. Marine was convicted in a military court of use of excessive force in an incident in which one Somali was killed.

On July 7, at the height of the conflict between Aideed and UNOSOM forces, six Somali distributors of the UNOSOM newspaper were assassinated in Mogadishu. It is alleged this took place at SNA or Aideed instigation.

On June 5, forces loyal to Aideed reportedly launched an ambush against Pakistani peacekeepers, who had just completed a search for arms at Aideed's radio station and other locations in Aideed-controlled territory. Twenty-four Pakistanis were killed, two of them executed after being taken captive. Women were combatants in the attack and reportedly participated in mutilating the bodies of the dead. The arms search had been initiated after written notification to the SNA, and was in accordance with the disarmament provisions of the Addis Ababa agreement. Following the deaths of the Pakistani peacekeepers, UNSC Resolution 837 authorized UNOSOM to take all necessary measures against those responsible for the attack.

Fighting on June 17 between the SNA and UNOSOM began with an ambush of Moroccan troops; women among the attackers reportedly pulled grenades from under their clothes and threw them among the Moroccan troops. Similar tactics were reportedly used to ambush Nigerian troops on September 5.

b. *Disappearance.*—Reliable information concerning politically motivated disappearances was not available. Most observers assumed that it was a frequent phenomenon, masked by massive displacement of the population.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Reports of torture in the aftermath of clan fighting cannot be confirmed.

In Hargeisa on January 8, five women suspected of prostitution were stoned to death, after having been buried up to the neck. The instigator was a local religious leader, Sheikh Dahir. The Sheikh reportedly acted without convening a formal Islamic tribunal. No other incidents of this nature were recorded in 1993.

Independent sources alleged that Somalis held in Belgian custody in Kismayo suffered mistreatment. Doctors who examined released detainees found marks of burns on their bodies. The Belgian Ministry of Defense launched an investigation, and announced that military authorities had taken appropriate action in cases of apparent misconduct. Thirteen cases were still under investigation at years's end.

d. *Arbitrary Arrest, Detention, or Exile.*—All Somali factions reportedly held prisoners arbitrarily in 1993. The International Committee of the Red Cross (ICRC) negotiated the release of 348 persons, mostly detained by the United Somali Faction (USC), but some by the Somali Salvation Democratic Front (SSDF), and the Somali National Force (SNF). The SNA has accused the United Nations of violations of the rights of the accused. Under the authority of UNSC Resolution 837, UNOSOM detained, but did not try, Somalis suspected of complicity in the attack on Pakistani peacekeepers. For reasons of security, the location and condition of the detainees was not revealed to their families or the Somali public, although regular visits by ICRC representatives were permitted. The last of these detainees were released in January 1994. When the SNA unlawfully detained a captured U.S. pilot and one of the Nigerian peacekeepers, the ICRC visited the detainees and assisted in their release.

Former National Police Commander Ahmed Jama Mousa claimed in a deposition to UNOSOM that, during a military operation on September 13, U.S. forces shot and wounded him outside his home, invaded his home, beat, and detained him and three unarmed members of his family for 5 days. Mousa has filed a claim for compensation to UNOSOM. The U.S. Department of Defense is investigating the incident.

e. *Denial of Fair Public Trial.*—There is little structure for the administration of justice in Somalia. UNOSOM has declared the Somali Penal Code to be the law of the land, and in the few functioning UNOSOM-administered courts that law is applied. It is impossible to judge the impartiality of the administration of local justice. Throughout the country local authorities have attempted to administer some type of justice. Islamic law and traditional mediation have been used to settle property crimes. However, these methods are not governed by any universal code or adminis-

tration. A high proportion of Somalia's educated elite has fled the country. The fear of renewed anarchy hampers impartial justice; few Somalis feel confident of lasting protection from retaliation based on clan loyalties.

Prosecution of Somalis for war crimes committed during the past 2 years is difficult. In April when humanitarian operations in Baidoa were under the protection of Australian forces, one such prosecution resulted in the conviction and execution of Hassan Gutaale Abdul. He was tried under the Somali Penal Code for 31 murders. Eleven eyewitnesses testified. Both trial and appeal were conducted by former Somali judges. However, contrary to Somali law, the appeals panel sat the day after the trial, instead of giving the defense the legally required 15-day preparation period. Court officials purportedly feared they could not hold Hassan Gutaale Abdul in jail for the prescribed period. He was executed by gunshot immediately after the handing down of the appeal verdict.

At the time of the Addis Ababa accords in March, an interim, three-tier judicial system was planned, with courts of appeal, regional courts, and district courts. It was envisaged that these courts would operate under the 1962 Somali Criminal Procedure Code and the 1963 Penal Code. Drafting of a new constitution was to be delegated (see Section 3) to the Transitional National Council (TNC).

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—These rights were constantly violated by the warring factions. The civil conflict resulted in huge displacements of people and the destruction of the infrastructure of the country. Although these rights have not been systematically violated by a central authority, there is no right of privacy in Somalia. Military operations by the major factions have led to home searches and evictions. Militia in Mogadishu, Kismayo, and other urban centers occupy private homes and buildings without the permission of the owners. Homes belonging to former government members have been destroyed and the contents looted. Somalis have been forced to flee their homes because of violence directed at them. The relatively peaceful northwest and northeast of the country suffered less disruption. At year's end, no action had been taken to deal with property claims, a problem that looms large as refugees and the displaced prepare to return.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Violations of humanitarian law in internal conflicts by Somalis have been common since the civil war began in 1991. The use by factions of women and children as human shields or combatants in conflicts is well-documented. The brutalities of armed looters who continue to roam Somalia are unlikely ever to be completely catalogued. Humanitarian convoys and base camps were the targets of these bandits. The Geddo region on the border with Kenya, unprotected by UNOSOM deployment, suffered severely. When the remnants of Somalia's judiciary formed an association, they particularly wanted inquiries into war crimes to focus on the looting of relief supplies. Except in regions with UNOSOM protection, humanitarian aid workers were constantly under threat, often in pay disputes with their armed Somali employees. Three non-Somali humanitarian aid workers were murdered in incidents of random violence.

In attempting to enforce the disarmament agreements reached in the Addis accords, UNOSOM Pakistani peacekeepers were attacked without warning, reportedly by the forces of the Somali National Alliance, which controls south Mogadishu. UNOSOM's efforts to capture key SNA leaders resulted in confrontations with elements of the south Mogadishu population. Although UNSC Resolution 837 authorized the U.N. to "take all necessary means" against those responsible for the June 5 attack, Medecins Sans Front eres and the human rights group, Africa Watch, alleged that UNOSOM forces, including U.S. forces, violated international humanitarian law and that UNOSOM had itself become a party in an internal conflict. The charges included:

—that U.S. missile-firing helicopters on July 12 attacked without warning the Abdi House, an SNA control center, killing participants in a political meeting. In other incidents, UNOSOM forces had issued warnings and called for evacuation before striking at an inhabited target. UNOSOM apparently did not issue a warning before this attack.

—that UNOSOM forces did not take adequate care to minimize noncombatant casualities in a firefight at the Digfer Hospital on June 17, during which five Somali patients died. UNOSOM forces were pursuing SNA militia who had fired on them from within the hospital, which turned out to be used by the SNA to house troops and store arms, and as a intermittant command center.

The 1994 Human Rights Watch World Report charges General Aideed's forces with apparently using civilians to shield troops and with violating the neutrality of

hospitals on two occasions, including the one noted above. Africa Watch notes also reports that General Aideed's forces conducted summary executions.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Most Somalis obtain news from British Broadcasting Corporation and Voice of America Somali-language radio broadcasts. Brief news broadsheets continued to be printed. UNOSOM has its own broadcasts and newspaper (Maanta), but its radio signal is not strong enough to be heard throughout the country. The major factions also have radio stations. There has been a recent increase of journals in Somalia. These publications are most often pamphlets for one faction or another, but some are developing a journalistic independence new in Somalia's recent history. There have been no obvious attempts to restrict the distribution of these local papers.

Aideed monopolized use of the national radio. His faction took control of the station and used it and mobile transmitters to broadcast harsh anti-UNOSOM themes. UNOSOM allowed Aideed to broadcast without interference until the June attack on peacekeepers, when the radio station was destroyed. Aideed continues to broadcast freely from a mobile transmitter.

b. *Freedom of Peaceful Assembly and Association.*—Periodically, pro-Aideed forces held anti-UNOSOM rallies in the Aideed-controlled area of south Mogadishu. Supporters of Aideed-rival Ali Mahdi also held demonstrations, usually in favor of UNOSOM actions, in north Mogadishu. Similar demonstrations have been held wherever UNOSOM has offices, mostly in urban centers. UNOSOM often monitored these demonstrations, but did not interfere with unless violence broke out. UNOSOM was accused of firing on protesters in an incident in June following the attack on Pakistani peacekeepers. The incident was under investigation at year's end.

c. *Freedom of Religion.*—Somalis are overwhelmingly Sunni Muslim, but the violence and chaos, principally in Mogadishu, in 1993 made it difficult for them to practice their religion in some locations in a mosque or other formal setting. Local tradition and past law make it a crime to proselytize for any religion except Islam. Non-Sunni Moslems or orthodox Moslem sects are often looked on with suspicion by more mainstream Somalis. Somalia has a small Christian community, but these men and women often find it necessary to conceal their beliefs. Foreign Christians generally practice their religion without persecution as long as the practice is private and does not include attempts to ridicule or undermine Islam. Christian churches and cemeteries have been desecrated, but these acts seemed to be more often the work of looters and thieves than of zealots.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The collapse of the Government has left the Somali people without travel documents needed for international travel. Those Somalis who remain in the country have difficulty leaving as neighboring countries often refuse to accept their passports or restrict entering Somalis as suspected immigrants. Travel within Somalia continued to be dangerous in 1993, but this did not deter huge movements of displaced people. Some left the country as refugees; some moved within Somalia to feeding centers; others returned to Somalia as repatriates.

After UNITAF's deployment it was expected that massive numbers of refugees would return. Repatriation from neighboring Kenya was slower than the UNHCR anticipated. A few thousands, out of tens of thousands, have been repatriated by the UNHCR. An undetermined but probably equal number repatriated themselves without assistance. Unassisted repatriation is relatively easy because many Somali refugees in Kenya and Ethiopia are nomads, and borders in the region do not correspond to ethnic boundaries. Though repatriation has been slow, the massive outflow of population recorded in 1991–92 was halted, evidence of the broad improvement of conditions in the southern 40 percent of Somalia in 1993.

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

The Addis Ababa accords contained provisions for the reintroduction of a political structure. The election of district and regional councils, followed by establishment of a Transitional National Council, and the drafting of a new constitution, was the agreed process to bring about a political consensus and reconciliation. More than 50 district councils and 6 regional councils were established by Somalis with the help of UNOSOM

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

No local human rights organizations could function normally under the conditions that prevailed during the year. But international humanitarian organizations were

generally welcome in all parts of Somalia, regardless of local clan dominance. The ICRC had access to prisoners held by the major factions and by UNOSOM in urbal and some rural areas.

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

Women.—Women are harshly subordinated in Somali society. Somali culture is overwhelmingly restrictive and patriarchal. Women suffered disproportionately in the Somali civil war and in the strife that followed. Traditional rulers have reported systematic rape and abduction of young women to serve as sexual slaves to roving gangs. The population of Brava, an ethnic minority, was especially hard hit. In February women from Brava were still being held by SNA militia as far from their homes as Baidoa. The same fate befell the women of Hamar Weyne in Mogadishu, another minority group, when marauding Hawiya reportedly raped scores of women inside a city mosque where they had taken refuge. Women were often used as spoils of war and denigrated to humiliate their clan or family.

Children.—Female genital mutilation (circumcision), which has been condemned by international health experts as damaging to both physical and psychological health, is commonly inflicted at an early age. An independent expert in the field estimates that 98 percent of Somali females have undergone this operation.

Other forms of abuse stem from the civil conflict. Children were pushed by Somali factions into armed conflict with foreign troops and other Somalis. In the conflict with UNOSOM in south Mogadishu, Aideed's forces used civilians as human shields and deliberately involved women and children in combat to reap propaganda advantages from casualties and protection from UNOSOM military action. In February Somali children were given water pistols that looked very much like real guns. Children claimed they were told to squirt U.N. soldiers with these toys. This practice led to many near shooting incidents.

National/Racial/Ethnic Minorities.—More than 80 percent of Somalia's people share a common ethnic heritage, religion, and nomadic-influenced culture. However, clan affiliation has always been more important than political and cultural unity. Under the pressures of social breakdown and civil war, clan and subclan loyalties grew ever stronger.

The largest minority group consists of "Bantu" Somalis. They are victims of visible discrimination even in refugee camps. They fall into two major groups; those who claim to be aboriginal Somalis, and those who are descended from east African slaves brought to Somalia by Arab traders in the 14th century. Somalis also practice a caste/subordinate clan system. The Tumal and Mitgan are Somali clans despised for their professions (leather and metal workers) and forbidden to marry or mix with other Somalis. Educated Somalis have refused to eat at the same table with members of these groups. In fact, Somalis will often hesitate to discuss the existence of these two groups. No Tumal or Mitgan organization has emerged to champion their rights. Many "Bantu" refugees in Kenya fear to return to Somalia, feeling that as a threatened minority they would become still more vulnerable.

In Kismayo in July, two Bantu Somalis, members of one of Somalia's minority populations, were killed by townspeople for their part in assisting UNOSOM to resettle the displaced. Townspeople feared the resettlement program threatened local food distributions.

People with Disabilities.—No reliable information was available on this topic.

Section 6. Worker Rights

a. *The Right of Association.*—Nothing remains of the General Federation of Somali Trade Unions. Given the extent of the country's economic breakdown and the lack of legal enforcement mechanisms, trade unions were not able to function in 1993.

b. *The Right to Organize and Bargain Collectively.*—Wages and work requirements in traditional Somali culture are largely established by ad hoc bargaining, based on supply and demand. There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—No information on this topic was available.

d. *Minimum Age for Employment of Children.*—The reestablishment of schools is only beginning. Formal employment of children is unlikely; but children often participate in armed militias.

e. *Acceptable Conditions of Work.*—There was no organized effort to monitor acceptable conditions of work during 1993.

SOUTH AFRICA

South Africa underwent sweeping political change during 1993. In December the Transitional Executive Council (TEC), a multiparty, multiracial body, was given broad administrative and monitoring powers in the period leading up to the April 1994 elections—the first elections in South Africa open to all citizens regardless of race. The implementation of the TEC marked the first time in South African history that the black majority (75.5 percent) participated in the official political process. Nevertheless, through most of the year South Africa continued to be governed by a system that kept virtually all real power in the hands of the white minority (13 percent of the population). The National Party, in power since 1948 and currently led by State President de Klerk, continued to rule the country.

The Inkatha Freedom Party (IFP), the Conservative Party (CP), and several other conservative groups suspended their further participation in the negotiations process as a result of the decision to hold the national election next April 27. Subsequently, the remaining parties reached agreement on establishing, in addition to the TEC, independent bodies to run the election and regulate state-controlled media in the pre-election period.

In December the Parliament ratified an interim constitution and bill of rights which for the first time guarantee all South Africans such rights as universal suffrage, equal protection under the law, and freedom of speech, assembly, association, and religion. The constitution is to be enacted by proclamation on April 27, 1994; provision has been made to enable earlier implementation of certain portions of the constitution and bill of rights, but these steps had not been taken by year's end.

The interim constitution also provides for the dismantling of the homelands system, but at the end of the year the 10 homelands were still in place. The homelands are heavily subsidized by the Government, some are fragmented parcels of territory in impoverished rural areas, and all are agriculturally backward areas without the infrastructure needed for development. Of the four so-called independent homelands (collectively known as the TBVC states), which only the South African Government recognized as sovereign, Transkei, Ciskei, and Venda are ruled by military governments, while Bophuthatswana is governed as a one-party state. Authorities in Bophuthatswana and Ciskei, in particular, continued to suppress free political activity, especially that of the African National Congress (ANC). The six so-called self-governing homelands are Gazankulu, KaNgwane, KwaNdebele, KwaZulu, Lebowa, and Qwaqwa. According to 1990 census data, the homelands, which comprise 13 percent of the country's territory, are home to 33 percent of South Africa's black population.

The Government is backed by a powerful security establishment. The South African Defense Force (SADF) has about 65,000 active duty personnel, consisting of 25,000 white conscripts and 40,000 permanent force personnel, approximately two-thirds of whom are black, Asian, or "coloured." Additionally, the armed forces of the so-called independent homelands, which are expected to be absorbed into the new national defense force, number approximately 9,800. The reserve forces, which form the bulk of available military manpower in South Africa, are all white and consist of a citizen force of 180,000 and 155,000 reservists. The multiracial South African Police (SAP) numbers 112,000 and is 40 percent white. The officer corps in both the SADF and the SAP is overwhelmingly white. The SADF assisted the police in patrolling the so-called unrest areas and continued to be active in responding to the heightened violence in Natal and the Transvaal. Members of the SADF and the SAP were responsible for human rights abuses during the year. The Internal Stability Unit, a part of the SAP, has been discredited by its heavy-handed tactics. The homelands security forces continued to be funded by the South African Government and were run largely by SAP and SADF members seconded by the Government.

Some opposition groups and human rights organizations continued to allege that a "third force," made up of rogue security force members, engaged in or orchestrated various violent incidents to upset the political transition. While credible evidence existed of individuals within the security forces fomenting violence, there was no evidence of a widespread, high-level conspiracy within the security forces to undertake such activities. In December the Commission of Inquiry Regarding the Prevention of Public Violence and Intimidation, also known as the Goldstone Commission, found "credible evidence" that a five-man hit squad was responsible for the deaths in Natal of ANC members as well as supporters of the IFP and other organizations. The three men arrested in the case were former members of the KwaZulu police and had received training from the SADF. Further arrests were expected at the end of 1993.

Several paramilitary organizations and homelands security forces outside the central Government were accused credibly of human rights abuses, including targeting political opponents for elimination and carrying out extrajudicial killings. The KwaZulu Police were unequivocally charged by the Goldstone Commission of operating a hit squad specifically targeting IFP opponents. The Azanian People's Liberation Army (APLA), the armed wing of the Pan Africanist Congress (PAC), claimed responsibility for attacks on police and civilian targets. The Afrikaner Resistance Movement (AWB) expressed determination to defend Afrikaners against "black domination." Although Umkhonto we Sizwe (MK), the armed wing of the ANC, suspended its armed struggle, some of its operatives, particularly in Natal, have been credibly accused of targeting political opponents.

South Africa has a well-developed industrial economy based on mining and manufacturing and smaller, but important, sectors based on agriculture and services. It has a mixed economy, with substantial government intervention and a number of state-owned enterprises existing jointly with a strong private sector. A chief characteristic of the private sector is the high concentration of ownership by a small group of integrated conglomerate structures.

Although South Africa's deepest and most protracted recession since the 1930's appeared to have bottomed out in early 1993, there has been no net increase in jobs in the productive sectors in more than a decade, and per capita income among all races has fallen. Unemployment in the formal sector is approximately 40 percent. According to government statistics, nearly half of all employable blacks are either unemployed or work in the informal sector; 350,000 new job seekers of all races were expected to enter the job market during the year. Average per capita income in the homelands was lower than in South Africa proper. Many of the employable residents living in the homelands typically migrate or commute to more prosperous areas of the country in search of work.

While the Government has increased spending on blacks in recent years, major economic and social reform will be required to reduce income disparities and to redress the socioeconomic legacies of apartheid in such areas as education, housing, and health care. Human rights groups estimate that 7.5 million blacks have no permanent shelter.

Certain areas in South Africa are awash in violence, much of it criminally motivated. Political violence, a component of the overall violence continued at a high level in 1993. According to the Human Rights Commission (HRC), 4,364 people died from politically related violence during the year. Most observers agreed that all parties, including the ANC, the IFP, and government security forces bear some measure of responsibility for the continuing pattern of violence, despite the 1991 National Peace Accord signed by State President de Klerk, ANC President Mandela, IFP Chief Minister Buthelezi, and 23 others.

Positive developments in the area of worker rights continued in 1993, including the passage in September of legislation to expand the legal rights of agricultural and domestic workers. Bills to promote the equality of men and women and to protect women against violence from their spouses were also enacted.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Certain areas in South Africa are awash in violence, much of it criminally motivated. Political violence, a component of the overall violence in South Africa, continued at a high level in 1993; the HRC documented 4,364 politically related deaths during the year. The HRC reported that over 250 police and security personnel lost their lives in political violence during the year; this was a record high. A major cause of political killings was violent confrontations between ANC and IFP followers. Another important cause of deaths was the series of apparently random attacks by unknown terrorists intent on disrupting South Africa's movement toward nonracial democracy by aggravating tensions between the ANC and IFP. Evidence of acts of political violence by individuals attached to the military, police, and homelands police continued to emerge in 1993. Human rights organizations alleged that in some cases these individuals were part of a conspiracy—the so-called third force—to disrupt the political transition. A preliminary report of the Goldstone Commission concluded that the PAC's military wing, APLA, may have used Transkei as a springboard for attacks against members of the police, the military, and white civilians in general. Other groups which contributed to the high level of violence and extrajudicial killings included rightwing organizations, local self-defense units (SDU's), criminal gangs which claimed affiliation with political parties, and ill-disciplined labor strike enforcers.

The ANC-IFP conflict often took the form of fighting between hostel residents, usually but not always affiliated with the IFP, and residents of nearby townships and informal settlements, frequently identified with the ANC. Black South Africans of all ages, gender, political affiliation, and ethnic grouping were affected. Train and taxi commuters, passersby, and people in their own homes were victims of violent attack.

Many township youths, some with affiliation to the MK or South African Communist Party (SACP), formed armed SDU's, purportedly to protect residents from outside attack. In fact, many SDU's have been accused of vigilante-style murders of suspected "informers" or IFP sympathizers, acts of intimidation, such as demands for "protection" money from local shopkeepers, and common crimes such as car theft. ANC leader Chris Hani said shortly before his death that the ANC was unable to control certain SDU's that had branched into criminal activities.

KwaZulu in Natal Province also experienced continuous high levels of violence. Both IFP and ANC officials have made credible allegations that their supporters were deliberately targeted by the other party for assassination, as cycles of revenge killings continued. According to the Independent Board of Inquiry, 27 ANC officials were killed in 1993, while 12 IFP officials were killed during the year.

Chris Hani was assassinated by a white rightwing zealot in April. In October the Rand Supreme Court sentenced to death the gunman and one accomplice, who was a leader in the CP. A trial was to take place against another defendant for his role in an alleged plot to assassinate SACP chairman Joe Slovo, though the charges were subsequently dropped. In July police officers and bodyguards for ANC Deputy President Walter Sisulu clashed, resulting in the death of an ANC bodyguard. Authorities investigating the incident reported the death to be accidental.

On December 13, in a gruesome racist attack in Randfontein, several white men in camouflage uniform forced two cars off the road and shot their black occupants, several of whom were children, killing three and injuring four.

Whites in South Africa were also the victims of violent attack. In July masked gunmen shot and threw grenades at a congregation attending services in St. James Church in Cape Town, killing 11 and injuring over 50. Other whites were slain in attacks on tour buses and private cars. Patrons of bars and clubs were attacked in several incidents, including a highly publicized December incident in which masked gunmen attacked a Cape Town pub, killing four people. Although in many instances responsibility for these attacks remained unclear, individuals purporting to speak for APLA, the PAC's military wing, claimed responsibility for some of them.

Government investigations of violent deaths in black areas have been inadequate. ANC officials noted the disparity between the hundreds of personnel devoted to round up black activists suspected in the St. James Church massacre and the resources deployed a week earlier when 33 people were killed in a violent rampage in Tembisa Township in the Witwatersrand.

In late 1992, President de Klerk directed Lieutenant General Pierre Steyn to investigate allegations of SADF involvement in a destabilization campaign against the ANC and MK. Steyn reportedly presented his findings to the Government during the year, but no report was made public.

While credible evidence existed of individuals within the security forces fomenting violence, there was no evidence of a widespread, high-level conspiracy within the security forces to undertake such activities.

In October various incidents occurred that implicated members of the SAP in extrajudicial killings. In one incident Wellington Mbili, a member of MK, the ANC's military wing, died in police custody. Police claimed they shot Mbili in self defense, but eyewitnesses said Mbili was handcuffed in SAP custody following his apprehension.

According to the HRC, the number of deaths in detention decreased from 123 in 1992 to 36 in 1993. The HRC said that such figures are based on media reports, because the police have been unforthcoming to the HRC. The decline in numbers may be due in part to greater media scrutiny and to an agreement permitting officials of the International Committee of the Red Cross (ICRC) to make unannounced visits to detainees in police stations throughout South Africa. Under the agreement, ICRC delegates can meet detainees alone, make unannounced followup visits and pass their findings to higher governmental officials. However, deaths continued to occur under highly suspicious circumstances (see also Section 1.c.).

On April 14, Sam Tambane, secretary of the ANC's Soweto branch, and three others were killed when police opened fire on a crowd protesting the assassination of ANC leader Chris Hani. Independent witnesses denied police claims that they acted in self defense. The Government announced an investigation into the incident.

In February Michael Thithi, who claimed he was assaulted by police during an interrogation, also reportedly witnessed the beating death of his coaccused, Johannes Malekek Matsubukane, during police interrogation.

Inquests conducted in 1993 concerning the deaths of antiapartheid activists during the 1980's revealed that operatives carried out political killings on the orders of high-ranking government officials.

In December the Goldstone Commission released credible evidence, based on an investigation conducted by the KwaZulu Police Commissioner, that a number of hit squads had been operating in Natal. The three men arrested in the case were former members of the KwaZulu police and had received training from the SADF. Further arrests were expected at the end of 1993. Goldstone reported the high "probability" that the hit squad had been responsible for the murder of nine ANC members, supporters of the IFP, and others. Violence in Esikhawini in northern Natal decreased dramatically following the arrest of the KZP officers implicated in the hit squad investigation.

In a separate incident allegedly involving KwaZulu Police attacks on ANC supporters, the ANC claimed some of its supporters in Khojane village were killed in September by attackers from a nearby IFP/KwaZulu government military training camps. Information about such training camps is often shrouded in some mystery. For example, in September, after the press reported on an alleged KwaZulu training camp in Umfolozi Game reserve, IFP Chief Minister Buthelezi confirmed that the KwaZulu Parliament had established a camp to train SDU's for Zulu protection.

In May the Ciskei Council of State granted unconditional indemnity from prosecution to all members of the Ciskei Defense Force (CDF) involved in the 1992 Bisho massacre, in which CDF troops killed 29 and injured hundreds of ANC marchers. In October Oupa Gqozo, the homeland's military leader, was cleared of charges that he murdered Charles Sebe, the former commander of the CDF in 1991.

b. *Disappearance.*—There were no known cases of antigovernment activists disappearing during 1993.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Government has established guidelines and regulations prohibiting torture of detainees. Any cases of torture were violations of government regulations. Nevertheless, court testimony and sworn affidavits continued to allege that members of the SAP and homelands police mistreated detainees severely, though the incidence of such violations continued to decline. The HRC reported allegations of beatings, electric shock, and partial suffocation.

Michael Thithi reported being assaulted by police during an interrogation. A district surgeon reportedly found no signs of the assault, but after Thithi disputed that report, another court-ordered examination indicated that he had indeed been beaten. In February, three ANC members charged with a 1992 murder alleged that they were severely beaten while in custody of the Ciskei security police. The men were allegedly denied medical attention after the assault. The ANC also alleged that Robert Manope was assaulted by the Boputhatswana police after being summoned to the Mogwase station and accused of recruiting for the ANC. These allegations were backed with a medical report indicating that Manope suffered extensive bruising over most of his body.

Also according to HRC data, an MK member was assaulted and tortured in a Soweto police station on May 21. She alleged being hit with a rifle and pistol butts and subjected to electric shock. In May a PAC member alleged being beaten and threatened with indecent assault while undergoing interrogation at a Durban police station. In August Sibusiso Zulu, accused of murder in the March 1993 "Table Mountain Massacre" in which six schoolchildren were slain, told the court that he was assaulted by policemen during interrogation in an effort to extract a confession from him.

On August 24, the Rand Supreme Court granted the ANC an interim order interdicting the Ministers of Defense and Law and Order, the heads of Modderbee and Boksburg prisons, and 8 East Rand police station commanders and the forces under their commands from assaulting, abusing, threatening, or ill-treating 123 detainees under their custody. The court action followed allegations that a number of East Rand detainees had been assaulted while in custody.

The ICRC has access to all detainees in South African and homeland prisons and can report substandard prison conditions to authorities.

In August the Motsuenyane Commission, an ANC-appointed body, released results of its investigation of human rights abuses in ANC camps during the organization's years of exile. The report cited numerous instances of murder, torture, beatings, solitary confinement, and imprisonment without trial and named individuals directly and indirectly involved in the abuses, some of whom are now high-ranking ANC officials. The ANC accepted the conclusions of the report and made a public

apology, but did not respond to nor provide an accounting of all those alleged to have disappeared or been mistreated. Many observers criticized the ANC for not punishing the perpetrators or compensating the victims. The ANC called for the establishment of a truth commission to investigate human rights abuses across the political spectrum and to arrange for victim compensation. By the end of 1993, no such commission was established.

d. *Arbitrary Arrest, Detention, or Exile.*—In November the multiparty negotiating council agreed to repeal the Public Safety Act (PSA) and the Internal Security Act (ISA)—laws permitting authorities to detain individuals without charge. As of year's end, the necessary legislation was approved but had not yet gone into effect.

The PSA authorized warrantless searches and detentions for up to 30 days in order to combat or prevent public disturbance, disorder, riot, or public violence, or in order to maintain or restore public order in unrest areas. Several human rights organizations criticized the Government for invoking the PSA excessively in order to declare unrest areas. At the end of the year, 15 magisterial districts remained unrest areas under the PSA.

The ISA allowed the police to detain and interrogate persons suspected of terrorism or subversion or of withholding information about such crimes for a period up to 10 days without arrest; continued incarceration required judicial approval. A detainee did not have an automatic right to legal counsel during the first 10 days of detention and the right to legal advice was limited to the preparation of opposition to an application by the authorities extending the detention period. The ISA permitted 14 days of preventive detention.

The HRC reported that during 1993 a total of 622 people were detained under the PSA or ISA. According to Lawyers for Human Rights (LHR), the police generally do not block access to such detainees.

According to the HRC, detentions in most of the so-called independent homelands were down sharply. The HRC reported no detentions in Transkei, Ciskei, or Venda during 1993. Bophuthatswana, however, detained 153 people under security legislation during 1993.

In many cities, street children were arrested and held in adult jails or prisons while awaiting trial. While some were arrested on criminal charges, many were arrested for such petty offenses as loitering. These children were often held in overcrowded cells, and sometimes suffered physical or sexual abuse. Most jails and prisons have no educational or counseling facilities.

There were no reported cases of exile.

e. *Denial of Fair Public Trial.*—Judicial independence continued to strengthen in South Africa in 1993, as it had in recent years. Allegations of political interference with the courts are few and declining. Moreover, during 1993 the South African bench took up a number of cases, such as the Webster and Goniwe inquests, which further exposed abuses during the apartheid era. The degree of politicization in judicial selection appears to be diminishing. Members of the Constitutional Court, which will come into effect in 1994 as the supreme judicial body on all constitutional matters, including the bill of rights, will be appointed by a process that further attenuates the influence of political parties.

Persons charged with common crimes are generally presumed innocent until proven guilty, but Parliament has modified the general presumption of innocence for some security offenses. Both security-related and common criminal cases are tried in civilian courts.

Although defendants in criminal cases may retain legal counsel, a 1991 study found that 71 percent of those convicted in ordinary criminal cases had no representation. A pilot public defender's program, begun in Johannesburg in 1991, has been highly successful. Courts usually appoint counsel for capital cases when the defendant cannot afford a lawyer.

Intimidation of participants in the legal process undermined the administration of justice. For example, several witnesses to the murder of American Amy Biehl, who were prepared to testify against her suspected murderers, were threatened and intimidated from testifying, forcing the prosecution to drop charges against several of the accused.

The judiciary is headed by the Appellate Division (court of appeals) of the Supreme Court in Bloemfontein and six regional supreme courts. Only 1 of the 142 judges of the appellate division and the regional supreme courts is not white. Judges, appointed by the State President, serve until age 70 and may only be removed through impeachment by Parliament. By tradition, judges of the appellate division and the supreme courts are chosen from the senior ranks of the elite corps of South African Supreme Court Practitioners (advocates). According to the Ministry of Justice, only six nonwhite senior advocates are practicing at the bar. The power of the judiciary at all levels continues to be circumscribed by the principle of par-

liamentary sovereignty, under which judges possess no authority to alter, strike down, or refuse to enforce laws of Parliament.

Serious offenses, including capital crimes, are tried in the supreme courts. Lesser offenses are heard by magistrates, career employees of the executive branch civil service. The presiding judge or magistrate determines guilt or innocence. Juries were abolished in 1969.

Prospects for nonwhite law school graduates to receive "Articles of Clerkship," which qualify them for admittance to the bar, were enhanced considerably. New routes of entry into the profession are open, including credit for work at offices of public defenders, university law clinics, and similar community-based entities that offer legal assistance to indigent clients.

So-called people's courts, which emerged in part due to the black community's distrust of the existing court system, continued to operate sporadically. These tribunals pass "judgment" on criminal charges and carry out "sentences." The people's courts are headed by mostly self-appointed "community leaders" who often mete out "justice" based on rumors arising from political or personal rivalries.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Although the security forces retained the capacity and the formal legal authority to engage in domestic surveillance activities including the use of informers, the opening of mail, and the monitoring of telephone calls, the dramatically changed political environment diminished their willingness to engage in these activities. This is not true of the local authorities in Bophuthatswana and Ciskei, who continued to monitor the political activities of the citizenry.

With the repeal of the PSA, police will no longer have broad authority to conduct searches and seizures without warrants in designated unrest areas. Even outside of unrest areas, there has been an unequal application of the Law of Criminal Procedure. White citizens have generally enjoyed protection from unreasonable searches and seizures; black citizens have usually not.

The legacy of apartheid has left vast numbers of South Africans landless; more than 8 million people live in squatter camps. Conflict continues between those who currently own land and those who contend that the land was forcibly taken from previous occupants. The Prevention of Illegal Squatting Act gives landowners and local governments the authority to remove black populations from "white" areas. Despite central government authorities' increased tolerance of squatter settlements, some local authorities continue to pressure squatters to move. The problem of forced relocation of residents of informal settlements is particularly pronounced in rural areas where land owners are able to exploit the provisions of the Act.

In Bophuthatswana conflicts between authorities and squatters continued to deprive many residents of their homes. In February Bophuthatswana authorities demolished an informal settlement on disputed land in Marokolong without securing a court order or a legal judgment on the dispute. At least 100 people were rendered homeless as a result.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedoms of speech and press are respected in practice. Both the mainstream and the so-called alternate press kept the public well informed and criticized both the Government and the opposition.

The South African Broadcasting Corporation (SABC), once seen as the Government's mouthpiece, underwent profound changes. A new board of directors with a black woman as head was appointed. In September Parliament passed legislation to create the Independent Broadcasting Authority with power to license new and privately owned broadcast outlets. A second bill established the Independent Media Commission to monitor the media coverage of the political campaign and to seek to ensure a level playing field for all parties in the months leading up to the April 1994 election. Radio news reporting, in particular that of privately owned Radio 702, was reasonably balanced.

Although rarely invoked, considerable legislation permitting the Government to restrict and penalize the press remained on the books. Under the Criminal Procedure Act the Government subpoenaed a journalist from an Afrikaans-language newspaper who refused to answer questions concerning an article he wrote reporting remarks made by a black youth leader at an open rally. The journalist received a 1-year prison sentence. The sentence was under appeal at year's end.

Laws restricting the publication of information about the SAP, SADF, petroleum issues, and prisons and mental institutions remained on the books. The ISA allowed the Minister of Law and Order to ban organizations and their publications. Prohibitions against the publication of such materials as pornographic material are in effect.

Opposition groups, and especially militant youths, continued to harass and attack members of the press despite calls from leaders for them to exercise restraint. In one incident, an SABC cameraman was murdered by a gang of youths while covering a story in Sharpeville, near Johannesburg. The result has been de facto hindrance of the press from covering developments in certain volatile areas.

There are no official restrictions on academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—Political parties and organizations enjoy broad freedoms of assembly and association. While the ISA gave the Minister of Law and Order authority to ban political gatherings in order to maintain public order, he has not used that authority in over 2 years. He did, however, frequently invoke his authority to declare certain areas "unrest areas." All demonstrations or public gatherings in an unrest area had to be approved by the area police commissioner. Although decisions to prohibit an event could be appealed to the courts, such appeals were never successful. In some cases, authorities could deny permission for a demonstration outside unrest areas if it was felt that the event would threaten life or property.

In some of the homelands, local officials continued to obstruct the right of peaceful assembly. Opposition political groups in Bophuthatswana were routinely denied permission to meet or organize and their "illegal" gatherings were forcibly dispersed. Among the so-called self-governing homelands, KwaZulu, the only one with its own security force, has a particularly poor record. Local KwaZulu officials often used their authority to hamper severely political activity by groups other than the IFP and to harass non-IFP leaders. There were many credible accounts of death threats to intimidate political activity. For example, residents of Gerzinsila and Nyanini Townships in Natal were forced to attend an IFP rally and told that those absent from future rallies would be killed. In addition, the climate of violence existing in many parts of KwaZulu has resulted in so-called no-go areas where in some cases ANC and in other cases IFP leaders cannot organize meetings without risk to their lives. Such no-go areas also exist in some urban townships. ANC and IFP sympathizers shared culpability for this.

Many white landowners, fearing their workers might be influenced by "radical" ideas of worker rights and political empowerment, violently opposed efforts by the ANC and other predominantly black political groups to hold public gatherings, effectively preventing these groups from organizing. Similarly, certain black groups have disrupted township gatherings organized by representatives of predominantly white political parties, such as the National Party and Democratic Party. For safety reasons, the SAP urged whites to stay away from some townships altogether.

c. *Freedom of Religion.*—There are no restrictions on the expression and practice of religious belief, nor on proselytizing.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—South Africans have no restrictions on movement throughout their country and are free to travel overseas, emigrate, or repatriate. Those choosing to emigrate, however, are limited in the amount of money they can take out of South Africa.

The Government and private monitoring groups estimated that as many as 500,000 Mozambicans, displaced by civil unrest or economic hardship, were in South Africa. Approximately half the Mozambicans in South Africa have settled in border transit camps in the homelands of KaNgwane and Gazankulu, the only places in South Africa where Mozambican refugees have enjoyed some measure of protection. Under the Admission of Persons Act, they are allowed to stay there temporarily because of their ethnic ties with homeland residents. Although some of these refugees have lived in the homelands since 1986, refugee officials reported that some Mozambicans were slowly returning to their country as the peace process continued to hold there.

In August the Government and United Nations High Commissioner for Refugees (UNHCR) signed a long-negotiated agreement allowing the UNHCR to assist refugees arriving in South Africa. Until then, the ICRC and other nongovernmental organizations housed and cared for the refugees. In October the UNHCR and the Governments of South Africa and Mozambique signed a tripartite agreement establishing a joint commission and procedures for handling the organized, voluntary repatriation of Mozambican refugees. Although the KaNgwane and Gazankulu authorities did not participate in the negotiations leading to the September and October agreements, they were kept informed and welcomed these developments.

Despite these developments, involuntary repatriation of Mozambicans from South Africa continued. Those Mozambicans settling outside KaNgwane and Gazankulu are considered illegal aliens under the Aliens Control Act. According to the Ministry of Home Affairs, during 1993 the Government deported 80,261 illegal Mozambicans and 15,680 aliens from other (mostly southern African) countries.

Despite the South Africa-UNHCR memorandum of understanding, the tripartite agreement, and periodic representations on human rights abuses, an electrified fence on the border between South Africa and Mozambique remained in place as a deterrent measure.

The Government extended through 1993 its 1991 mandate to the UNHCR to monitor the repatriation of South African exiles, most of whom were affiliated in some way with antiapartheid organizations while in exile. An estimated 7,000 exiles had returned to South Africa prior to the 1991 agreement. As of year's end, a further 10,836 persons had been cleared to return under UNHCR auspices. The number of exiles who have actually returned through the end of 1993 was 7,303.

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

South Africa underwent sweeping political change during 1993. In December the Transitional Executive Council (TEC), a multiparty, multiracial body, was given broad administrative and monitoring powers in the period leading up to the April 1994 elections—the first elections in South Africa open to all citizens regardless of race. The implementation of the TEC marked the first time in South African history that the black majority (75.5 percent) participated in the official political process.

Nevertheless, prior to establishment of the TEC, South Africa continued to be governed by a system that kept virtually all real power in the hands of the white minority (13 percent of the population), while the black majority was denied any meaningful share of power, or even representation, in the national Government. While there existed parliamentary chambers to represent South Africa's mixed race and Asian population groups, members of those groups consistently boycotted the elections for those bodies, most recently in 1989; in any case, the 1983 Constitution kept all real power in the hands of the chamber for whites.

A transitional constitution, agreed to in November by the negotiating parties and ratified by Parliament in December, will govern the country beginning on April 27, 1994, and until an elected constitutional assembly drafts a final one. The future constitution includes an extensive, fully justiciable bill of rights. It also provides for an independent judiciary, including a constitutional court and nine provincial governments directly elected by proportional representation.

The transitional constitution for the first time guarantees all South Africans such rights as universal suffrage, equal protection under the law, and freedom of speech, assembly, association, and religion. The constitution is to be enacted by proclamation on April 27, 1994. Provision was made to enable earlier implementation of certain portions of the constitution and bill of rights, but these steps had not been taken by year's end.

Multiparty negotiations, suspended since June 1992, resumed in April 1993. On July 2, most participating parties formally agreed that the first nonracial election would be held on April 27, 1994, and that the body so elected would both write a final constitution and form the basis for a multiparty transitional government to rule the country for an interim period. The IFP, CP, and several other conservative groups suspended their further participation in the negotiations process as a result of these decisions and later formed a coalition called the Freedom Alliance. Subsequently, the remaining negotiating parties reached agreement on establishing, in addition to the TEC, an Independent Electoral Commission, Independent Media Commission, and Independent Broadcasting Authority, all of which are intended to level the playing field for all parties in the preelection period. Parliament passed the enabling legislation for these bodies in late September.

While the provisions of the interim constitution will require dismantling the homelands system, at the end of the year the 10 homelands were still in place. Parliament, however, passed legislation reinstating South African citizenship to people residing in the homelands, enabling them to participate in the April elections. The homelands are heavily subsidized by the Government, some are fragmented parcels of territory in impoverished rural areas, and all are agriculturally backward areas without the infrastructure needed for development. Of the four so-called independent homelands, which only the South African Government recognized as sovereign, Transkei, Ciskei, and Venda are ruled by military governments, while Bophuthatswana is governed as a one-party state. Authorities in Bophuthatswana and Ciskei, in particular, continued to suppress free political activity, especially that of the ANC. The six so-called self-governing homelands are Gazankulu, KaNgwane, KwaNdebele, KwaZulu, Lebowa and Qwaqwa. According to 1990 census data, the homelands, which comprise 13 percent of the country's territory, are home to 33 percent of South Africa's black population.

The participation rate of women in the higher echelons of government and politics has historically been extremely low. Out of 308 members of the current Parliament,

only 8 are women. There is only 1 woman minister out of a total of 22, and only 1 woman deputy minister out of a total of 12. There are no women occupying director-general positions in government departments.

In devising the interim constitution, the multiparty negotiating council prohibited gender discrimination in the bill of rights and provided for the primacy of the principle of equal treatment of women over the right of traditional leaders to exercise their tribal prerogatives. The ANC announced that at least a third of its candidates for South Africa's new democratically elected parliament will be women.

In the Supreme Court system, there are currently 142 serving judges, only 1 of whom is a woman. A second woman has been appointed and will assume her responsibilities in 1994. Out of several hundred senior advocates practicing at the bar, only five are female.

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

The Government has permitted an increasingly broad range of domestic and international organizations to monitor, investigate, and report on human rights issues.

The U.N., European Union, Commonwealth of Nations, and Organization of African Unity have stationed observer groups in South Africa to monitor the violence. These observers attend demonstrations, marches, and other mass events. They also monitor the compliance by all participating organizations to both the principles of the National Peace Accord and the Goldstone Commission guidelines for marches and political gatherings. In addition, the observers consult regularly with the Government, political parties, community organizations, and civic groups. The observer groups enjoyed near-total freedom of access to all geographic areas, institutions, and personalities, except in Bophuthatswana.

The United Nations Observer Mission in South Africa (UNOMSA), Amnesty International, Africa Watch, the ICRC, and other organizations are in general agreement that the Government has improved its responsiveness to their requests for access to information, officials, and facilities. In January Africa Watch was for the first time granted access to detainees in South African police stations and prisons. The Government permitted the ICRC to increase the number of its delegates from 12 to 30 in order to visit more prisons and jails. The ICRC characterized its relations with the South African Department of Correctional Services as "good."

In contrast, human rights agencies made credible accusations that some local authorities refused access to files and intimidated investigators of alleged police brutalities and unlawful detentions. For example, an attorney investigating a case of unlawful police detention claimed that he was confronted by a group of officers who forcibly entered his home, physically threatened him, manhandled his wife, and advised him to "stop what he was doing."

The treatment of human rights monitors by homeland governments at times contrasted sharply with that by the South African Government. While ICRC delegates have complete access to prisoners and police station detainees in Bophuthatswana, homeland authorities have not agreed to meet with ICRC to discuss ICRC's program of basic medical and humanitarian assistance to victims of violence. UNOMSA reports that despite persistent efforts to observe events there, Bophuthatswana authorities have invariably denied UNOMSA's requests for permission to enter their territory. In a widely publicized incident, a group of UNOMSA, Commonwealth, and OAU observers were granted permission to attend an Ascension Day service in Bophuthatswana in May, but, upon arrival, were barred from entering the church and detained by police for an hour.

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

The transitional constitution passed by Parliament in December includes a bill of rights which guarantees equal protection of the law to every South African citizen, regardless of race, gender, religion, disability, language, or social status. The transitional constitution is to be enacted on April 27, 1994.

Women.—Although gender discrimination, particularly against black women, remained a serious problem, Parliament advanced the rights of and protections for women when it passed the Promotion of Equality Between Men and Women Act and the Prevention of Family Violence Act in September.

The Promotion of Equality Between Men and Women Act eliminates all remaining vestiges of a husband's traditional power over his wife in property and financial matters. It also revokes the power of courts to direct that women not be present at certain trials, removes all legal differentiation between men and women in matters of citizenship, makes the provisions of the Sexual Offenses Act equally applicable to men and women, abolishes certain provisions in the law which traditionally

discriminated against married and pregnant women, repeals the prohibition against women entering premises where liquor is sold, and eliminates the legal barrier which excluded women from underground mining work and other high-risk occupations.

The Prevention of Family Violence Act simplifies the injunction and arrest procedures related to domestic abuse against women and children. The Act empowers judges and magistrates to enjoin an offending spouse from engaging in certain behaviors and, simultaneously, to issue an order authorizing the automatic arrest of the spouse, if he or she breaks the injunction. The resulting penalty can range up to 12 months' imprisonment. The Act also places a legal obligation on persons who have reason to suspect a child is being abused to report that fact to the appropriate authorities, and makes it possible for husbands to be convicted of marital rape.

Children.—Black children in particular have suffered under South Africa's apartheid regime which segregated much of the black population in poverty-stricken homelands and fractured families by forcing their income earners to migrate in search of work. Without adequate parental guidance and protection, many children have drifted toward a life of crime and delinquency and have been caught up in the maelstrom of political violence.

By all statistical measures of social progress, it is clear that the welfare, protection, and development of black children have been almost completely neglected. For example, while the infant mortality rate for whites is 6 per thousand, it is 66 per thousand for blacks.

During the year, the police's Child Protection Unit investigated 17,124 crimes against children, involving such crimes as rape, indecent assault, assault—both common and with intent to do grievous bodily harm—and violations of the Child Care Act, among others.

As South Africa makes the transition to a democratic, nonracial society, the Government has noted the need to correct the glaring shortfalls in support and services for the vast majority of the country's children. Accordingly, a 1992 children's summit adopted a Charter for Children's Rights in South Africa, which calls, inter alia, for the protection of children from all types of violence.

National/Racial/Ethnic Minorities.—With a view to the April 1994 nonracial elections, the ruling white minority began to share its closely held political powers and prerogatives with nonwhites. The TEC, its subcouncils, the IEC, IMC, and IBA are administered by people who are both racially diverse and representative of a wide spectrum of political thought and opinion. The transitional constitution and bill of rights provides for a nonracial society as one of the entrenched rights of all South Africans.

Despite the near-total repeal of the statutory foundations of apartheid, pervasive discrimination and segregation persisted in 1993. Nevertheless, some private firms and public corporations have voluntarily instituted affirmative action recruitment practices, even at the highest levels. Dr. Ivy Matsepe-Casaburri, a black woman, was appointed to head the SABC, long viewed as the principal propaganda vehicle of the Government, and Mr. Yacoob Abba Omar, an Asian, was appointed General Manager of Public Relations at ARMSCOR, the centerpiece of South Africa's defense industry.

Persons born before 1991 are still classified in the race group to which they were assigned at birth. Until September 1993, the Government continued to discriminate in the payment of old age pensions, with whites receiving the highest annuity, "coloureds" and Asians somewhat less, and blacks the least. Pension rates were equalized in like employment categories, but disparity persisted between the pensions of management and clerical workers, who were usually white, and those of manual or unskilled laborers, who were usually black. The disparities between managerial and clerical pensions, on the one hand, and those of manual and unskilled laborers, on the other, are a reflection of past race-based discrimination in job opportunities.

In education the disparity in spending on blacks and whites decreased but remained great. The average student-teacher ratio in white schools is 20:1, while it is 38:1 in black schools, excluding those in the homelands. Under current law, primary school education is compulsory only for white, Asian, and mixed-race children. Prior to May, the Government charged matriculation examination fees, which prevented many poor black students from taking the examination and from graduating. Of black matriculants, 38 percent passed their 1992 final examinations, whereas 95 percent of white matriculants did. According to the Department of Education and Training, 328,890 students were enrolled in South African universities in 1993 (not including students in the so-called independent homelands). Of these, 46.8 percent were white, 40.2 percent were black, 7.2 percent were Indian, and 5.4 percent were "coloured". During 1993 increasing numbers of white schools opted to permit black

students to enroll. The decision to enroll black students depended upon the voted consent of white parents.

The Government repealed its policy of mandatory military conscription of exclusively white males. The Government and the ANC began discussions on creating a new defense force which would include some of the military wings of liberation movements and some homeland armies. Although the Government instituted affirmative action programs in the security services over the last 4 years, over 90 percent of officers are white. Significant changes, however, are in progress as more minorities and women are graduating from the military academy.

People with Disabilities.—South Africa has begun to move from a "medical-welfare" conception of disability to one of civil rights and self- empowerment.

The participants in the multiparty negotiations included disability as a basis for nondiscrimination, along with race, gender, ethnic origin, color, sexual orientation, age, religion, conscience, creed, culture or language. In preparation for the 1994 election, Lawyers for Human Rights and Disabled People South Africa made representations to the Government on such issues as ensuring that polling stations will be architecturally accessible to wheelchair-using voters and that blind voters are able to cast a secret ballot.

In 1991 Lawyers for Human Rights, a leading organization fighting prejudice and discrimination, established a disability rights unit. This unit has intervened in some 50 legal cases and represented numerous disabled people less formally in their dealings with the bureaucracy. The majority of these cases involved either arbitrary determinations of ineligibility for social assistance benefits or employer decisions denying equal work opportunities on the basis of disability.

In 1986 architectural requirements were incorporated into the National Building Code to ensure equal access to public buildings for the physically disabled. However, these were rarely enforced and, until recently, public awareness of them was virtually nonexistent.

Section 6. Worker Rights

a. *The Right of Association.*—South Africa's Labor Relations Act entitles all workers in the private sector to join labor unions of their choosing. Membership in the 200 registered trade unions was approximately 2.9 million in 1993. An additional 360,000 workers were members of the 46 unregistered unions, bringing union membership to 3.26 million workers or 52 percent of the employed, economically active population. Probably more than half of all union members are black.

Groups historically excluded from labor law, especially farmworkers, domestic workers, and public sector employees, made some progress in 1993. The Basic Conditions of Employment Act was extended to farmworkers and domestic workers, and Parliament passed an Agricultural Labor Relations Act, after considerable consultation with the Congress of South African Trade Unions (COSATU) and the South African Agricultural Union (a farmers' organization), which extends some trade union and bargaining rights to farm workers. Nevertheless, domestic and farmworkers do not have the right to strike, as defined by South African labor law. The Parliament passed also a Public Sector Labor Relations Act designed to consolidate and clarify public sector labor law.

Nevertheless, South African labor relations continued to be characterized by a patchwork of labor law and practice largely designed to inhibit or restrict trade union organizati and activity. The result is an uneven and sometimes volatile labor relations climate, in which trade unions must rely as much on their own organization and strength as on their legal rights to achieve their objectives.

Trade unions continued to accuse the Government and others of using intimidation and violence to undermine trade union activity. For instance, COSATU, the country's largest trade union federation, claimed the KwaZulu government, in collusion with the IFP and the South African Government, blocked COSATU from organizing in northern Natal by denying meeting venues, harassing union members, and killing union leadership. The Goldstone Commission, during an investigation of the KZP, declared on December 8 that credible evidence indicated the KZP used hit squads to attack and kill ANC and COSATU members in northern Natal. A SAP raid against organizations supposedly linked to APLA resulted in the offices of the National Council of Trade Unions (NACTU), South Africa's second largest trade union federation, being ransacked by police and several of its officers and affiliate members being detained.

COSATU is formally aligned with the ANC and the SACP. At a September special national congress, COSATU declared its support for the ANC in the April 1994 elections, and offered 20 federation and affiliate members to stand for election on ANC slates. NACTU, while officially independent from political groups, has considerable contact with the PAC and the Azanian Peoples' Organization (AZAPO).

Historically, both federations have used strikes and "stayaways" to facilitate liberation alliance objectives in South Africa's negotiated transition to democratic government. COSATU has played an especially important role in this regard. Its mass action expertise, including its mobilization and crowd control capabilities, were particularly evident during the nationwide protests following Chris Hani's assassination.

Most private sector workers regardless of race enjoy the right to strike. Work stoppages triggered by collective bargaining disputes, and occasionally political issues, have been commonplace. Industrial action during the first 9 months of 1993 was down nearly 23 percent from the comparable 1992 period, with strikes accounting for 2.4 million lost workdays.

Nationwide strikes by the South African Democratic Teachers Unions (SADTU) and the South African Municipal Workers Union (SAMWU) accounted for nearly all public sector strike activity, or about 70 percent of the lost workdays.

Wage disputes provoked 67 percent of strike activity in 1993, while grievances, retrenchments, and discipline accounted for the remainder. The drop in strike activity during 1993 was attributable to greater union concern regarding job security and more sophisticated management labor relations techniques.

Strikers and union leaders are protected by law from retribution by employers for union organizing and participation in lawful strikes. Some companies, however, use what they describe as retrenchments to remove shop stewards and other union officials from the work force. Also, the patchwork nature of South African labor law, the illegality of public sector strikes, and the political nature of some stayaways and other industrial action, leave ample room for employers to take disciplinary actions against trade unionists. Ultimately, a trade unionist's best protection in such circumstances comes more from the strength of the union than the effectiveness of the law.

Historically, public sector employees have been legally prohibited from striking. A Public Sector Labor Relations Act, which takes effect in January 1994, clarifies the collective bargaining process for public sector employees but still sharply restricts strike activity. COSATU has argued that the Government's definition of essential services is too broad and is specifically designed to block public sector strike activity. As was evident by the increase in public sector strike activity in 1993, the illegality of striking did not deter major public sector unions.

South Africa does not restrict union affiliation with regional or international labor organizations. COSATU and NACTU are affiliated internationally only with the Organization of African Trade Union Unity. Many of their affiliates, as well as independent unions, are members of international trade secretariats and have developed contacts with their counterparts in North America and Western Europe.

A member of the International Labor Organization (ILO) from its inception in 1919, South Africa withdrew from the organization in 1964, but remained bound by the 12 ILO Conventions it had ratified. A 1992 ILO fact-finding mission to South Africa made numerous recommendations to bring the country's labor regime up to international standards. To date, only a few of these recommendations have been implemented.

Following COSATU protests, the Government did consult with COSATU regarding the Public Sector Labor Relations Act. The legislation passed parliament and will go into effect beginning in 1994. COSATU, while acknowledging that the law clarifies the collective bargaining process for public servants, argues that the law's broad definition of essential services, and its limitation of lawful strikes to 30 days, undercuts trade unions' ability to bargain successfully. In November the ILO's governing body voted to suspend its Declaration of Action Against Apartheid. Should this decision be ratified by the June 1994 ILO Conference, the ILO will be able to establish an office in South Africa and resume direct, in-country contact with the trade union movement.

b. *The Right to Organize and Bargain Collectively.*—The Government does not interfere directly with union organizing in the private sector and generally has not intervened in the collective bargaining process. The law prohibits discrimination by private sector employers against union members and organizers. Complaints regarding employer discrimination against union members can be brought to the labor courts. In the case of a judicial finding against an employer, the court can order reinstatement of a worker or other compensation. Disputes over recognition are relatively few.

Black unions have made increasing use of South Africa's Industrial Council or centralized collective bargaining system. COSATU views the centralized collective bargaining system as crucial to trade union economic influence and has sought to expand the subject of such bargaining beyond wages and benefits to include industry restructuring, job grading and training, and other personnel issues. It has se-

verely criticized business efforts in some sectors to do away with centralized collective bargaining.

Much of COSATU's and other trade union federations' participation in the National Economic Forum and the National Manpower Commission—two tripartite forums representing government, labor, and business—is designed to strengthen trade union influence over labor and economic policy.

South Africa's labor law does not apply to the so-called homelands, where union organizing is actively discouraged. Nevertheless, trade union activity is on the increase in almost all the homelands. The struggle between trade unions and homeland governments, especially in Bophuthatswana, has been intense and sometimes violent. Bophuthatswana enacted regressive labor legislation in 1993 which outlaws all foreign trade unions and criminalizes membership in or bargaining with such unions. The law has also led to harassment and detainment of union organizers representing various COSATU affiliates.

Management and black trade unions have voluntarily resorted to private mediation services to resolve industrial disputes. The Labor Relations Act establishes an Industrial Court to rule in labor-management disputes. The most common complaints filed with the Court concern dismissals, followed by unfair labor practices. A Labor Court of Appeals oversees the Industrial Court and can overturn its decisions.

South Africa has no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution does not prohibit forced labor; however, common law does not permit it, and it is not practiced.

d. *Minimum Age for Employment of Children.*—The Basic Conditions of Employment Act prohibits the employment of minors under the age of 15 in most industries, shops, and offices. The Mines and Works Act prohibits minors under 16 from working underground. There is no restriction, however, on the age at which a person may work in agriculture. Use of child labor on farms, often in harsh and dangerous conditions, is common. Child labor in the informal economy is also commonplace. Enforcement of existing child labor laws by the Government is weak and reactive, depending largely on complaints being lodged against specific employers.

e. *Acceptable Conditions of Work.*—There is no legal minimum wage in South Africa. The Labor Relations Act instead provides a mechanism for negotiations between labor and management to set minimum wage standards by industry. Over 100 industries come under the provisions of the Act. According to a labor research service survey, cleaners, who are among the lowest paid of organized workers, earned an average monthly salary of approximately $247 (842 rand). The same survey showed drivers earning $428 (1,456 rand) per month.

A comparison of wage information gathered by the Government's Central Statistical Service and in a March 1993 study done by the University of Port Elizabeth's Institute for Planning Research regarding household subsistence levels, shows that in the manufacturing sector alone, only 17 of 30 subsectors paid an average wage to black workers higher than the subsistence level salary. In the construction sector, average salaries for all subsectors were below subsistence level. Wages paid to workers in unorganized sectors, such as agriculture and domestic household work, are also below subsistence level.

Most industries have a standard workweek of 46 hours, as well as vacation and sick leave. Overtime is voluntary and limited to 10 hours a week. The law does not mandate a 24-hour rest break. The recent extension of the Basic Conditions of Employment Act to farmworkers and domestic workers has, for the first time, established workweek standards for both groups.

Attention to health and safety issues increased in recent years but remained inadequate. The state-funded National Occupational and Safety Association (NOSA) claims the number of workers suffering disabling injuries annually has dropped significantly over the last decade. Nevertheless, injury and death at the workplace, especially in heavy manufacturing and mining, is still common. The National Union of Mineworkers (NUM) reports that two workers are killed every day in mine accidents. In 1993 the Government agreed to the NUM's request for a Mines Commission of Inquiry to investigate the occupational health and safety laws, but only after several mine accidents left nearly 70 miners dead.

South African occupational safety and health laws, while requiring employers to avoid placing their workers at unreasonable risk, do not give workers the right to remove themselves from a hazardous job. An employee's decision to leave a hazardous work site could possibly lead to dismissal, but more probably would result in disciplinary action. The occupational safety and health laws do provide protection for workers who report or file complaints against unsafe working conditions. Such workers may not be dismissed or reduced in rank or salary because of their actions.

SUDAN

Following the military coup that overthrew Sudan's democratically elected government in 1989, Lt. General Omar Hassan al-Bashir and other military leaders who staged the coup formed the National Salvation Revolution Command Council (RCC). The RCC suspended the 1985 transitional Constitution, abrogated press freedoms, and dissolved all political parties and trade unions. Chaired by Bashir, the RCC nominally ruled Sudan until it dissolved itself in October, appointing Bashir President of the Republic and transferring to him most of its powers. Even prior to the RCC's dissolution, real power rested with the Head of State, Bashir, a few other military officers, and above all the National Islamic Front (NIF), headed by Hassan al-Turabi. Though officially banned like the other parties, the (NIF) effectively controlled the Government. NIF members and supporters held most key positions in the Government, security forces, judiciary, academia, and media. With the abolition of the RCC, the NIF further tightened its grip on the state.

The regime controls most of Sudan, outside of parts of the south and the Nuba mountains controlled by factions of the Sudanese People's Liberation Army (SPLA): SPLA Mainstream, led by John Garang, and SPLA United, led by Riak Machar. The civil war continued throughout 1993, marked by bitter fighting between the SPLA factions that caused widespread suffering among the southern population.

To supplement the Sudan People's Armed Forces (SPAF) and the militia, the Popular Defense Forces (PDF), in 1993 the regime created the Popular Police, which, like the militia, is infused with Islamic ideology. The mission of the Popular Police includes encouraging proper social behavior. Martial law and the state of emergency remained in place in 1993, permitting arbitrary actions such as indefinite detention of opponents.

Civil war, corruption, economic mismanagement, high inflation, and over 3.5 million internally displaced persons have devastated Sudan's primarily agricultural economy. Starvation and malnutrition are rife. The war has left parts of Sudan depopulated and without effective government. Reforms aimed at privatizing inefficient state-run firms and stimulating private investment have failed to revive a moribund economy saddled with massive military expenditures.

The human rights situation remained dismal in 1993, with no sign of improvement. The Government and the SPLA factions all committed serious human rights abuses. SPAF and PDF abuses included massacres, kidnaping and enslavement, forced conscription, and rape. Government forces forcibly displaced many civilians from the Nuba mountains, conducted forced conscription, and kidnapped or enslaved civilians. In the areas they controlled, government forces routinely harassed, imprisoned—often incommunicado for lengthy periods—and tortured hundreds of opponents. The SPLA factions also engaged in widespread killings and other abuses. In the spring, SPLA/Mainstream forces tried to murder an international relief worker and a journalist operating in the south. The Government maintained myriad secret police forces, both official and unofficial. They routinely acted as if they were a law unto themselves, harassing, imprisoning, and torturing without restraint opponents and suspected opponents of the regime.

Government and SPLA hindrance of international relief efforts remained a problem throughout the year, frequently interrupting relief flows and often causing widespread suffering. The Government continued to repress freedoms of speech, press, assembly, association, and political choice. Discrimination and violence against women continued. The same lack of freedoms prevailed in SPLA-controlled areas. In the context of the Government's Arabization and Islamization drive, discrimination against non-Muslims continued and included forced Islamization. In government-controlled areas of the south and the Nuba mountains, some Islamic nongovernmental organization (NGO) personnel, acting with the tacit approval of local authorities, withheld food and key services from the needy unless they converted to Islam. Fear of Arabization and Islamization, including the imposition of Shari'a (Islamic law), was a key cause of opposition to a united Sudan in the south, where most of the largely black African population are Christians or animists.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Official and unofficial government forces committed an undetermined number of political killings of persons suspected of being members or collaborators of the insurgent SPLA. Moreover, according to reliable eyewitnesses, in February and March security forces shot to death about 30 persons on the beach at Suakin. There is no evidence that the victims received any trial; nor did the authorities give prior public notice of the executions, as required

under Sudanese law. Asked about the executions, the authorities denied that they took place. Reportedly, SPLA forces in the Nuba mountains summarily executed local villagers who refused to provide them with food or clothing. SPLA factions were suspected of conducting both political killings and extrajudicial killings (in addition to outright massacres during combat operations) but conclusive proof was lacking.

There are credible reports that in 1993 government security forces beat and tortured to death detainees. According to one such report, retired Brigadier Camillo Odong N. Loyuk was chained by his wrists and testicles to the bars of his cell window and beaten until he died.

b. *Disappearance.*—Scores of persons arrested by government security forces in Juba, following SPLA attacks on the city in the summer of 1992, remain unaccounted for and are feared dead, including two employees of the USAID office in Juba, Dominic Morris and Chaplain Lake, and Michael Mutto of the U.N.'s Juba office. Thirty-four guards from Juba prison disappeared without a trace after the security forces took them away for interrogation.

Disappearances of persons suspected of supporting the SPLA continued to occur routinely throughout the war zones in 1993.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture, previously uncommon in Sudan outside of the war zones, has become routine at the hands of official and unofficial security forces. Throughout 1993, beatings of suspected opponents upon their arrest was commonplace. For example, when government security forces arrested dozens of students for demonstrating against the regime in the Khartoum area in October, they were brutally beaten. According to reliable accounts, while in custody some students were forced to stand for hours, their hands manacled to the ceiling of a tiny cell.

Throughout the year the security forces continued to hold opponents—including trade unionists, politicians, and students—incommunicado, often for months, in safe houses known locally as ghost houses. Many prisoners were beaten upon arrival at the ghost houses before their interrogation began. Torture and mistreatment of ghost house inmates often continued throughout their incarceration. In a letter passed to his relatives, Brigadier General Mohammad Ahmed al Rizk al Faki, held in Suakin Prison, related that he had been subjected to psychological and physical torture, including beatings, electric shock, rape, and partial castration. According to former inmates, mistreatment included whipping and clubbing; shackling and suspension by the wrists; the application of electric shocks; burning with hot irons; submersion in hot and cold water; prolonged blindfolding; denial of food, water, sleep, and access to toilet facilities; confinement in overcrowded and unsanitary quarters; deprivation of medical care; and psychological torture, such as mock executions, and, in the case of some female prisoners, sexual abuse. The Government has not prosecuted any security personnel for such abuses, although they are widely known. These abuses could not occur without the knowledge of the highest authorities. There were recurrent reports that SPAF, PDF, and SPLA forces in the field periodically committed rape. According to one credible report, in March soldiers raped displaced women in Meiram when the military train to Wau reached the town.

Conditions in official prisons are harsh. Almost all the prisons were built before independence in 1956, are poorly maintained, and many lack such basic facilities as toilets and showers. Health care is rudimentary and food inadequate. Minors are regularly detained with adults.

Sudan's 1991 Criminal Act, based on the Shari'a, prescribes for some offenses specific "hudood" punishments, including amputation, stoning, and lashing. The courts handed down several amputation sentences during the year, but none was known to have been carried out by year's end. The Government, however, routinely meted out lashings in the north, most often to persons convicted of consuming alcohol, following trials that did not meet internationally accepted standards of fairness. Angelican Bishop Elbersh was lashed publicly in 1993 for alleged adultery. On New Year's Eve 1993, the Government arrested and lashed several young Muslim women whom it accused of wearing immodest dress or consuming alcohol. In one instance of flogging in November, Kamal Mekki Medani was flogged despite medical evidence that he suffered from hypertension and diabetes and might not be able to withstand the punishment.

d. *Arbitrary Arrest, Detention, or Exile.*—The 1991 Criminal Code does not address periods of detention and security arrest. Other laws allow the Government to detain persons without charge and without reference to the judiciary. The state of emergency introduced following the 1989 coup authorizes the Government to arrest persons without warrant and detain them indefinitely without charge or trial. Under the National Security Act, the Government may detain a suspect for interro-

gation for up to 72 hours. This is renewable for up to a month with "justification," which is not defined.

The President has the power to authorize "precautionary detention" for up to 3 months "to preserve the general security." In practice, he delegates this authority to subordinate officials. A person thus detained is supposed to be notified "in suitable time", interpreted as within these 3 months, of the reasons for detention. The President may extend the detention for 3 more months if a magistrate approves the extension. In practice, these legal provisions are often ignored as the authorities often detain opponents in ghost houses indefinitely. On occasions when extensions are formally requested, they are rarely, if ever, denied.

Sudanese law allows for bail except in the case of accused murderers and political opponents of the regime.

In theory, indigent defendants receive legal counsel from the Government in the case of crimes punishable by death or life imprisonment. However, courts do not always inform defendants of this right. Moreover, in some cases counsel is only allowed to advise the defendant and may not address the court. Thus, despite some theoretical protections, Sudanese arrested by the Government, especially by the security authorities, are likely to suffer arbitrary treatment, including, in many cases, incommunicado detention.

Because of the regime's secrecy and arbitrary detention practices, it was impossible to know the exact number of political detainees and prisoners held at the end of 1993. Throughout the year, the Government picked up hundreds of suspected opponents throughout the country. Some were leading figures, such as Democratic Unionist Party leader Sid'Ahmed Al Hussein, whose arrest was widely noted. Others were less prominent persons whose arrests were known only to their family and friends. While many of those arrested were held for a few days or weeks, others were kept for months. Reasonable estimates of the number of political detainees and prisoners in Sudan by year's end ranged between several score and several hundred.

Moreover, the authorities often required suspected opponents to report in the morning to the security offices, made them wait until the evening, then forced them to return the next day. This de facto arrest lasted for days, weeks, or in some cases months, during which time the victims could not earn a livelihood.

e. *Denial of Fair Public Trial.*—The Government has made the judiciary largely subservient to it. In a 1989 decree, the RCC assumed all power over Sudan's Constitution and laws and gave control of the judiciary to the Ministry of Justice. The October 1993 decree dissolving the RCC gave the power to issue constitutional decrees to the appointed, NIF-controlled transitional National Assembly. The Chief Justice, formerly elected by sitting judges, is now appointed. Since 1989 the authorities have replaced hundreds of judges considered ideologically unacceptable. Many of the new judges have ties to the NIF. They favor strict application of the Shari'a; many have little or no legal training.

Sudan's judicial system includes the regular courts, both criminal and civil, the special security courts, military courts meant mainly for military personnel, and tribal courts which are important in rural areas, where disputes often involve land and water rights and family matters. The 1991 Criminal Act governs criminal cases. Civil cases are still handled largely according to the 1983 Civil Transactions Act. In keeping with Shari'a law, a woman's testimony in court is worth one-half that of a man's. Military trials do not meet international standards; proceedings are secret and brief. The 1991 trial of 53 officers accused of coup plotting lasted only a few minutes. None of the officers had legal representation.

The 1989 Special Courts Act created three-person special security courts to deal with a wide range of offenses including violations of constitutional decrees, emergency regulations, and some sections of the Penal Code, as well as drug and currency offenses. Special courts, which have a mix of military and civilian judges, handle most security-related cases. Attorneys may advise defendants as "friends of the court" but normally may not address the court. Sentences are usually severe and implemented at once. Death sentences, however, are referred to the Chief Justice and the Head of State. Defendants may file appeal briefs with the Chief Justice. These courts handle most security-related cases.

The Government officially exempts the three southern states, whose population is mostly non-Muslim, from parts of the 1991 Criminal Act. However, the Act permits the possible future application of Shari'a in the south, if the local legislative assemblies, envisioned in the regime's projected political system, so decide. Moreover, in 1993 the Government transferred most non-Muslim judges from the south to the north, replacing them with Muslim judges. There were no reports, however, of hudood punishments, other than lashings, carried out by the courts in government-controlled areas of the south. Fear of the imposition of Shari'a remained a key issue in the rebellion.

Parts of the south fell outside effective judicial procedures and other governmental functions. According to credible reports, SPAF and PDF units summarily tried and punished those accused of crimes, especially so-called offenses against civil order. In SPLA areas, there was some reliance on traditional justice by village elders, but the SPLA ultimately ruled by summary methods, including beatings, torture, and arbitrary execution.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Government routinely interferes with its citizens' privacy. Throughout 1993 searches without warrants, often at night, continued, particularly against persons suspected of political crimes. The Government maintained a wide network of informants who conducted pervasive surveillance, constrained only by resource and manpower limitations. Informers were common in schools, universities, and workplaces. Former Prime Minister Sadiq al-Mahdi, former Communist Party Head Mohammed Ibrahim Nugud, and other key opposition figures were under nearly constant surveillance. In addition, the Government continued its practice of dismissing government employees suspected of antiregime views—particularly members of the military, over a hundred of whom were dismissed during the year. Security personnel often opened and read mail, including mail delivered by courier service.

They also examined registered mail before it was sent. Telephones were often tapped. Government-instituted neighborhood "popular committees," ostensibly a mechanism for political mobilization, served as a mechanism for monitoring households. These committees caused many Sudanese to be wary of their neighbors who, for whatever reason, could report them for "suspicious" activities. Security officers, for instance, investigated Sudanese for "excessive" contact with foreigners. The committees also furnished or withheld documents essential for obtaining exit visas from Sudan. In high schools, students were sometimes pressured to join proregime youth groups. Some who refused were badly beaten.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—The civil war was marked by bitter fighting between the rival SPLA factions and a major government summer and fall offensive aimed at sealing off Sudan's border with Uganda. Government forces, pro-government tribal militias, the PDF, and the SPLA factions commonly used excessive force and constantly violated humanitarian norms by attacking civilian targets. Neither side tried to investigate or punish those responsible. Sudan's Air Force bombed indiscriminately, often using the crude tactic of dumping bombs from transport planes on targets, including civilian villages, in SPLA areas. In late December, the Air Force bombed villages in the vicinity of Mundri in Western Equatoria and Chukundum in Eastern Equatoria. In addition, there were reliable reports that SPLA forces in the Nuba mountains frequently killed local villagers who would not give them food and other assistance.

All sides in the conflict were guilty of massacring civilians. SPAF and PDF troops accompanying the February-March military train from Babanusa to Wau fanned out in front of the train, killing or capturing civilians they found in their path, stealing cattle, and burning houses, fields, and granaries. Hundreds were killed. More starved to death after losing their crops, food supplies, and cattle.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Government severely curtailed freedom of speech following the 1989 coup. In 1993 a climate of intimidation and surveillance, fostered in part by the Government's informer network, continued to inhibit open, public discussion of political issues. Radio, television, all of the print media, and the Sudanese News Agency (SUNA) remained under the Government's control and reflected its policies. The media rarely mentioned, and always negatively, opposition figures.

All the print media were government-owned and controlled. The press—the Arabic-language dailies Modern Sudan, Victory, and National Salvation; the English-language daily New Horizon; and various weeklies and monthlies—strongly advocated government policies. They almost never criticized the Government, and on the few occasions they did, the criticism was benign.

The Government appointed the chief editors of the print media, alleviating the need for formal daily censorship. Sudan television news had a permanent military censor to ensure that the news reflected government views. For most of 1993, the Minister of Information was an army brigadier. In early 1993, the Government closed the local offices of the daily As-Asharq al-Awsat and detained its chief correspondent, Mohammed Abdel Sayyid, in a ghost house. The Government accused him of espionage, treason, and illegal possession of government documents. In the face of a mounting campaign of international pressure, the Government released him after a month and a half. It never brought his case to trial.

The Government adopted in mid-1993 a new Press Code that called for privatizing existing state-owned print media and allowing the creation of new, private newspapers. By the end of the year, however, no existing newspapers had been privatized, and no new private newspapers were created. Many local journalists were skeptical about the new Code and complained that it did not take their views into consideration. They further noted that it restricted coverage of many issues, from military affairs to subjects that could raise religious or racial tensions or exacerbate social differences.

The regime complained of an anti-Sudan bias among the international, especially Western, media. In the second half of 1993, the Government permitted a number of foreign journalists to enter Sudan and allowed them a degree of freedom, letting them meet with a wide spectrum of leaders, including some from the opposition, and allowing them to visit war zones. The Government, however, monitored the journalists' movements closely and on at least one occasion confiscated part of a television crew's film.

The Government routinely confiscated issues of foreign publications entering Sudan that had material it judged hostile to the regime. Many respected journalists who worked in the local media before 1989 have quit the profession, and many have left Sudan.

Academic freedom does not exist in Sudan. The climate of intolerance fostered by the regime—fed, for instance, by the dismissal after the coup of many academics considered antiregime—and its practice of brutally repressing suspected opponents had a chilling effect on academic debate. The Government used political and ideological criteria in appointing new faculty.

b. *Freedom of Peaceful Assembly and Association.*—These freedoms were severely restricted. The declaration of the state of emergency and martial law on June 30, 1989, effectively eliminated the right to protest. Only government- sponsored gatherings were permitted. The security forces broke up demonstrations sponsored by nongovernment organizations. In October and November, police used tear gas and baton charges to disperse students and others who were protesting in the Khartoum area. When riots broke out in Gedaref in February and El Obeid and Er Rahad in October, security forces fired on the crowds, killing several persons in each locality. Apart from a few indigenous NGO's involved in relief work and the Sudan Industries Association, all other private associations were either government- or NIF-controlled.

c. *Freedom of Religion.*—Under Sudanese law, Muslims may proselytize freely, but non-Muslims may not proselytize Muslims. The 1991 Criminal Act makes apostasy by Muslims punishable by death, although there are no known cases in which this sentence has been applied. Some Muslim converts to Christianity were, however, harassed in 1993 by local authorities. Two villagers from a small community of Arab Christians at Abdullahi, near Umm Rawaba, were arrested in August, imprisoned for several days, and threatened with death if they did not convert back to Islam.

The Foreign Missionary Societies Act of 1962 subjects public Christian religious activity to close government supervision. It forbids the construction of churches without government permits; none has been issued for over 10 years. Missionary groups need licenses to proselytize; the licenses specify where they may operate and restrict their activities outside these areas. Foreign missionaries need special permission, which is difficult to obtain and easy to lose, to work in Sudan The Sudan Catholic Bishops' Conference (SCBC), the Sudan Council of Churches (SCC), an umbrella group that includes all of Sudan's Christian churches, and the Copts all faced restrictions stemming from the Act, which local officials often interpreted capriciously. Christians have generally experienced few problems building churches in government-controlled areas of southern Sudan. In the predominately Muslim areas of northern Sudan, however, Christians have not received a government permit to build a church, and no new churches have been built, since the early 1970's.

Non-Muslims complained throughout 1993 of pervasive, multifaceted pressure in favor of Islam and against other religions. The authorities regard Islam not just as a faith, but also as the basis of Sudan's Arab culture. Thus, almost every subject matter in the schools is infused with Islam and the Koran, to which Muslims and non-Muslims alike are exposed. In the popular defense forces, all trainees, including non-Muslims, received indoctrination in the Islamic faith.

There were reliable reports in some war zones, particularly the Nuba mountains, that government forces closed churches and restricted the movements of Christian clergy. In government-held parts of the south and the Nuba Mountains, some Islamic NGO personnel withheld food and key services from the needy unless they converted to Islam. The local authorities appeared to condone, at least tacitly, these practices.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Government restrictions hampered freedom of movement. All Sudanese needed to obtain exit visas before leaving the country. Numerous individual Sudanese and some categories of persons (such as policemen and other security personnel) were often denied exit visas. The authorities kept lists of political figures and other Sudanese not permitted to travel abroad. In one case, the authorities refused leading southern Sudanese opposition politician Eliaba Surur permission to attend the U.S. Institute for Peace Conference on Sudan because of his dissident activities in Khartoum. Security officials sometimes made arbitrary decisions on the issuance or cancellation of exit visas. In addition, as tensions with Egypt rose in the first half of 1993, Sudanese authorities denied most requests for travel to Egypt.

An evening curfew, imposed when the new regime seized power in 1989, was lifted in November.

Some former political detainees were forbidden to travel outside of Khartoum. Other Sudanese were able to move about the country, but those who failed to produce an identity card at one of the numerous checkpoints risked being arrested and even beaten. This was especially true of southerners in the north.

Nondiplomatic foreigners needed permits, which were hard to obtain and often refused, well in advance for all in-country travel outside of Khartoum. (Diplomats could travel freely to many locations.) Foreigners had to register with the police on entering the country, seek permission to move from one location to another, and register again at each new location within 3 days of arrival. Foreign NGO staff sometimes faced difficulties in obtaining entry visas or work or travel permits once they were in country.

Tens of thousands of persons, largely southerners and westerners displaced by famine and civil war, continued to live in squatter slums in the Khartoum area. In a reprise, on a smaller scale, of the massive destructions of squatter settlements in 1992, in 1993 the Government razed hundreds of these squatter dwellings. Thousands were made homeless; some were forced to relocate to primitive resettlement sites outside the city, where conditions were harsh and distances from employment opportunities great. Many of these people had been in Khartoum for years; some even had title to the land. The Government promised to give those who had titles new plots of land elsewhere. NGO's attempting to provide food or health care in the resettlement camps often had problems securing access from the Government.

Sudan was generally hospitable to refugees. At the end of the year, the refugee population (largely composed of Ethiopians and Eritreans) was about 630,000, about half of whom received assistance from the United Nations High Commissioner for Refugees (UNHCR). There were no reports of forcible repatriation of refugees in 1993. UNHCR resettlement of refugees to third countries proceeded smoothly.

Refugees could not become resident aliens or citizens of Sudan, regardless of their length of stay. However, a large number of refugees were tolerated and found employment, although typically in menial occupations, in the cities, especially in the capital area.

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

The people of Sudan had neither the right nor the ability to change their government peacefully. In 1992 the RCC instituted an appointed "Transitional National Assembly" (TNA). The main activity of this rubber-stamp body, however, was to ratify legislation proposed by the executive. The RCC dissolved itself in October, making its chairman President of the Republic and transferring to him most of its powers. The courts had no authority to review acts of the RCC or the Head of State.

Claiming that sectarian bickering was harmful to Sudan, in 1989 the regime abolished all political parties. In 1990 the RCC, rejecting both multiparty and one-party systems, adopted a Libyan-style political structure based on ascending levels of nonpartisan assemblies, some of whose members are elected in nonpartisan elections, and the others government-appointed. The Government is currently implementing the system, which the NIF is thoroughly manipulating and controlling, at the provincial and state levels. The lack of basic freedoms of assembly, speech, and press, the absence of political parties, the rigging of the participatory process, and the significant proportion of appointed members make the system essentially undemocratic.

Government rhetoric gave high priority to ending the civil war. Yet, by the end of the year, despite Nigerian mediation and peace talks with both SPLA factions in Abuja, Nigeria, and with SPLA/United in Nairobi, Kenya, there had been no progress toward peace. For much of the spring the Government and the SPLA observed a cease-fire, which collapsed in the summer as the Government launched a major offensive. The rival SPLA factions continued to fight intermittently through-

out the year. At year's end several efforts at mediation between the SPLA factions and the SPLA and the Government were under way, conducted by neighboring states, church groups, and former U.S. President Carter. However, the commitment of the various warring parties to peace was unclear, and prospects for successful negotiations seemed dim.

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

The Government tried to stamp out any domestic criticism on human rights issues, frequently and vehemently denying any human rights abuses. Almost all of the relatively few local, independent human rights monitors have been arrested and detained at one point or another since the 1989 coup. In 1991 the Government created the Sudan Human Rights Organization (SHRO)—not to be confused with the previous SHRO, which the regime dissolved after the 1989 coup—to defend its human rights record. This organization has yet to criticize the Government. In an attempt to demonstrate the regime's concern for human rights, the TNA adopted in 1993 the "Sudan Document of Human Rights" and created a Human Rights Committee. The latter, however, has been no more critical of government human rights abuses than has the SHRO.

The Sudan Catholic Bishops Conference (SCBC) and the Sudan Council of Churches (SCC) continued to seek to monitor and publicize human rights abuses, especially those involving religious discrimination.

The Government was highly defensive about foreign criticism of its human rights record. It vehemently attacked Amnesty International for criticizing Sudan's human rights record. In September the Government allowed Gaspar Biro, the U.N.'s Special Rapporteur on Human Rights in Sudan, to visit the country. Although Biro was able to travel to some sensitive areas, including the Nuba mountains, the Government tried to restrict his access to dissidents. It arrested several persons for meeting or trying to meet with him—including several spouses of political prisoners. The police clubbed and arrested the women as they assembled peacefully in front of the U.N. offices in Khartoum where Biro was working. The Government subsequently accused Biro and the U.N. Human Rights Commission of being biased against Sudan.

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

Women.—Sudanese laws and traditions favor men over women, and women traditionally have been relegated to segregated roles. Islamic laws of inheritance award additional property to men, while assigning them the duty of caring for their extended families. Under traditional Shari'a law, a woman inherits half as much of the estate as a man with the same degree of kinship. Discrimination against women in professional positions continued to increase in 1993.

Though there are no women in the highest ranks of government, women in lesser positions play a modest role in day-to-day government operations. The TNA included some women members. The NIF did not, however, encourage women's involvement in politics, viewing this as contradicting their traditional role. Education was open to both sexes, and many women obtained university training. Women, however, traditionally receive less education and have fewer opportunities than men. Small numbers of women were found in the professions, the police, and the military. They also formed sexually segregated units within the PDF.

Since 1991, government directives require that women working in government offices and female students and teachers conform to Islamic dress codes. This is defined as nondecorative, "modest" clothing covering the entire body except for the face, hands, and feet. The Government enforces the new regulations, particularly in the schools and other public institutions. On New Year's Eve several Muslim women were arrested and lashed for wearing clothing that did not conform with the Government's version of modest dress.

Violence against women appears to be common although accurate statistics do not exist. Wife beating reportedly is common. The Government did not address the issue of domestic violence against women; nor was it discussed publicly. The police do not normally intervene in domestic disputes, and there were no reports of court cases involving violence against women in 1993. For a variety of cultural reasons, many women are reluctant to file formal complaints against such abuse. Women refugees were particularly vulnerable to harassment and sexual abuse.

Among some southern tribes, rape is common. No blame attached to the practice, although the man involved must pay the woman's family if she becomes pregnant. Among some ethnic groups, wives are taken on a trial basis lasting up 4 years. The husband may dissolve the marriage during this period by returning the wife to her family, although he must pay a price for each child born during this time. Such

wives reportedly are able to contract further marriages and are not stigmatized by having been returned.

Children.—The Government demonstrated no significant concern for the rights and welfare of children. A considerable number of children suffered serious abuses, including occasional enslavement, in the war zones.

Female genital mutilation (circumcision) remains common in Sudan. Reports indicated that the practice, though illegal, is widespread, especially in the north. Some reports suggest that over 90 percent of northern Sudanese females have been so mutilated, with consequences that sometimes has included severe urinary problems, infections, and even death.

The so-called Pharaonic mutilation (infibulation), the severest of the three types, is the most common and is usually performed on girls between the ages of 4 and 7 years. Because few physicians will perform the operation, it is most often done by paramedical personnel in improvised, unsanitary conditions, with severe pain and trauma to the child. Southern women displaced to the north reportedly are increasingly imposing circumcision upon their daughters, even if they themselves have not been subjected to it.

The Government's Administration for the Rehabilitation of Street Children runs several camps near Khartoum and other cities for children who are found living in the streets. The management of several of these camps is entrusted to an Islamic NGO. Children in the camps may not leave without permission, and undergo a militarized regimen that includes strict discipline and physical and military exercises. Health care and schooling in the camps is reportedly poor. All the inmates must study the Koran, although there is reason to believe that a number of them are not Muslims.

National/Racial/Ethnic Minorities.—Sudan's population of 24.9 million (1993 census) is a multiethnic mix of over 500 Arab and African tribes, with scores of languages and dialects. There are primarily two cultures in Sudan: the Arab, Muslim culture in the north and central areas and the non-Muslim, black African culture in the south. The west has a smaller population of Muslim black Africans. Northern Muslims, who form a majority of about 16 million, have traditionally dominated the Government. Most southern ethnic groups want independence, or, at a minimum, the right to self-determination.

The NIF-dominated regime pursued religious, ethnic, and ideological discrimination in almost every aspect of society. The Muslim Arab majority in the north practiced widespread discrimination against the several million displaced non-Arabs from the south. Residents in Arabic-speaking areas who do not themselves speak Arabic are discriminated against in education, jobs, and other opportunities.

The Arabization of instruction in higher education discriminates against non-Arabs. To compete for study at a university, students completing high school must pass examinations in four subjects: English, mathematics, Arabic, and religious studies. The examinations for all the subjects except English are given in Arabic, disadvantaging those whose native tongue is not Arabic. As the entire university curriculum is now in Arabic, this disadvantage continues throughout higher education. Widespread popular attitudes in northern areas stereotype darker-skinned non-Arabs as inferior and lazy.

Religious Minorities.—In government-controlled areas of the south, there was evidence of a policy of Islamization, as non-Muslim civil servants were often replaced by NIF supporters. In the north, some non-Muslims lost their jobs in the civil service, the judiciary, and other professions. Copts noted that whereas a decade or two ago they were well-represented in key professions like banking, in recent years the Government has hired no Copts for such jobs. In 1993 few non-Muslim university graduates found government jobs at all. Frequent dismissals in the police and army purged professionals to make room for NIF supporters. Businesses owned and operated by non-Muslims experienced overt discrimination, such as denial of trading licenses, or petty harassment.

The Khartoum State government decreed in 1993 that women could not enter official buildings unless their dress met Islamic standards of modesty. All Sudanese public school girls, regardless of faith, must wear Islamic-style uniforms and scarves. In 1993 the State of Khartoum also put pressure on local private Christian schools in an attempt to make their female students wear scarves.

Although Sudanese law recognizes Sudan as a multireligious country, official tolerance of non-Muslims remained low in 1993. Muslims are in the majority in Sudan and predominate in the north, but they are in the minority in the mostly Christian or animist south. There are also 1 to 2 million or more displaced southerners, mostly Christians or animists, and about half a million Christian Copts in the north. The Government holds that Islam, the dominant faith, must inspire the state's laws, institutions, and policies. The Government, however, states that other religions should

be respected and freedom of worship guaranteed. Seeking to demonstrate a commitment to freedom of religion, the Government invited the Pope to visit Sudan, which he did for a day in February. Yet, despite official statements about tolerance, many non-Muslims faced various restrictions on their freedom to practice their religion.

People with Disabilities.—The Government has not enacted any special legislation or taken other steps to mandate accessibility to public buildings for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—Although Sudan had a strong labor union movement during the Government of Sadiq al-Mahdi, the RCC abolished the precoup labor unions and forbade strikes. Stiff punishments, including the death penalty, were prescribed for violations of labor decrees. Government officials condemned—usually falsely—union activists as "Communists." Many labor leaders were dismissed from their jobs or detained, although most of those arrested were later freed. In 1993, however, the Government detained scores of union activists suspected of antiregime activities. In May the International Labor Organization (ILO) Committee on Freedom of Association deplored the Government's detention of four trade unionists and its lack of response to allegations of torture against three of them.

In September 1989, the regime established preliminary, government-controlled steering committees to manage union affairs, pending the drafting of new laws on union organization. The Sudan Workers Trade Unions Federation (SWTUF), the leading blue-collar labor organization, with about 800,000 members, was restored with its leadership unchanged and its assets returned, but under tight government steering committee control. Besides SWTUF, there was a Professional and Employees' Trade Union Federation.

The Government established further steering committees in 1990. A new labor law went into effect in 1992, and union elections at the local level took place that year, after a delay to permit the steering committees to arrange the outcomes. The elections resulted in government-approved slates of candidates voted into office by prearranged acclamation.

The Government continued to forbid strikes, and there were none in 1993. Unions remained free to form federations and affiliate with international bodies, such as the African Workers' Union and the Arab Workers' Union.

The U.S. Government in 1991 suspended Sudan's eligibility for trade benefits under the Generalized System of Preferences because of its violations of worker rights.

b. *The Right to Organize and Bargain Collectively.*—An RCC constitutional decree of June 30, 1989, suspended the right to organize and bargain collectively. These rights were restored to organizing committees in September of the same year. However, government control of the steering committees and the continued absence of labor legislation allowing union meetings, filing of grievances, and other union activity greatly reduced the value of these rights. Although local union officials raised some grievances with employers, few carried them to the Government. No collective bargaining takes place in practice. Wages are set by a government-appointed and -controlled wage council which includes representatives from the Ministries of Labor and Finance, the private sector, and the trade unions.

The Government announced in 1993 the creation of two export processing zones on the Red Sea coast. At year's end, however, it was unclear whether or not Sudanese labor laws would apply fully in these zones.

c. *Prohibition of Forced or Compulsory Labor.*—Sudanese law prohibits forced or compulsory labor. Nonetheless, slavery has persisted in Sudan. The taking of slaves, particularly in war zones, and their export to parts of central and northern Sudan were recurrent practices in 1993. The captives were forced to do agricultural and domestic work, and some women were made to serve as concubines. Although in some cases local authorities took action to stop instances of slavery, in others the authorities chose to look the other way. There were a number of unverified reports that some captives were being exported to Libya. The International Labor Organization (ILO), in its 1993 World Labor Report, noted that traditional slavery survived in modern-day Sudan and "even seemed to be on the increase" in the context of the ongoing civil war. Also in 1993, the ILO's Committee of Experts on the Application of Conventions and Recommendations expressed regret that the Government of Sudan had failed to provide its report responding to allegations of slavery. The annual ILO conference in June therefore cited Sudan for the third time in a "special paragraph," its severest form of criticism.

The SPLA often continued to force southern men to work as laborers or porters or forcibly conscripted them into SPLA ranks. In disputed territories, this practice was implemented through raids, while in areas firmly under SPLA control it was done through the SPLA-appointed village leaders.

d. *Minimum Age for Employment of Children.*—The legal minimum age for workers is 16, but the law is loosely enforced by inspectors from the Ministry of Labor in the official or wage economy. In addition, gross poverty in Sudan has produced widespread child labor in the informal, unregulated economy. In rural areas, children traditionally assist their families with agricultural work from a very young age.

e. *Acceptable Conditions of Work.*—The legislated minimum wage is enforced by the Ministry of Labor, which maintains field offices in most major Sudanese urban centers. Employers generally respect the minimum wage. Workers who are denied the minimum wage may file a grievance with the local Ministry of Labor field office, which is then supposed to investigate and take appropriate action if there has been a violation of the law. In late 1993, the Government increased the minimum wage to approximately $15 (4,900 Sudanese pounds) per month. Given Sudan's soaring inflation, however, living standards for the average Sudanese worker continued to deteriorate. Conservative estimates by nongovernmental institutions estimate that in a major urban center, a Sudanese family of 4 required by the end of 1993 at least $36 (12,000 pounds) per month to meet its most basic needs.

The workweek is limited by law to 6 days and 48 hours, with a day of rest on Friday. Although Sudanese laws prescribe health and safety standards, working conditions were generally poor and enforcement by the Ministry of Labor minimal.

SWAZILAND

Swaziland is governed as a modified traditional monarchy with executive, legislative, and (with some limitations) judicial powers ultimately vested in the King. Advised by traditional figures and Cabinet ministers, the King rules according to unwritten Swazi law and custom and through a modern structure of published laws and decrees, implementing agencies, and an independent judiciary. The King appoints the Cabinet from among members of Parliament. Direct elections for the House of Assembly (the lower house of Parliament) were held in October under new procedures recommended by a special commission following extensive public hearings throughout the country.

Civilian authorities control both the Umbutfo Swaziland Defense Force and the Royal Swaziland Police. On approximately 50 occasions during the year, criminal suspects made credible accusations that police had used excessive force to obtain evidence or a confession.

Swaziland has a free market economy, with relatively little government intervention. The majority of Swazis are engaged in subsistence agriculture, though a relatively diversified industrial sector accounts for the largest component of the formal economy. The economy relies heavily on the export sector, composed primarily of large firms with predominantly foreign ownership.

Significant progress toward reform included the holding of parliamentary elections and the announcement of the Government's intention formally to repeal the 60-day detention decree that permitted detentions without charges (the decree was not used in 1993). While no international observers were invited, the procedures for nominations and elections for Swaziland's first elected parliament in 20 years were generally considered to be open, fair, and free of unwarranted influence. The registration and voter education procedures, although imperfect, were reasonably successful. However, restrictions on political activity and the ban on political parties remained in force. Legal and cultural discrimination and physical violence against women continued.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no allegations of such killings.

b. *Disappearance.*—There were no reports of disappearance.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Approximately 50 persons alleged that they were abused or tortured while in police custody in 1993. In most of these cases, the police mistreated arrestees in attempts to force confessions or obtain evidence in criminal cases.

The report on the 1990 beating by members of the Swazi military of a group of University of Swaziland students was completed but by year's end had not been made public. No criminal charges were brought against the perpetrators.

Convicted youth offenders can be sentenced to whipping by cane. In 1993 this sentence was imposed less frequently than in the recent past.

d. *Arbitrary Arrest, Detention, or Exile.*—Swazi law requires warrants for arrests in most circumstances, except when police observe a crime being committed or have reason to believe that a suspect will flee.

Those arrested are allowed to consult with a lawyer of their choice and are to be charged with violation of a statute within a reasonable time, usually 48 hours or, in remote areas, as soon as the judicial officer appears. Provision for bail exists except for persons charged with crimes appearing in the Non-Bailable Offenses Order of 1993. The Order, which became effective on August 24, identifies nine offenses ranging from murder to inciting to riot for which a defendant cannot be granted bail. Proponents of the legislation believe it will improve the administration of justice by guaranteeing that a defendant appears for hearings and trial and that the law also protects the defendant from vigilante groups who oppose bail. Opponents of the legislation believe the order denies due process to defendants and encroaches on the discretion and independence of the courts.

The Government on September 27 announced its intention to repeal the 1973 decree permitting the detention of any person without charge or trial for renewable periods of 60 days. The 60-day detention decree was not used in 1993.

Exile was not used as a means of political control during the year.

e. *Denial of Fair Public Trial.*—Judicial powers are vested in a dual system, one independent and based on Western law, the other based on a system of national courts which follows Swazi law and custom. In treason and sedition cases, the King can circumvent the regular judiciary by appointing a special tribunal, which may adopt rules and procedures different from those applied in the High Court. This power was last used in 1987.

The modern judiciary consists of the Court of Appeals, (composed entirely of South African judges), the High Court, and magistrates' courts, which are independent of executive and military control and free from intimidation by outside forces. The High Court has general jurisdiction over relatively serious civil and criminal cases. The magistrates' courts have jurisdiction over criminal cases punishable by not more than 2 years' imprisonment or a fine of not more than $130. In magistrates' courts, the defendant is entitled to counsel at his or her own expense. Court-appointed counsel is provided in capital cases or when difficult points of law are at issue. There are well-defined appeal procedures up to the Court of Appeals, the highest judicial body. Some members of the regular judiciary are appointed from the bars of other countries with compatible legal systems.

In traditional courts, to which ethnic Swazis may be brought for relatively minor offenses and violations of traditional Swazi law and custom, formal legal counsel is not allowed. Defendants may speak on their own behalf and may be assisted by informal advisors. Sentences are subject to review and to appeal to the High Court and the Court of Appeals. Accused persons are guaranteed the right to have their cases transferred from the traditional courts. By law, the public prosecutor has the authority to determine which court should hear a case, but in practice the police usually make the determination. Inadequate staffing of the High Court led to delays in the processing of some cases in 1993. A short work stoppage by the magistrates, who were unhappy with the appointment of a special judicial commission, exacerbated judicial delays and backlogs and contributed to public discontent with the judicial system.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law generally requires a warrant from a magistrate before police may search homes or other premises. However, police officers with the rank of subinspector or higher have the right to search without a warrant if they believe evidence might be lost through delay in obtaining a warrant. The evidence obtained from searches conducted without warrants has been successfully challenged in court.

No evidence has been produced that the Government systematically monitors private correspondence or conversations. Opponents of the Government who complain of unlawful searches and seizures have not sought judicial relief from these activities.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—There was some easing of restraints on freedom of speech, especially in political matters, in 1993 but significant restrictions remained. In dealing with the sensitive issues of the immediate royal family and national security policy, the media, both government-controlled and private, tend to practice self-censorship. Reflecting the easing of some restraints, the two daily newspapers and the government-controlled television station continued to expand the range of sensitive topics, such as the parliamentary elections, that they were willing to address and to develop their role as forums for the expression of popular opinion.

Swaziland's only privately owned paper also became a more energetic advocate of governmental accountability and democracy, challenging the Government when it believed the Government had not lived up to appropriate standards. The government-owned radio station exhibited less freedom than did the other media. Private companies and church groups publish several newsletters and magazines. One church group owns and operates a radio station that broadcasts throughout the region.

Although no formal constraints on academic freedom exist, the prohibition on political gatherings, the historical intolerance of dissent, and concern over possible reprisals have created an environment in which self-censorship is the norm.

b. *Freedom of Peaceful Assembly and Association.*—The law does not protect this freedom. Swazis have several traditional forums through which they can express discontent, including direct dialog with their chiefs, community meetings, and national councils, in which all Swazis are permitted to participate. Many Swazis, however, view these forums as ineffective means for expressing their political views. King Sobhuza's 1973 decree prohibits political parties and meetings of a political nature and demonstrations in any public place without the consent of the Commissioner of Police. Permission to hold meetings was not generally granted in 1993, but political organizations often met without the required permission, with no legal consequences. On several occasions the authorities permitted leaders of the illegal political parties, including the People's United Democratic Movement (PUDEMO) and the Swaziland National Front (SWANAFRO), to speak out publicly at rallies and meetings, and the activities of these leaders were frequently reported in the mass media. However, in several instances political activitists were arrested and charged with political offenses for organizing political meetings without police permission for holding illegal demonstrations. In one incident, 62 PUDEMO supporters were arrested after attempting to attend a rally; the 62 were convicted and given suspended sentences of 3 months in jail on the condition they avoid similar offenses within the next 3 years. They have appealed the convictions and sentences. Following those arrests, few individuals dared to attend political meetings.

Except for the ban on political parties, there are no formal legal barriers to freedom of association. Trade associations, professional bodies, academic organizations, and rights advocacy groups exist and maintain relations with recognized international bodies in their fields.

c. *Freedom of Religion.*—Swaziland is hospitable to all religious believers. Organized religions are free to establish places of worship and train clergy, to publish religious texts, and to undertake religious travel outside the country. Proselytizing is legal, and no religious group is banned.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Swazis may travel and work freely within the country. However, for travel abroad, under traditional law a married woman requires her husband's permission to apply for a passport. A citizenship law passed in November 1992 removed many ambiguities relating to Swazi citizenship and enabled nonethnic Swazis to obtain passports and citizenship documents. Bureaucratic delays, however, plagued individuals seeking these documents during the year. The new law enabled those wishing to register for the elections to do so with little problem.

No formal barriers prevent the return of dissidents, although few have chosen to return to Swaziland to resume residence. Some did return for short visits in 1993 and were not subject to harassment by the authorities.

Swaziland's treatment of refugees is considered to be good by the United Nations High Commissioner for Refugees (UNHCR), as well as by the various nongovernmental organizations involved in the care of these groups. Most refugees are from Mozambique. Only about 24,000 of these are registered and receiving assistance, while another estimated 35,000 to 40,000 have settled spontaneously along the border regions and in towns. The other significant refugee group is made up of about 7,000 ethnic Swazis from the KwaZulu "homeland" in South Africa.

Approximately 160 people from countries such as Zaire, Ethiopia, Angola, and Somalia sought refuge in Swaziland during the first 8 months of 1993. (Arrivals from South Africa have stopped.) Swaziland permits these people to remain in the country until their petitions can be heard by the Political Asylum Committee. This Committee is made up of government and U.N. officials. The UNHCR's opinion about the merits of a person's claim to well-founded fear of persecution or physical danger if repatriated is a major factor in the Committee's decisionmaking process. There are no current disputes between Swazi and UNHCR authorities regarding claims to refugee status. Illegal aliens who cannot establish refugee status are usually deported.

In August Swaziland, Mozambique, and the UNHCR signed an agreement governing the voluntary repatriation of Mozambican refugees. While some spontaneous re-

turn had already occurred, the controlled, organized repatriation effort began in October. Although local sentiment favors as rapid a return of Mozambican refugees as possible, Swazi officials accept that the repatriation must be voluntary and at a pace that can be managed on the other side of the border.

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

In 1993 Swazi citizens exercised the right to change their government through a direct vote for the first time in 20 years, but a ban on political parties and restrictions on political gatherings precluded the holding of truly democratic elections. The Government limited candidates' election campaigning to single, short sessions with groups of voters. Of the 65 members of the House of Assembly, 55 were directly elected by the people in a secret ballot vote; the remaining 10 were appointed by the King. Parliament includes also a Senate with 30 members, 20 of whom are appointed by the King and 10 of whom are elected by the House of Assembly. Despite the ban on political parties, PUDEMO, SWANAFRO, and other parties used public meetings and the media to publicize their views.

Although Swazi law calls for the House of Assembly to make law with the King, the previous House of Assembly used this power in only a limited fashion. The King retains ultimate legislative and executive power. After dissolving the House of Assembly in October 1992 in preparation for elections, the King ruled the country "in council" with his Cabinet, soliciting advice from the royal family, senior chiefs, and other interested parties. Legislation was promulgated by the Cabinet and submitted to the Monarch for assent. The King can legislate by decree, as well. The new House of Assembly is due to meet for the first time in early 1994.

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

While the Government does not encourage activities by domestic or international human rights organizations, local organizations exist. The most prominent, the Human Rights Association of Swaziland (HUMARAS), spoke out on human rights issues and worked as a mediator in land and labor disputes.

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

Women.—Women have traditionally occupied a subordinate role in Swazi society, and the dualistic nature of the legal system complicates the issue of women's rights. Because traditional marriage is governed by uncodified Swazi law and custom, women's rights are often unclear and change according to where and by whom they are interpreted. In both traditional and civil marriages, wives are legally treated as minors, although those who marry under civil law may be accorded the legal status of adults, if stipulated in a signed prenuptial agreement.

Changing socioeconomic conditions and urbanization, as well as the increasing prominence of women leaders in government and civic organizations, are slowly breaking down barriers to equality. Married women now routinely and successfully execute contracts and enter into a variety of transactions in their own names. However, the husband's permission is still generally required for a woman to borrow money, open a bank account, leave the country, or, in some cases, take a job. Divorce is discouraged by families but is no longer uncommon. In traditional marriages, children are considered to belong to the father and to his family if the couple divorces. Children born out of wedlock are considered to belong to the mother. In traditional marriages, a man may take more than one wife. A man who marries a woman under civil law may not have more than one wife, although in practice this restriction is sometimes ignored.

Couples often marry in both civil and traditional ceremonies, creating problems in determining which set of rules applies to the marriage and to subsequent questions of child custody and inheritance in the event of divorce or death.

Physical abuse of women, particularly wife beating, is common, despite traditional strictures against this practice. Women have the right to charge their husbands with assault under both the traditional and modern legal systems and frequently do so. The traditional courts, however, can be unsympathetic to "unruly" or "disobedient" women and are less likely than the modern courts to convict men for wife beating. Still, even in the modern courts, sentences frequently amount to no more than several months in jail or a fine, or both.

Nongovernmental organizations provide support to groups affected by discrimination or abuse. The Swaziland Council of Churches Legal Aid Center provides free information on issues such as marriage and maintenance laws. The Swaziland Action Group Against Abuse has established relations with other civic organizations

as well as the Government to provide forums to discuss spousal and child abuse and to educate the public on the rights of abuse victims.

The Employment Act of 1980 forbids employers to discriminate on the basis of race, religion, sex, or political affiliation and requires equal pay for equal work. However, men's average wage rates by skill category often exceed those of women. Legal protection from sexual harassment is addressed in the Swazi Legal Code, but its provisions are vague and largely ineffective in halting this type of discrimination.

Children.—The Government has created a task force to educate the public on the rights of children. A number of Swazi laws deal with the rights and welfare of children, including the Age of Majority Act, the Employment Act, the Child Care Service Order, and the Maintenance Act. A study of legislation concerning children was conducted during 1993 to bring the legislation in conformance with the U.N. Convention on the Rights of the Child. The Association of Child Welfare, a Swazi nongovernmental organization, was very active in 1993 promoting the rights and welfare of children.

People with Disabilities.—The Ministry of Home Affairs has called for equal treatment of the disabled, but no legislation prohibits discrimination against them. The Government has not legislated or mandated physical accessibility to public buildings for the handicapped.

Section 6. Worker Rights

a. *The Right of Association.*—The Industrial Relations Act (IRA) of 1980 affirms the right of trade unions to exist, organize, and associate freely. Persons in all sectors of the economy, including the public sector, are permitted to join unions. Unions operate independently of government or political control, provided they act as economic, rather than political, organizations. Unions are free to draw up their own constitutions within the framework of the IRA. The Act specifies a number of provisions which must be addressed in a constitution. These include the election of officers by secret ballot, annual meetings open to all members, fees, grounds for suspension of members, and expenditure of union funds. The union constitution must be approved by the Labor Commissioner, who can strike out or amend provisions which violate the law. Unions may not be dissolved as long as they adhere to the regulations of the IRA. Unions that fail to maintain proper registration with the Labor Commissioner may be dissolved without recourse to judicial review, but this authority has never been exercised.

The International Labor Organization (ILO) Committee of Experts (COE) has noted discrepancies between the IRA and ILO Convention 87 on freedom of association and ILO Convention 98 on the right to organize and bargain collectively, both ratified by Swaziland in 1978. The concerns of the COE include the powers accorded government officials to control union activity and the strictures on the ability of workers to form unions and associate with other unions at home and abroad. The Government, however, does not prohibit Swazi unions from having international affiliations. The COE again in 1993 criticized IRA provisions, including the prohibition on federations from carrying out political activities and the prohibition of the right to strike in the postal, radio, and teaching sectors. In late 1992, the World Confederation of Organizations of the Teaching Profession asked the ILO to intervene with the Swazi authorities in order to obtain the repeal of the IRA provision which classifies teaching as an essential service.

The IRA details the steps to be followed when disputes arise, including what determines a legal or illegal strike. The Act empowers the Industrial Court to settle employment disputes and grievances and to enjoin a union from striking. Consciousness of workers' rights is growing rapidly. When disputes arise, the Government often intervenes to try to reduce the chances of a strike, which may not be legally called until all avenues of negotiation have been exhausted. The Labor Commissioner may then issue a 14-day postponement, which may be extended upon presentation of further documentation. Several strikes occurred during 1993, centered on the issue of pay. Strikes by the University of Swaziland Worker's Union, the Swaziland Commercial and Allied Workers Union, the Swaziland Hotel and Catering Allied Workers Union, and the Swaziland Union of Financial and Allied Workers occurred in 1993 with modest wage and benefit increases being obtained by the unions.

Several unions, dissatisfied with the leadership and role of the Swaziland Federation of Trade Unions (SFTU), broke away from the SFTU in 1993 to form the Swaziland Federation of Labor, which has yet to be recognized by the Government.

b. *The Right to Organize and Bargain Collectively.*—The IRA provides for the right to organize and bargain collectively and outlaws antiunion discrimination. Employers are obliged to recognize a union when it achieves a 40-percent membership among employees.

Disputes are referred to the Labor Commissioner and the Industrial Court, if necessary. The Court is limited by law with respect to granting relief in the case of unfair dismissal. It may not order reinstatement, and compensation only to the extent of 6 months' salary may be awarded. Members of legally recognized unions must be allowed to attend union activities on company time.

Although many employers resist recognition and force the issue to the Industrial Court, the Court has generally ruled in favor of the unions on recognition.

While collective bargaining occurs, it is not widespread. Government directives on wage levels do not impede collective bargaining. The Industrial Court may refuse to register an agreement if it does not observe government directives on wage levels. The COE has criticized this as a violation of ILO Convention 98.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is legally prohibited and is not known to exist.

d. *Minimum Age for Employment of Children.*—The Employment Act of 1980 prohibits the hiring of a child below the age of 15 in an industrial undertaking, except in cases in which only family members are employed in the firm, or in technical schools in which children are working under the supervision of a teacher or other authorized person. Legislation limits the number of night hours which can be worked on schooldays and limits children's work hours overall to 6 per day or 33 per week. Employment of children in the formal sector is not customary. However, children below the minimum age are frequently employed in the agricultural sector, particularly in the country's eastern cotton-growing region. The Ministry of Labor has enforcement responsibility, but its effectiveness is limited by personnel shortages.

e. *Acceptable Conditions of Work.*—Swaziland has a legally mandated sliding scale of minimum wages, depending on the type of work. These minimum wages generally provide a worker and family with an adequate standard of living within the context of Swazi society. Most workers receive a minimum of 14 days' annual leave. The Labor Commissioner enforces standards in the formal sector. The minimum monthly wage for a domestic employee is approximately $50, for an unskilled worker about $60, and for a skilled worker approximately $110.

There is a labor/management/government-negotiated maximum 48-hour workweek in the modern sector, except for security guards, who work up to six 12-hour shifts per week. All workers are entitled to 1 day of rest per week under the Employment Act and the Wages Act. Extensive legislation protects worker health and safety, and workers have the legal right to remove themselves from a dangerous work situation without jeopardy to continued employment. The Government sets safety standards for industrial operations and encourages private companies to develop accident prevention programs. Recent growth in industrial production has required more government action on safety issues. Few safety inspections by the Labor Commissioner's office have taken place in the last several years because of staffing deficiencies.

TANZANIA

The United Republic of Tanzania amended its Constitution in 1992 to become a multiparty state; however, pending national elections scheduled for 1995, the ruling Chama Cha Mapinduzi Party (CCM) continued to control the Government. President Mwinyi was reelected to a final 5-year term as President of the Republic in October 1990. The Government lays down fundamental political policies and monitors their implementation, including steps toward national multiparty elections scheduled for 1995. The islands of Zanzibar are integrated into the United Republic's governmental and party structure, but the Zanzibar government exercises a considerable degree of autonomy. There has been growing debate about the viability of the current Union structure (see Section 3).

The police have primary responsibility for maintaining law and order. They are supported by a variety of citizens' anticrime patrols known as "Sungusungu" in urban areas and "Wasalama" in rural zones. The police occasionally beat suspects during interrogations. Likewise, there have been instances when the citizens' anticrime groups have used excessive measures while carrying out their tasks.

Agriculture provides 90 percent of employment. Cotton, coffee, sisal, tea, and gemstones account for most export earnings. The industrial sector is one of the smallest in Africa. Economic reforms undertaken since 1986, including liberalization of agricultural policy, the beginning of privatization of state-owned enterprises, rescheduling of foreign debt payments, and the freeing of the currency exchange rate,

have helped stimulate economic growth—estimated at 3 to 4 percent in 1993—for the seventh straight year.

While the Government permitted the registration of 11 new political parties and allowed increased freedom of speech and press, it continued to restrict human rights. Moreover, the Government attempted to control the pace and direction of political change, purportedly to ensure social stability. In the process it used short-term detentions of some political opponents, engaged in several intrusive actions against the independent press, sometimes interfered with the right of peaceful assembly, and continued to impinge on the citizens' right of privacy and free movement. Although the government held no known political detainees or prisoners at year's end, it had not rectified a variety of problems in the judicial system which, in their totality, amounted to the denial of expeditious justice and fair trial for many citizens. During the year, religious tensions heightened with the public appearance of Muslim fundamentalism. Discrimination and violence against women remain severe and widespread, and offenders were not usually prosecuted.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There was one extrajudicial killing in 1993. On January 31, following a confrontation on the island of Pemba over the removal of a flag of the opposition party Civic United Front (CUF), a local policeman shot and killed one party member and injured another. Investigating what was widely viewed as an unfortunate local incident, a police commission recommended the policeman be charged with murder without intent and with causing injury to another person. CUF leaders filed separate charges against another policeman involved. Both cases were still pending in the courts at the end of the year.

Spontaneous mob "justice" for suspected criminals also remained a common practice throughout the country. For example, in May a mob in Dar es Salaam killed three armed men and injured a fourth following a gas station robbery. No one was arrested.

b. *Disappearance.*—There were no reported cases of disappearance.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits the use of torture and inhuman or degrading treatment, and government officials condemn these practices whenever cases become public. In practice, however, the police occasionally threaten and mistreat suspected criminals during and after their apprehension. Officials are seldom tried for such abuses when they occur.

The People's Militia Laws, as amended by Parliament in 1989, bestow quasi-legal status on the traditional Sungusungu and Wasalama village and neighborhood anticrime groups. The press in April reported that eight members of a Sungusungu patrol in Mwanza were imprisoned for beating a teacher accused of misuse of school property. The widespread belief in witchcraft has led, in a few instances, to the killing of alleged witches by their "victims," aggrieved relatives, or mobs. While government authorities attempt to discourage such practices, they rarely prosecute participants.

Although there is no independent monitoring, prison conditions generally reflect Tanzania's depressed economic conditions. There has been little improvement over the past year. Government-furnished food and medical care are limited in quantity and quality, leading to outbreaks of serious diseases such as cholera and malaria that have reportedly led to some deaths. On the other hand, prisoners' families usually may visit and attend to feeding and health care needs.

d. *Arbitrary Arrest, Detention, or Exile.*—The Criminal Procedure Code, amended in 1985, requires that a person arrested for a crime, other than a national security offense under the Preventive Detention Act, be charged before a magistrate within 24 hours and be permitted the right to defense counsel. These amendments also restricted the right to bail, reduced the number of bailable offenses, limited judges' discretion in granting bail, and imposed strict conditions on freedom of movement and association when bail is granted. An average case still takes 2 to 3 years or longer to come to trial, with the defendant incarcerated under poor conditions.

Under the Preventive Detention Act, the President of Tanzania may order the arrest and indefinite detention without bail of any person considered dangerous to the public order or national security. The act was amended in 1985 to require the Government to release detainees within 15 days of detention or inform them of the reason for their detention. The detainee was also allowed to challenge the grounds for detention at 90-day intervals. Despite a landmark ruling by the Court of Appeal in 1991 that the Preventive Detention Act could not be used to deny bail to persons

not considered dangerous to society, the Government has still not introduced corrective legislation.

Arbitrary arrest in criminal cases occurs. For example, police occasionally arrest innocent relatives of criminal suspects, holding them in custody without charge for as long as several years in efforts to force the suspects to turn themselves in. Such relatives who manage to get their case before a judge are usually set free, only to be immediately rearrested when they leave the courtroom. The legal community appears helpless to correct these abuses. Local lawyers estimate the number of such cases at several hundred.

The Government has additional broad detention powers under the Regions and Regional Commissioners Act and the Area Commissioners Act of 1962. These acts permit regional and district commissioners to arrest and detain for 48 hours persons who may "disturb public tranquility." There are credible reports that these powers continued to be abused to detain political "troublemakers," citizens who question authority, or those who resist forced contributions to the ruling party.

In 1993 the Government sometimes used its legal powers to harass and intimidate political opponents. The authorities arrested opposition speakers who were particularly critical of the Government during public rallies for using "abusive" language. After a few hours or days in jail, the Government routinely dropped charges. In June the Government arrested three members of the unregistered Democratic Party and charged them with inciting Muhimbili Medical Center nurses to demonstrate for payment of benefits. It also arrested and charged five others with unlawful assembly and assaulting a police officer. While members of opposition parties have been harassed by security officials, none was detained under the Preventive Detention Act in 1993.

e. *Denial of Fair Public Trial.*—Weaknesses in the judicial system and government interference have the effect of denying expeditious and fair justice to many citizens (see below).

The legal system in Tanzania is based on the British model, with modifications to accommodate customary and Islamic law in civil cases. Criminal trials are open to the public and the press; courts must give reasons on the record for holding secret proceedings. Criminal defendants have the right of appeal. Military courts do not try civilians, and there are no security courts. Defendants in civil and military courts may appeal decisions to the High Court and the Court of Appeal.

Zanzibar's court system generally parallels the mainland's legal system but retains Islamic courts to handle Muslim family cases such as divorce, child custody, and inheritance. Cases concerning Zanzibar constitutional issues are heard only in Zanzibar's courts. All other cases may be appealed to the Court of Appeal of the United Republic of Tanzania.

While the judiciary is constitutionally mandated to operate independently from the executive branch, the Government can influence cases. For example, judges who render decisions unpopular with senior police or government officials may be subject to pressures or may be transferred and reassigned. Government officials also sometimes ignore judicial rulings.

In addition to this interference, the judicial bureaucracy is widely criticized as inefficient and corrupt, bringing into question the defendants' ability to receive a fair and expeditious trial in all cases. There are reports of prisoners, who could not pay bribes to police and court officials, waiting several years for trial. Although the Government initiated efforts as early as 1991 to highlight judicial corruption, there has been little evident progress in correcting this situation.

The Court of Appeal dismissed the celebrated case of former Zanzibar Chief Minister Seif Sharif Hamad. He had been released from detention on November 20, 1991, and allowed in late 1992 to travel abroad and engage in political activities.

There were no known cases of political detainees or prisoners held at year's end.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The State continued to interfere with these rights, although the Government began to disassociate the intrusive, neighborhood watch "10-cell" function from the CCM Party. The CCM has historically penetrated all levels of society through local cells, varying in size from single-family homes to large apartment buildings and containing from 10 to 200 persons. Unpaid party officials served as 10-cell leaders with authority to resolve problems at the grassroots level and to report to authorities any suspicious behavior, event, or noncompliance with compulsory night patrol service in the neighborhood. In 1993 the 10-cell function continued in some areas but was weakened in others as leadership was transferred to individuals elected in recent "grassroots elections." The CCM was withdrawn from most public establishments, and the military was forbidden to belong to any political organization.

CCM membership is voluntary and is estimated at approximately 3 million cardholders. While in the past CCM membership had been necessary for advancement

in political and other areas, the importance of such membership is beginning to wane.

The Criminal Procedure Act of 1985 authorizes police officials (including the civilian anticrime units) to issue search warrants; however, the act also authorizes searches of persons and premises without a warrant if necessary to prevent the loss or destruction of evidence connected with an offense or if circumstances are serious and urgent. In practice, warrants are rarely requested, and the police and others search private homes and business establishments at will. Reportedly, the security services monitor the telephones and correspondence of some citizens and of selected foreign residents.

Compulsory participation in local civilian anticrime groups continued in 1993 in some areas. Historically, these groups have operated only in rural areas to combat cattle rustling and other criminal activity. Peasant farmers are no longer required to join agricultural cooperative societies controlled by the ruling CCM party. The 1992 Cooperative Act eliminated government interference in cooperative formation, and cooperatives now serve economic rather than political ends. Members elect their own officers. Various ordinances allow the authorities to remove "undesirable" or destitute persons from one area to their prior place of residence or origin if employment is not available for them (see Sections 2.d. and 6.c.).

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and press is provided for under the Constitution. Political activists openly criticized the Government and ruling party in public forums, although there were a few incidents in which vociferous opponents were briefly detained, in some cases allegedly for using "abusive" language (see Section 2.d.). While police were often seen at political rallies, their presence was principally for crowd-control purposes.

The single most important medium, radio, remained under government control, with access for the nascent political parties restricted to one or two weekly programs. On occasion, the Government refused opposition political parties permission to announce public meetings or purchase advertisement time on the radio. The Government had not formulated a public policy on access to government-controlled media by political parties or nongovernmental organizations by the end of the year, although political party leaders and Radio Tanzania officials discussed the issue in July. During 1993 the Government laid the groundwork for a reorganization of radio and the licensing of private radio and television stations, culminating in the inauguration of the National Broadcasting Commission on November 15.

Daily papers available at the end of 1993 were the CCM-owned Swahili-language Uhuru (circulation 80,000); the government English-language Daily News (circulation 50,000); and a third, the private Swahili-language Majira with an initial printing run of 50,000 copies. A large number of other English- and Swahili-language private newspapers and magazines appeared regularly. These newspapers were also available in Zanzibar, where the only local journal was a Ministry of Information bimonthly. The official media generally reflect the CCM's ideological line, publicizing and defending the Government's programs with guidance from the Ministry of Information. Editorials are often written by senior government officials. Although there is no formal censorship, the official media still exercise considerable self-censorship.

Numerous foreign newspapers and magazines were widely available. Although the local newspapers and magazines varied widely in quality, about half formed the core of a serious, free, independent press. They have been largely critical of the Government and have given extensive coverage to opposition parties. The Government attempted to curb the critical independent press with relatively little success. The Information Ministry revoked the licenses of two newspapers in January, ostensibly for printing obscene articles. This action was broadly criticized as arbitrary, and the owners of one of the newspapers had an appeal pending in the courts at year's end.

The Government also proposed legislation to establish a press council, ostensibly to handle complaints against the press and to uphold standards of professionalism in journalism. This bill was harshly criticized by the media, some academics, and parliamentarians as a thinly veiled attempt to control the newly independent media. The bill included provision for licensing journalists as well as a binding code of ethics. The negative response was so overwhelming that the Government withdrew the bill.

Academic freedom exists in theory, although most academics are employed in government institutions and hesitate to promote sensitive subjects in their classrooms. On the other hand, in publications and public appearances, they have been outspoken and frank in their views, whether critical or supportive of government policies.

b. *Freedom of Peaceful Assembly and Association.*—Although Tanzanians enjoyed the right freely to discuss political alternatives, local government officials sometimes used existing laws to impede freedom of assembly and association. In order to preserve public order, the Government warned political opponents against employing "abusive" or "inciting" language at public rallies. Permits must be obtained from the Government for any public meeting. The responses to requests of opposition parties for permits to hold meetings were at times issued too late to publicize the rallies or too restrictive in terms of approved times and locations. Some requests were explicitly denied.

The registrar of political parties has sole authority for approving or denying the registration of any political party and is responsible for enforcing strict regulations on registered or provisionally registered parties. Electoral amendments approved in 1992 prohibit independent candidates, require standing Members of Parliament to resign if they join another political party, require all political parties to support the Union with Zanzibar, and forbid parties based on ethnic, regional, or religious affiliation. Parties granted provisional registration may hold public meetings and recruit members. They have 6 months to submit lists of at least 200 members from 10 of the country's 25 regions, including 2 regions of the islands, in order to secure full registration and to be eligible to field candidates for election. Nonregistered parties are prohibited from holding meetings, recruiting members, or fielding candidates.

The most prominent unregistered party was Reverend Christopher Mtikila's Democratic Party which advocates the expulsion from the mainland of minorities and the establishment of a Christian state. The authorities arrested Mtikila and four others in January and charged them with unlawful assembly, breach of the peace, sedition, and using abusive language against CCM leaders and the Government when a public rally in Dar es Salaam prompted a riot. They were released on bail 2 weeks later and hearings continued throughout the year. In September the Government held Mtikila another 2 weeks and charged him with intimidation and sedition against the Government after he called for the expulsion of President Mwinyi and other Zanzibari leaders from the mainland and issued veiled threats against their safety. He has since been released.

In May the entire undergraduate student body of Sokoine University was suspended after students barred university officials from entering the administration building in a protest over health and related services. All students were reinstated by the end of the year.

Under the Societies Ordinance, the Ministry of Home Affairs must approve any new association. A number of professional, business, legal, and medical associations exist but have only begun to address political topics. Several nongovernmental organizations were formed within the last 2 years to address the concerns of families, women, and children.

c. *Freedom of Religion.*—Freedom of religion is provided for in the Constitution and is respected in practice, to the extent that public order and safety are not jeopardized. A rise in religious tension and violence (see Section 2.b. and below) did not impinge on freedom of worship, but raised public concerns for the future of religious tolerance. Missionaries are allowed to enter the country freely to proselytize, and Tanzanians are allowed to go abroad for pilgrimages and other religious purposes. Since 1988 the Government has allowed the Jehovah's Witnesses, who were banned in Tanzania for many years, to hold services, to register as an organization, and to proselytize.

In April the Government arrested 38 alleged Muslim fundamentalists and charged them with destroying several pork butcheries in Dar es Salaam. A subsequent demonstration during a court hearing led to the arrest of at least 12 Muslim sympathizers for illegal assembly. The authorities charged two Muslim leaders, Sheikh Yahya Hussein and Sheikh Kassim Jumaa Khamis, with instigating the violence, and Kassim also faced charges of denigrating the beliefs of a religious group and two counts of sedition. They released Sheikh Kassim on bail and dropped charges against most of the accused in June. The Government also banned Balukta, the Koran Reading Association, for its alleged involvement in the incidents and arrested Sheikh Kassim in August, charging him with four additional counts of sedition. He was released on bail and awaited trial at year's end. In April the Government expelled three Sudanese Muslim teachers from the country for allegedly inciting religious hatred and urging the establishment of an Islamic state.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Apart from the Zanzibari requirement for documentation for travel between Zanzibar and the mainland, short-term travel generally is not restricted within Tanzania, but citizens must follow national employment directives stipulating the nature of employment and location of residence. The Human Resources Deployment Act of 1983 requires local governments to ensure that every resident within their

areas of jurisdiction engages in productive and lawful employment. Those not so employed are subject to transfer to another area where employment is available. For years city dwellers unable to show proof of employment during police checks have been forced to return to rural areas as the Government has sought to control increasing pressure on urban resources. In early 1993, the Dar es Salaam police shipped many of the city's beggars back to their home villages. In April Zanzibar President Salmin Amour ordered an alleged antigovernment activist to move to his ancestral village on the mainland.

Mostly due to bureaucratic inefficiency, passports for foreign travel can be difficult to obtain. Former exiled opposition figure Oscar Kambona was finally issued a passport in August after an unusually long investigation into his claim to Tanzanian citizenship. The delay in his case appeared excessive and possibly was politically motivated. The authorities require citizens to obtain central bank and tax office clearances in order to buy airline tickets and subject those planning to travel or emigrate to intense scrutiny. Tanzanians who leave the country without authorization are subject to prosecution on their return. The Extraterritorial Jurisdiction Act empowers the courts to try Tanzanians who commit offenses outside the country. Although it is legally possible for citizenship to be revoked, there have been no reports that this has been done in recent years. Parliament passed a bill in 1986 that required the registration and identification of everyone over the age of 10 who resides in Tanzania, apparently in an effort to control foreign workers, but it has not been implemented.

Tanzania has a liberal policy towards refugees and displaced persons. Following an attempted coup and ethnic conflict in Burundi in October, Tanzania received an influx of over 300,000 Burundian refugees. Tanzania also continued to host some 292,000 refugees from earlier influxes from Burundi, Rwanda, and Mozambique. In 1993, prior to the Burundi coup attempt, several thousand Burundian refugees voluntarily repatriated.

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

A multiparty political system was officially introduced in 1992 after 28 years of one-party rule. Pending local elections postponed until 1994 with the concurrence of the opposition parties and national elections in 1995, the Chama Cha Mapinduzi Party remains the sole party in the Government. In April all but one opposition party boycotted a parliamentary by-election in Zanzibar, ostensibly to protest the absence of further constitutional and legislative reforms they believed necessary for free and fair competition. However, most opposition parties have indicated that they will participate in two parliamentary by-elections in early 1994. In 1992 the Constitution was amended to allow for the impeachment of the President and votes of no confidence in the Prime Minister.

By the end of the year, there were 11 newly registered political parties, with the main potential opposition to the CCM found in James Mapalala's Civic United Front, two factions of the Union for Multiparty Democracy headed by Christopher Kassanga Tumbo and Chief Abdullah Fundikira, Edwin Mtei's Party for Democracy and Development, and Mabere Marando's National Conference for Construction and Reform.

Growing political discussion has brought to the surface open controversy over the issue of the Union between Zanzibar and the mainland, leading to mainland parliamentarians engaging in an unprecedented questioning of government policy. Many mainlanders have resented Zanzibar's disproportionate representation and influence in state institutions, heightened by Zanzibar's decision in late 1992 to join the Organization of the Islamic Conference (OIC). Pressure from mainland parliamentarians forced Zanzibar to withdraw from the OIC in August, and at the same time Parliament approved a motion calling for the establishment of a separate mainland government of Tanganyika. The Union Government agreed to solicit public opinion on possible modalities to establish a separate Tanganyika government and report its recommendations by April 1995. Other issues debated in the 1993 budget session by Parliament broke new ground in their substance and tone.

There are no restrictions in law on the participation of women in politics and government. However, in practice the number remains small, largely due to cultural impediments to the schooling of women, as well as to the economic exigencies of raising large families and engaging in subsistence agriculture (see Section 5.a.). Females comprise 28 of 248 members of the National Assembly and 3 of 25 cabinet members.

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

Local groups devoted solely to monitoring human rights abuses began to form in 1993 but had not established effective procedures to address specific cases of human rights abuse. While the Government continues to resent outside inquiries into alleged violations of human rights, it has allowed visits by representatives of international human rights groups in the past. In August the Government announced plans to hold tribunals or conferences throughout the country on human rights abuses, focusing specifically on abuses against women and children. The Tanzanian women's media association sponsored such a workshop in November.

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

The Constitution prohibits discrimination based on nationality, tribe, origin, political affiliation, color, religion, or lifestyle. Discrimination based on sex, age, or disability is not specifically prohibited by law but is publicly discouraged in official statements.

Women.—Both party and government constitutions endorse equality in the workplace. Nevertheless, strong traditional norms still divide labor along gender lines and place women in a subordinate position. For example, women face widespread discrimination in access to educational opportunities, and in the countryside they are relegated largely to farming and raising children. Female students who become pregnant are dismissed from school. Under Zanzibari law, unmarried women under the age of 21 who become pregnant are subject to 2 years' imprisonment, although this has not been enforced for several years.

Progress on women's rights has been more noticeable in urban areas, where traditional values are weaker, but even there and in the public sector, which employs 80 percent of the salaried labor force, certain statutes restrict their access to some jobs or their hours of employment. According to 1988 statistics, only 3 percent of economically active women are engaged in the wage and salary employment sector, and women are still concentrated in the traditional fields of nursing, teaching, clerical, and related jobs.

The overall situation for women is even less favorable in heavily Muslim Zanzibar. Women there and in many parts of the mainland face discriminatory restrictions on inheritance and ownership of property because of concessions by the Government and courts to customary and Islamic law. While provisions of the Marriage Act provide for certain inheritance and property rights for women, application of customary, Islamic, or statutory law depends on the lifestyle and stated intentions of the male head of household. The courts have thus upheld discriminatory inheritance claims, primarily in rural areas.

Violence against women is widespread. Legal remedies exist but in practice are difficult to obtain. Traditional customs subordinating women remain strong in both urban and rural areas, and often local magistrates uphold them. The husband has a free hand to treat his wife as he wishes, and wife-beating occurs at all levels of society. Cultural, family, and social pressure prevents many women from reporting abuses to authorities. Government officials frequently make public statements decrying such abuses, but rarely is action taken against perpetrators. Several nongovernmental organizations provide counseling and education programs on women's rights issues, particularly sexual harassment and molestation.

Children.—Tanzania has ratified the Convention on the Rights of the Child and has made a number of constructive efforts to address socioeconomic conditions that adversely affect children. For example, the Government has allotted a plot to erect an edifice to house street children near Dar es Salaam and has worked closely with churches and nongovernmental organizations to assess the well-being of orphans and neglected children. The ruling party's National Policy for Children and Young Persons' Welfare has exerted continuing pressure for commitment of public policy to welfare and advocacy of children's rights. However, government funding of programs for children is only 2.3 percent of government development expenditure, and nongovernmental organizations that could support governmental efforts to provide services and protection to children are only just emerging.

Although officially discouraged by the Government, female genital mutilation (circumcision) is still performed at an early age in approximately 20 of the country's 130 mainland ethnic groups. Government officials have called for changes in customs which adversely affect females, but no legislation has been introduced that would specifically restrict the practice of female circumcision. Seminars sponsored by various governmental and nongovernmental organizations are regularly held in an attempt to educate the public on the dangers of these and other traditional prac-

tices. Health authorities state the practice is declining, but nongovernmental sources maintain it is on the rise, especially in Central Tanzania.

National/Racial/Ethnic Minorities.—The Barabaig people of Central Tanzania have been subject for many years to government discrimination. The Barabaig and their attorneys maintain that the Government has illegally dispossessed them of their traditional lands in order to implement a government-run agricultural project. A probe team established to investigate Barabaig complaints made over 30 recommendations in May but supported continuation of the agricultural project that prompted the conflicts. The probe team confirmed cases of violence against the Barabaig and noted that several cases were still pending in court.

The Asian community has declined by 50 percent in the past decade to about 44,000. The Asians have been regarded with considerable antipathy by many African Tanzanians since they are a business-oriented minority in a recently Socialist society, since they have disproportionate influence in key sectors of the economy, and since they have remained culturally and economically exclusive. There are, however, no laws or official policies discriminating against them. As the Government places greater emphasis on market-oriented economic policies and privatization, concerns regarding Asian economic dominance have increased. This has led to demands for policies of "indigenization" to ensure that privatization does not increase Asian economic predominance at the expense of the African population. Several Asians were attacked, robbed, and injured in Dar es Salaam in April after Democratic Party leaders vociferously denounced nonindigenous businessmen during a public rally. There is a similar but smaller Arab community.

Religious Minorities.—As a consequence of colonial and postindependence administration, which refused to recognize the traditional mosque schools, there are significant disadvantages for the Muslim community in educational achievement, prominence in civil service and government, and in business success, with resulting widespread Muslim resentment of the perceived unfair advantages enjoyed by Christians. Christians, in turn, have been critical of what they perceive as undue favoritism accorded to Muslims in appointments, jobs, and scholarships by the President, who is a Muslim. Some leaders in both camps appear to be playing up imbalances, which reflect past historical circumstances rather then deliberate discrimination. In fact, there does not at present appear to be any serious problem of discrimination on account of religion in access to employment or educational opportunities. Muslim parents, however, especially in rural areas, often do not send their daughters to school because of a traditional belief that education is unnecessary or even detrimental for women.

People with Disabilities.—Physically disabled individuals are effectively restricted in access to education, employment, and provision of other state services due to physical barriers, which are not legally prohibited, and limited funding for special facilities and programs.

Section 6. Worker Rights

a. *The Right of Association.*—Workers do not have the right to form or join organizations of their own choice. At the end of 1993, there was still only one labor union organization, the Organization of Tanzania Trade Unions (OTTU), to which all unionized workers belong. A subgrouping of teachers (Chakiwata) negotiated an arrangement to operate independently of OTTU in 1993. And in November, the Tanzania Teacher's Union (known as CWT in Swahili) was registered. This union exists only on paper pending union elections in early 1994.

The OTTU is nearing the end of a 3-year restructuring period which will culminate in union general elections in 1994. The purpose of the restructuring is to enable union workers to elect new leaders who have not been "prequalified" by the ruling party and to reshape the organization as an umbrella organization presiding over a federation of independent unions. The initial steps taken thus far have been to make the OTTU legally separate from the ruling party. However, the new Labor Law which accomplished this also mandated that all union labor must be under the OTTU and permits the President of Tanzania to disband any member union of the OTTU at his discretion.

While the OTTU is no longer considered to be a mass organization of the CCM party, it has pledged continued affiliation to the CCM, and most of its officials are current or former CCM officers. The OTTU, like its predecessor, JUWATA, represents approximately 60 percent of the workers in industry and government, but it has little influence on labor policy. Overall, roughly 25 percent of Tanzania's 2 million wage earners are organized. All workers, including those classified as "essential" service workers, are permitted to join OTTU, but "essential" workers are not permitted to strike.

Workers have the legal right to strike only after complicated and protracted mediation and conciliation procedures leading ultimately to the Industrial Court. The Industrial Court receives direction from the Minister of Labor and Youth Development. If the OTTU is not satisfied with the decision of the Industrial Court, it can then conduct a legal strike. These procedures can prolong a dispute for months without resolving it. Pending a resolution, frustrated workers often stage impromptu wildcat strikes and walkouts. Although most strikes are in effect illegal (there were no legal strikes in 1993), there were several wildcat strikes, notably in the railway sector, and a number of managers were locked out of company premises by workers over labor disputes. There are no laws prohibiting retribution against legal strikers. However, penalties are seldom, if ever, imposed against even illegal strikers, and there were no cases of retribution against striking workers in 1993.

The OTTU continued JUWATA's policy of limiting its international affiliations to regional and pan-African trade union organizations.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining is protected by law but limited to the private sector. Wages for employees of the Government and state-owned organizations, which account for the bulk of the salaried labor force, have routinely been set by the Government. However, the Ministry of Labor established a board to review and regulate wage rates which included representatives of the Government, trade unions, and employers' organizations.

Although the OTTU may negotiate on behalf of most private sector employees with the Association of Tanzania Employers, collective agreements must be submitted to the Industrial Court for approval. The International Labor Organization (ILO) has observed that these provisions are not in conformity with ILO Convention 98 on collective bargaining and the right to organize. Tanzania's Security of Employment Act of 1964 prohibits discriminatory activities by an employer against union members. Employers found guilty of antiunion activities are legally required to reinstate workers.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced labor. However, again in 1993 the ILO observed that provisions of various Tanzanian laws are incompatible with ILO Conventions 29 and 105 on forced labor. Specifically, the Human Resources Deployment Act (1983) requires every local government authority to ensure that able-bodied persons over 15 years of age not in school engage in productive or other lawful employment. As in previous years, police officials rounded up beggars and street people and returned them to their home villages. In some rural areas, ordinary villagers are still obligated to work in the village's communal garden a set number of days per week. In one case, residents complained that the income from these plots was never distributed.

d. *Minimum Age for Employment of Children.*—By law, children under the age of 12 are prohibited from working, but this provision applies only to the formal wage sector in both urban and rural areas and not to children working on family farms or herding domestic livestock. Children between the ages of 12 and 15 can be employed on a daily wage and on a day-to-day basis but must have parental permission and return to their residence at night.

The minimum age for entry into work of a contractual nature in approved occupations is set at the age of 15. It is prohibited for a child or young person to be employed in any occupation that is injurious to health and that is dangerous or that is otherwise unsuitable. Young persons between the ages of 12 and 15 may be employed in industrial work, but only between the hours of 6 a.m. and 6 p.m., with some exceptions allowed.

A 1992 ILO report stated that the problem of child labor in Tanzania is widespread and prevalent, with conditions in the plantation industry particularly detrimental to children. According to the report, the existing legal framework regulating the employment of children is not fully adequate and does not conform with international standards, nor are the enforcement machinery and the Ministry of Labor inspectorate equipped to deal with the problem. Government officials and nongovernmental organizations are aware of the growing problem but are limited in their responses by lack of resources and institutional capacity.

e. *Acceptable Conditions of Work.*—There is a legal minimum wage for employment in the formal sector. The OTTU often negotiates higher minimum wages with individual employers, depending on the financial status of the business. A worker earning the minimum wage, even when supplemented with various benefits such as housing, transportation allowances, and food subsidies, may not always be able to provide an adequate living for his family, and must depend on the extended family or a second or third job. The official minimum wage averages from $7 to $11 (3,500 to 5,000 Tanzanian shillings) per month, but many workers, especially those in the informal sector, are paid less.

There is no standard legal workweek. However, a 5-day, 40-hour workweek is in effect for government workers. Most private employers retain a 6-day, 44- or 48-hour workweek. In general, women may not be employed between 10 p.m. and 6 a.m. Several laws regulate safety in the workplace. An occupational health and safety factory inspection system, set up with the assistance of the ILO, is now managed by the Ministry of Labor and Youth Development. Its effectiveness, however, is minimal. OTTU officials have claimed that enforcement of labor standards is fairly effective in the formal sector, but no verification studies have been performed. Workers can take an employer to court through their OTTU branch if their working conditions do not comply with the Ministry of Labor's health and environmental standards. Workers making such complaints have not lost their jobs as a result. Enforcement of labor standards is nonexistent in the informal sector.

TOGO

During 1993 President Gnassingbe Eyadema continued to consolidate effective state power. He arbitrarily declared the termination as of December 31, 1992, of the transitional government including the legislative High Council of the Republic (HCR), which had been appointed by the National Conference in 1991. In January he reappointed as Prime Minister Joseph Kokou Koffigoh, whose Government, though nominally independent, cooperated closely with the President throughout the year and regularly took policy positions consistent with Eyadema's views. On August 25, Eyadema won reelection as President in an electoral process marred by serious irregularities and by the nonparticipation of all major opposition candidates and a majority of Togo's registered voters. The opposition, known as the Collective for Democratic Opposition (COD II), and the HCR rejected the President's moves, including installation of the Koffigoh Government, as unconstitutional.

Toward year's end, the Government began preparations for legislative elections to be held in early 1994. The Government agreed to meet some opposition demands concerning technical election preparations but did not accede to broader political demands. Some opposition parties declared their intention to boycott the polls on the basis that genuinely free elections were not possible under prevailing circumstances, while others planned to participate provided that conditions they considered necessary were met.

The President's power rests on his control of the security forces, especially the army which is largely composed of officers (90 percent) and soldiers (70 percent) from the President's northern ethnic group. The Togolese security forces, numbering approximately 13,000, consist primarily of the army, navy, air force, national police (Surete), and gendarmerie. The Interior Minister is nominally responsible for the national police, whose director reports in reality to the President. The Defense Minister nominally supervises the other Togolese security forces but, in fact, they report through the General Staff to President Eyadema. Security forces committed various human rights abuses. The call for the creation of a politically neutral special security force with the task of providing election security was one of the key demands cited by the opposition and independent labor unions in launching the November 1992-July 1993 general strike, along with a demand for a declaration of neutrality by the army and a reshuffling of the Cabinet of Ministers to include more opposition representatives.

About 80 percent of its 3.4 million people are engaged in subsistence agriculture, but the country also has an active commercial sector. Togo has an annual per capita gross domestic product of less than $500. The 8-month general strike severely damaged both the public and private sectors of the economy. Declining prices for Togo's principal exports (phosphates, coffee, cocoa, and cotton) continued to affect the economy adversely.

The human rights situation deteriorated significantly in 1993, with the President turning back the clock on democratic progress and with the security forces engaging in massive abuses, including political killings and intimidation of political opponents and the press. During the year, several hundred thousand people became displaced or temporarily fled the country for safety, and the political opposition became increasingly divided, with some of its partisans committing serious abuses. The President frequently benefited from the pattern of army violence, which intimidated the opposition and strengthened his hold on power.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Government security forces and, to a lesser extent, opposition partisans were responsible for political and extrajudicial killings. On January 25 and 30, members of the security forces committed a series of extrajudicial killings. In the January 25 incident in Lome, the forces fired on crowds of unarmed opposition demonstrators, numbering in the thousands, killing at least 19 and wounding many more, according to credible human rights sources.

Between January 26 and 30, unknown assailants (but suspected to be opposition militants) killed and wounded at least four members of the security forces in Lome, primarily in opposition-dominated neighborhoods. The military and the Government blamed COD-II for the killings. On January 30, members of the security forces responded to these attacks by firing indiscriminately for a period of 8 hours in various Lome neighborhoods, killing at least 12 people and wounding 31 or more. Security forces ransacked several houses belonging to opposition leaders and looted over 20 stores. Much higher figures of dead and wounded have been cited for the January 25 and 30 attacks, but these could not be confirmed. The January 30 incident provoked the flight of more than 250,000 Togolese to neighboring countries. In addition, roughly 125,000 were displaced within the country as primarily Lome residents fled the capital's violence for the relatively peaceful countryside.

On March 25, in an attack credibly attributed to armed Togolese oppositionists, a group of commandos, some based in Ghana, attacked Lome's main military camp, killing General Mawulikplimi Amegi, President Eyadema's personal military Chief of Staff, and severely wounding the Commander of the Presidential Guard, Lt. Col. Gnandi Akpo, who later died of his injuries. The apparent aim of the attack was to kill President Eyadema. In retaliation, over a period of several days security forces summarily executed at least 20 Togolese, mainly soldiers. The victims included Colonel Koffi Tepe, Deputy Chief of Staff of the armed forces, who was later accused publicly by the Defense Minister of involvement in the March 25 attack, two of Tepe's sons, and one nephew. Well over 300 soldiers sought refuge in Ghana and Benin. Victims of the purge appear to have included soldiers suspected of involvement in the March 25 attack, those thought to have opposition or democratic tendencies, and some simply belonging to southern ethnic groups.

It was unknown whether these extrajudicial killings referred to above and variously attributed to elements of the Government or the opposition were specifically directed by higher authorities on either side. The Government took no effective action to arrest or punish the perpetrators of any of the January or March attacks. It did issue a warrant for the arrest of opposition political leader Gilchrist Olympio, which was later withdrawn when Olympio officially declared his candidacy for the Presidency. COD-II members denied involvement in the March 25 attack.

Political and extrajudicial killings continued throughout the year. For example, on April 15, members of the security forces in Cinkasse, northern Togo, shot to death three anti-Eyadema demonstrators. On election eve, August 24, members of the security forces in Lome shot and killed gas station attendant Joseph Akara and wounded Louis Amedome, Secretary-General in the Mayor's office of Lome, as the two passed close to the Ghana border during the night. Government spokesmen subsequently claimed that the security forces had thus foiled a cross-border incursion by oppositionists, although no evidence of involvement in the purported incursion by Akara or Amedome was presented. On August 26–27, 19 persons died under mysterious circumstances while in police custody. The 19, as well as others, had been arrested in Agbandi and Diguina, near Blitta, central Togo, for their alleged destruction of polling places on election day, August 25. They were beaten at the time of arrest, and, according to credible reports, the 19 died of suffocation because of confinement in a cramped, airless cell. Among those who died were four young boys, aged between 12 and 15. The Government claimed, unconvincingly, that the fatalities were caused by poisoned food brought by the victims' friends and relatives.

b. *Disappearance.*—No confirmed cases of disappearances were reported during 1993.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although detailed information was lacking, there were plausible reports that Togo's security forces tortured detainees on several occasions in 1993, including, according to the defense lawyer, the suspects in a July political bombing case (see Section 1.e.). Torture appears most commonly to take the form of severe beatings. Detainees are frequently beaten by the security forces after arrest.

Prison conditions remained very harsh, with serious overcrowding and inadequate food and medical care. The International Committee of the Red Cross and local pri-

vate organizations are allowed access to prisons for monitoring purposes with advance government permission.

d. *Arbitrary Arrest, Detention, or Exile.*—Under long-standing Togolese law, persons arrested may be held incommunicado without charge for 48 hours, with an additional 48-hour extension in cases deemed serious or complex. In practice, most detentions conform to this provision. However, prisoners may legally be detained without bail for lengthy periods once they have appeared before a judge. Bail is rarely granted for serious crimes. Access is normally granted to family members and attorneys after the initial 48- or 96-hour detention period. Warrants are issued by a judge or senior police official. Although detainees have the right to be informed of the charges against them, this is not always done in practice. Pretrial investigation is conducted by a special judge who examines the adequacy of the evidence and decides on bail.

Nevertheless, the shortage of qualified judicial personnel, especially judges, the lack of training and material resources, and official indifference have produced a backlog of prisoners who are held for long periods of time—in some cases 1 to 3 years—before being brought to trial. Most pretrial detainees are accused of common crimes, but a few are accused of politically motivated crimes. The Government frequently used brief investigative detentions of less than 48 hours, some of which were related to the detainee's opposition political activity. For example, Alessi Wilson, the treasurer of the Togolese Human Rights League, was held by authorities for more than a day due to his investigation of the killing of Isaac Gbikbi.

The number of political detainees held by the Government at year's end was unknown, but there were at least several, despite government denials. Ex-Corporal Bikagni Nikabou, who was alleged to have smuggled arms into Togo for use by opposition militants, has been detained without trial since October 1992. His father and brother, who were arrested shortly thereafter, continued to be detained without charges being brought against them.

In 1993 there were no persons formally exiled from Togo. However, most opposition leaders left Togo for an extended period for reasons of personal safety following the January 30 random shootings in Lome. Subsequently, most top opposition leaders returned to Togo by July.

e. *Denial of Fair Public Trial.*—The judicial system, while formally independent of the Government, is subject to intervention and manipulation by the executive branch. This was most evident in the 1993 Supreme Court's decision to exclude Gilchrist Olympio from the presidential race.

The judicial system employs both African traditional law and the Napoleonic Code in trying criminal and civil cases. The Supreme Court stands at the apex of the court system. Special courts exist to handle cases related to public security (State Security Court), embezzlement of public funds (Tribunal for Recovery of Public Funds), and violent crimes (Court of Assizes). The State Security Court has not convened in recent years.

The court system remained overburdened and understaffed (see Section 1.d.). The result was a serious impediment to the delivery of justice. Trials are open to the public, and judicial procedures are respected. Defendants have the right to counsel from the preliminary investigative phase, may confront witnesses and present evidence, and enjoy a presumption of innocence. Lower court decisions may be appealed to two higher courts. In rural areas, the village chief or Council of Elders may try minor criminal and civil cases. Those who reject the traditional ruling may take their case to the regular court system, which is the starting point for cases in urban areas.

There were no clear cases of political prisoners (as distinct from political detainees) in Togo in 1993. On September 10, the Third Chamber of the Lome Criminal Court convicted two members of the opposition political party Democratic Convention of the African People (CDPA), Gerard Akoumey and Stephane Koudossou, of placing a bomb in July at the headquarters of the Action Committee for Renewal (CAR) opposition political party. The bomb caused minor injuries to several persons and modest damage to the CAR headquarters and the adjacent National Human Rights Commission offices. The defendants publicly confessed, but some opposition figures asserted that the charges were trumped up. The lawyers for the defendants withdrew from the case when their arguments alleging that one defendant was underage and that the confessions had been coerced were rejected by the Court. The defendants were convicted nonetheless in the absence of counsel. The trial fell short of a fair trial by internationally accepted standards.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—In criminal cases, searches of private residences may be authorized by a judge or senior police official. In political and national security cases, the security forces need no prior authorization. Telephone taps and monitoring of correspondence are once

again being practiced by the Government after a year's hiatus. The police and Gendarmerie continue to maintain domestic intelligence services.

There were massive violations of privacy and home by security forces in the January and March disturbances (see Section 1.a.). Death threats and apparent surveillance by government forces directed against opposition leaders were common. Some prominent figures avoided living at home because of the perceived threat to their safety. The Government has undertaken no investigations of these abuses.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and press. These rights, however, were often constrained by threats, harassment, damage to property, and personal violence. Forces sympathetic to the Eyadema Government were most likely responsible for these actions.

Approximately 15 independent weekly or biweekly newspapers were published in 1993 and were often critical of the Government. While opposition newspapers are widely available in Lome, some have reported difficulties in distributing their editions in interior regions because of harassment from supporters of President Eyadema.

On February 26, unknown assailants severely wounded the editor in chief of the opposition newspaper Ablode, Leopold Ayiti, who also was a spokesman for COD II. So far as is known, no efforts have been made to apprehend the perpetrator of the crime. On April 15, a group of persons, some reported to be in military uniform, entered and ransacked the offices of the Tribune Des Democrates, an opposition newspaper, beating members of the newspaper staff who were present. It is again believed that the perpetrators were members of the security forces, possibly angered by articles strongly critical of the security forces.

On May 25, a bomb exploded at the Grandes Editions printing plant, publisher of three opposition newspapers. Two of these newspapers are now printed in Benin. On June 4, a small explosion shattered the windows of the building housing the opposition newspaper Atopani Express. Pro-Eyadema elements, perhaps associated with the security forces, were the likely perpetrators.

The 8-month general strike (November 1992-August 1993) had a deleterious effect on the news industry. The strike, triggered by public outrage over soldiers taking members of the HCR hostage in November 1992, had primarily political aims, including calls for a politically neutral security force to provide election security, neutrality by the army, and more opposition representation in the Cabinet. When the strike began, most journals suspended publication as a gesture of support for the strike. As the strike wore on, opposition newspapers began to publish special editions at half the regular price or, in some cases, had to suspend operations for lack of income. Most of the major independent weekly and biweekly newspapers had resumed regular publication by September 1993.

The Minister of Communications and Culture convened a meeting in May with representatives of the independent media and cautioned them to be more responsible in their reporting. The Interior Minister in August warned newspapers and tract publishers that they would be prosecuted for publishing defamatory material and that the offending publications would be seized.

In the last quarter of 1993, official harassment of the opposition press increased, including through the courts. Government authorities seized several opposition newspapers on the grounds that they lacked complete information in their mastheads as required by law. In November the authorities detained a representative of the opposition newspaper Ibanou Express, Claude Gumzoe, for more than a week when he was found carrying a copy of the Express into the countryside. On November 17, they arrested Katakpaou Toure, the director of the opposition newspaper Lettre de Tchaoudjo, for publishing an alleged defamatory article. Subsequently, a court fined Toure $20,000 (5.5 million CFA francs) and gave him a 12-month prison sentence, with 11 months suspended, for defaming President Eyadema and Defense Minister Bouraima. Toure was released immediately since he had already served more than 1 month in jail awaiting trial. However, three other members of his newspaper's staff, arrested at the same time as Toure, apparently on similar grounds, remained in custody without trial at year's end.

In another case, on November 24, the Government tried in absentia in the Lome Criminal Court the director of publication of Ibanou Express, Komlan Ihougan, and a staff writer, Angele Kpanouvi, on charges of defaming President Eyadema. On December 17, the Court sentenced Ihougan and Kpanouvi in absentia to 3 years' imprisonment and fined them $7,275 (2 million CFA francs). Court proceedings in a case stemming from charges of defamation brought in September 1992 against the director of a leading weekly, La Parole, had yet to be concluded.

In 1993 the official media (two radio stations, one television station, one daily newspaper) provided coverage that was strongly slanted in favor of President Eyadema and the Government. Except for the 2-week official campaign period just before the August 25 presidential election, which the opposition boycotted, the state media deliberately ignored opposition activities or statements and any international commentary critical of the Government.

Two private Ghana-based Togolese radio stations broadcast opposition views in 1993. One, Radio Liberte, broadcast a call to arms to the Togolese people as the March 25 attack on Lome's main military camp was under way. These stations were heavily jammed by the Togolese Government. Two pro-Eyadema private radio stations were established in 1993.

The University of Benin, Togo's sole university, was closed during much of the long general strike. Most primary and secondary schools were closed as well. Academic freedom exists in the sense that there is an atmosphere in which ideas and differences of opinion can in principle be debated, but in practice opinions expressed in academic forums tend to be muted because of concerns about potential government harassment.

b. *Freedom of Peaceful Assembly and Association.*—Under the Constitution, Togolese are free to assemble and to organize in associations and political parties. Public demonstrations require advance notification, and on occasion the Government bans demonstrations or modifies their time or place, citing grounds of public safety or interference with public business. In September the Government issued a declaration that henceforth demonstrations would be banned on weekdays in order to avoid interference with work.

In practice, security forces repeatedly used excessive force to prevent political assembly and demonstrations and to harass opposition leaders (see Section 1.a.). On January 19, government security forces shot and wounded four persons in a crowd of citizens gathered in a peaceful prodemocracy demonstration to show support for the High Council of the Republic.

Political groups from southern Togo hesitated to campaign in the north, the President's home area, where they were sometimes harassed or attacked by supporters of the President. Progovernment figures, including the Prime Minister, were occasionally subject to harassment when visiting opposition strongholds in southern Togo.

There are a number of private associations. In order to be officially recognized, private associations must register with the Government, a procedure that is not unduly burdensome.

c. *Freedom of Religion.*—The Constitution provides for religious freedom, which is enjoyed in practice in terms of religious belief, clergy, and religious publications. Non-Togolese clergy are welcome in Togo. They are free to proselytize and engage in other religious activities.

Local religious groups are free to maintain contacts with coreligionists in other countries. There are no restrictions on travel for religious purposes. All official religious observances are ecumenical in nature, and the Government does not favor any specific religion. Membership in a particular religious group confers no advantage or disadvantage in the regime.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The right of domestic and foreign travel and emigration, the right to change residence or workplace, and the right to return to the country are generally respected.

More than 250,000 Togolese, mainly southerners, fled to neighboring Benin and Ghana, and roughly 125,000 persons moved from their homes to new locations within Togo after the January and March events. By the end of the year, many Togolese, with government encouragement, had returned from Benin and Ghana and from the interior, although others remained in their place of refuge, concerned about unsettled conditions and their personal safety.

Refugees are permitted to stay in Togo and are not forced to return to countries in which they fear persecution. An estimated 300 officially recognized refugees reside in Togo. They are mainly Ghanaians and Liberians.

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

In 1993 the people of Togo did not enjoy the right to change their government by peaceful means. President Gnassingbe Eyadema dominated the Government. Declaring that the transition government and its institutions in their present form expired on December 31, 1992, President Eyadema on January 18 unilaterally reappointed Joseph Koffigoh as Prime Minister. The opposition and the High Council of the Republic rejected Koffigoh's appointment as unconstitutional, since the

HCR under the interim Constitution has the power to name or change the Prime Minister. This dispute left the Prime Minister and the Government he formed in February in an ambiguous legal status. While nominally independent, the crisis Government headed by Prime Minister Koffigoh was, in fact, subordinate to President Eyadema.

The legislative branch, the HCR elected by the National Conference in 1991, did not function in 1993. Most HCR members fled Togo after the January 30 shootings in Lome, making it difficult or impossible to gather a quorum.

Presidential elections held on August 25 were seriously flawed. Although the modalities for the elections had been agreed in difficult negotiations between the opposition and the President's representatives, culminating in the Ouagadougou Accords of July 11, the Eyadema regime did not faithfully implement them. One major opposition candidate, Gilchrist Olympio, was excluded from running by the Supreme Court on essentially technical grounds. The other two major opposition candidates, Edem Kodjo and Yaovi Agboyibor, ultimately boycotted the elections and called on their supporters also to boycott the polls, publicly basing their decision on the tardy and flawed electoral preparations. After Kodjo's withdrawal, the four opposition members of the independent National Electoral Commission withdrew from the Commission, as did some opposition supporters on the local electoral commissions and polling staffs. The opposition parties did not provide delegates to observe polling operations as allowed by the Electoral Code and generally failed to demonstrate a commitment to prepare seriously for the elections.

In the absence of meaningful opposition, and with only a minority of voters going to the polls, President Eyadema won reelection by default for a 5-year term. There were many irregularities, e.g., inflated and inaccurate electoral lists and double voting. There was also intimidation and sacking of polling places by opposition sympathizers intended to impede the elections.

French official observers, as well as private observers, specially selected and invited by the Togolese Government, remained to monitor the elections, while an official German delegation and a joint National Democratic Institute/Carter Center delegation, led by former President Carter, withdrew after all remaining major opposition candidates decided to boycott the elections. The Government allowed some nongovernmental organizations to observe the elections but failed to grant permission to others such as the Inter-African Union for Human Rights.

There are no restrictions in law on the participation of women in political activities, and many women do participate through membership in associations and political parties, teachers' unions, and protest groups. However, the total number of women in government is small. Five women are in the 79-member HCR, and 1 woman is a Minister in the Government.

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

Several private human rights groups exist, among them the Togolese Human Rights League and the Association for the Promotion of the Rule of Law. The Togolese Human Rights League prepared some reports in 1993 on the Togolese human rights situation. However, the Eyadema-controlled security forces subjected human rights monitors to threats and harassment. In the wake of the January 30 violence, many human rights monitors left Togo. None was able to function effectively as a result.

The National Human Rights Commission (CNDH), established and funded by the Government, was also largely inactive through much of 1993 because of the closure of its office during the extended general strike and the departure abroad of its president because of security forces' threats against him. Citing the long-term absence of the CNDH's president from Togo and the expiration of the terms of office of CNDH members, the Government in October issued a decree designating four members of the CNDH's Executive Committee to take charge of current operations until a new permanent commission was formed, as called for by the Constitution. The president of the CNDH, a strong critic of the Eyadema regime, was excluded from the reconstituted CNDH Executive Committee, and denounced the Government's move as illegal interference with the Commission's affairs.

A Ministry of Human Rights also exists, but since September 1992 it has been combined with the Ministry of Social Welfare. This Ministry conducted little activity in 1993, due in part to the general strike which emptied many government offices.

The Government received visits from representatives of governmental and nongovernmental international human rights organizations in connection with observation of the August 25 elections. In addition, in December a representative of the Montreal-based International Center for Human Rights and Democratic Development visited Togo. On March 11, the United Nations Human Rights Commission

adopted a resolution deploring the repeated acts of violence which resulted in many civilians being killed or wounded and the use of force by the armed forces during peaceful gatherings. Amnesty International published a critical report on Togo's human rights situation on October 5. The Government responded publicly, asserting that Amnesty International favored the opposition and was engaging in a maladroit attempt to destablize the country.

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

The Constitution prohibits discrimination on the basis of ethnic group, regional or family origin, sex, religion, social or economic status, or personal political or other convictions. Legal mechanisms exist for redress of discrimination complaints, but they are not very effective. Private sector discrimination on the basis of ethnic group and gender, while not officially sanctioned, is common.

Women.—Notwithstanding constitutional protections and economic and social rights, including maternity leave benefits, set forth in the Family Code adopted in early 1980, in practice women continue to be subjected to discrimination, especially in education, pension benefits, and traditional law. A husband may legally oppose his wife's right to work and assert control over her salary. Employers are often reluctant to hire women, especially to positions of responsibility. Far fewer women than men receive university education, and the number of women graduates from secondary schools is low, which accounts for a low female literacy rate of 31 percent (compared with 56 percent for males).

In the urban economic sphere, women dominate both local market activities and commerce with Togo's neighbors, often amassing considerable wealth in the process. However, harsh economic conditions in rural areas, where most of the population lives, leave women with little time for anything other than taxing domestic and agricultural field work. More than civil law, customary or traditional law—which affects the vast majority of women—discriminates against women, e.g., a wife has no rights in the case of divorce, separation, or death of a spouse.

Violence against women, including wife beating, occurs in Togo. Mechanisms exist within both the traditional extended family and formal judicial structures for redress, but the police rarely intervene in domestic violence cases. In recent years, instances of trafficking in Togolese women for purposes of prostitution have come to public attention. Local houses of prostitution exist. In addition, Togolese women have been promised jobs in the Middle East or Europe, transported there and then forced into prostitution and sometimes otherwise abused. There are no specific laws dealing with trafficking of this nature, and the Government has made no visible efforts to curtail it.

Children.—The Government devotes few resources to children's welfare. For example, there are only a handful of juvenile courts, and children are often mixed with adult criminals in jails. Orphans or other needy children are aided more by extended families or private organizations than by the State. Tradition often dictates that, especially in financially strapped families, a male child is selected to be educated in preference to a female. In fact, females receive only one-third of the schooling of males, according to a U.N. study.

Female genital mutilation (circumcision) is performed at an early age and is practiced by a few ethnic groups in Togo's northern and central regions. While some reports indicate the practice may be gradually diminishing, an expert in the field indicates that as many as 50 percent of the females may have been mutilated.

National/Racial/Ethnic Minorities.—The security forces are dominated by northern ethnic groups, while commerce and the professions tend to be the preserve of southerners. Most political parties are dominated by southerners, except for the pro-Eyadema party. Ethnic rivalries dating from precolonial times have been exacerbated by the civil unrest of recent years and inadequate law enforcement.

With the rise in tensions between the north and south of Togo, some residents of minority ethnic groups in those regions have been harassed and attacked by their neighbors belonging to the majority groups and consequently moved back under pressure to their home regions. Southern Togolese were predominant among those who fled from Togo to neighboring Benin and Ghana after the January 30 shooting spree by security force members.

People with Disabilities.—The Constitution obliges the Government to aid disabled persons and shelter them from social injustice, but government assistance is limited in practice. Although disabled persons are not subject to official state discrimination and hold some responsible positions in the Government, disabled persons have no meaningful recourse against private sector discrimination. Some disabled persons find assistance and a livelihood in privately supported workshops,

while many others are compelled to beg in the streets. The Government does not mandate accessibility of public or private facilities.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution gives most workers the right to join unions and the right to strike. Members of the security forces, including firemen and policemen, are not allowed to join unions or strike, and government health care personnel do not have the right to strike. As approximately 80 percent of the population is engaged in subsistence agriculture, the work force in the formal (wage) sector is small, involving some 80,000 to 100,000 workers, of whom 60–70 percent are estimated to be members or supporters of a union.

Prior to 1991, the Government effectively limited the right of association by requiring all workers to pay dues to the National Confederation of Togolese Workers (CNTT), which was formerly associated with the ruling party, a practice that had been criticized for years by the International Labor Organization (ILO). This practice gave the CNTT a de facto monopoly on the labor movement, although trade unions could and did exist outside the CNTT. In August 1991, the National Conference suspended the automatic withholding of CNTT dues for all workers, and it froze CNTT's assets. A number of trade unions left the CNTT, some of which then affiliated with two new federations: the Labor Federation of Togolese Workers (CSTT) and the National Union of Independent Syndicates (UNSIT). The CNTT has probably been surpassed in membership by these new unions which, while independent of any political party, cooperated closely with the opposition parties in the recent 8-month general strike. While the CNTT no longer has a formal government affiliation, it remains associated with the Government and the former sole political party, the RPT (Rally of the Togolese People).

The Constitution prohibits discrimination against workers' rights for reasons of sex, origin, beliefs, or opinions. There is no specific law prohibiting retribution against strikers. Many civil servants were transferred in the wake of their participation in the general strike, and such transfers were widely denounced by labor leaders and opposition politicians as arbitrary and discriminatory.

After the military takeover of the HCR in October 1992, the independent unions belonging to the Independent Collective of Unions (CSI) called for an unlimited general strike, which began on November 16, 1992. It officially ended August 2, 1993, after the signing of the Ouagadougou Accords which called for multiparty presidential elections. Striker demands were primarily political. Because of the long general strike, there was little or no collective bargaining or other labor activity in 1993.

The various federations and unions are free to associate with international labor groups. The CNTT and the UNSIT are affiliates of the International Confederation of Free Trade Unions.

b. *The Right to Organize and Bargain Collectively.*—The Labor Code guarantees workers the right to organize and bargain collectively. All formal (wage) sector employees are nominally covered by a collective bargaining agreement. However, true collective bargaining is limited by the Government's role in producing one tripartite bargaining agreement signed by the unions, management, and the Government. This agreement sets wage standards for all formal sector employees. Individual groups in the formal sector can attempt, through collective bargaining, to negotiate a more favorable package, and some do, though it is not a common practice. The CNTT had a role in the bargaining process when it was the de facto monopoly labor federation, but it acted more as a spokesman for labor interests within the Government and ruling party than as an independent labor federation. Since 1991 the CNTT, as well as the newer labor federations, have taken a more active role in independent collective bargaining.

The 1974 Labor Code prohibits antiunion discrimination. The Ministry of Labor is charged with resolving labor-related complaints.

A law allowing the establishment of export processing zones (EPZ's) was enacted in late 1989. A number of companies have received EPZ status, and about a dozen have begun operations. The EPZ law provides exemptions from some provisions of the Togolese Labor Code, notably the regulations on hiring and firing workers. Employees of EPZ firms do not enjoy the same protection against antiunion discrimination as do other workers.

c. *Prohibition of Forced or Compulsory Labor.*—Although the law is silent on the question, forced or compulsory labor does not exist in practice.

d. *Minimum Age for Employment of Children.*—The Labor Code prohibits the employment of children under the age of 14 in any enterprise. Some types of industrial and technical employment require a minimum age of 18. These age requirements are generally enforced in the formal sector in urban areas by inspectors from the

Ministry of Labor. In both urban and rural areas, particularly in farming and petty trading, very young children traditionally assist in their families' work.

e. *Acceptable Conditions of Work.*—Minimum wages are set by the Government for different categories, but less than the official minimum wage is often paid in practice. Official minimum wages range from approximately $55 to $90 (14,000 to 22,000 CFA francs) per month. Many workers cannot maintain a decent standard of living at the lower official minimum wages, and many must supplement their incomes through second jobs or subsistence farming. The Ministry of Labor is ostensibly responsible for enforcement of the minimum wage system, but there is no effective enforcement in practice. Labor practices are regulated by the Labor Code. The Code stipulates that there should be equal pay for equal work, regardless of sex, and this provision is generally observed in the formal sector.

Working hours of all employees in any enterprise, except for agricultural enterprises, normally must not exceed 40 hours per week; at least one 24-hour rest period per week is compulsory; and workers must receive 30 days of paid leave each year. Enforcement is weak, however, and these provisions are not universally respected.

Health and safety standards in the workplace are determined by a technical consulting committee in the Ministry of Labor, which may levy penalties on employers who do not meet the standards. In practice, the Ministry's enforcement of the various provisions of the Labor Code is limited. Larger enterprises are required to provide medical services for their employees and usually attempt to respect occupational health and safety rules, but smaller firms often do not.

UGANDA

Since 1986 President Yoweri Museveni and his National Resistance Movement (NRM) have exercised authority through the National Resistance Council (NRC), an appointed Cabinet, and the National Resistance Army. Both the NRC and the Cabinet include members of the three major political parties, the Democratic Party (DP), the Uganda People's Congress (UPC), and the Conservative Party (CP). Although he generally seeks consensus with key institutions and interest groups on important policy issues, the President dominates the Government and the transition process to constitutional government. Elections for a Constituent Assembly to debate and adopt a new constitution were scheduled for March 28, 1994, with general elections under the new constitution to be held by the end of 1994. The present Government's term expires on January 25, 1995.

Under the President, the National Resistance Army (NRA) is the key security apparatus in Uganda. As part of his strategy to deal with insurgencies, Museveni expanded the army tenfold between 1986 and 1991, incorporating former rebels into the NRA; this eroded discipline within the ranks. In 1992, as the security situation stabilized, the Government began demobilizing the armed forces, discharging over 23,000 soldiers by the end of 1993. The professionalism of the police force continued to grow in 1993, although it remained severely underfunded, ill-trained, poorly equipped, and often corrupt. The Army, along with home guards and local defense units, continued to perform police functions in rural areas. The Internal Security Organization (ISO) is responsible for intelligence and security. As armed insurgencies in northern and northeastern Uganda ended during the year, reports of human rights abuses by the NRA and the rebels declined significantly.

The Ugandan economy remains primarily based in agriculture, with rural poverty a continuing problem. The economic growth rate averaged about 7 percent in 1993, with a negative inflation rate, both positive signs of the country's improving economy. Coffee remains the chief export crop and foreign exchange earner, but efforts to diversify the economy continued to pay off in modest increases in tobacco, cotton, and tea exports. Foreign aid contributed 60 percent of government spending in 1993. In accordance with reforms supported by the International Monetary Fund, the civil service began a retrenchment in 1992, cutting the government payroll.

Overall, the human rights situation in Uganda continued to improve in 1993. With the apparent end of major armed insurgencies, which had been responsible in the past for massive violations by both the NRA and the rebel forces, there were few reports of such violations, and by the end of the year the Government had released almost all civilian and military prisoners taken during the campaigns. Nonetheless, the Government continued to bear responsibility for some serious human rights abuses. These included restrictions on organized political party activity, including breaking up peaceful political assembly, the harassment of journalists through arrests on sedition charges, and occasional incidents of torture and beatings of prisoners. Discrimination, domestic violence, and rape against women continued.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There is no evidence that the Government sanctioned political killings in 1993. There were, however, reports of extrajudicial killings. For example, on June 21, police and internal security officials arrested four intelligence officers accused of murdering two prisoners in Iganga district onJune 7. The case received considerable media attention. Two of the four accused officers were released without charge; the other two were being held in Makindye military prison without charge at year's end.

Rebel groups also engaged in extrajudicial killings. In March a group calling itself The Lord's Resistance Army abducted the former District Administrator (DA) of Nebbi and killed three others; the DA was released by the group on April 29. In April, a rebel group led by Charles Ogwang killed a Resistance Council official and a Local Defense Unit member in Kumi district. In November a group thought to be members of the Lakwena rebels ambushed and killed an assistant security officer and one home guard in Gulu district. Remnants of Uganda Patriotic Army rebels killed three people in Kumi district, also in November. It is not clear whether the above incidents were politically motivated or criminal acts of murder.

In contrast to past years, there were no reports in 1993 that the NRA committed extrajudicial killings.

b. *Disappearance.*—There were no known government-sponsored disappearances in 1993.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—While isolated incidents of torture and beatings of prisoners by police and army officials continue, there is no evidence of government-sanctioned torture. "Kandoya," a traditional local method of immobilizing prisoners by suspending them by their wrists and ankles which are tied behind their backs, was still reported. The practice is illegal, however, and military authorities have publicly expressed their condemnation of it. Increased military discipline combined with increased security in the country, open newspaper reporting of military misconduct, and the political will of the higher levels of the administration resulted in reducing the incidence of abuses of persons under detention.

The International Committee of the Red Cross (ICRC) had access to all prisoners it requested to visit in prisons, police stations, military barracks and NRA detachments throughout Uganda. The NRA would not permit private ICRC interviews with soldiers who had not been sentenced. Diplomats from several countries were also allowed to visit civilian and military prisons.

Uganda's prisons reportedly have one of the highest mortality rates in the world from diseases spread by unsanitary conditions, malnutrition, and AIDS, a disease which is pandemic in Uganda. Prisoners do not have access to proper medical care nor adequate nutrition. The ICRC arranged for installation of a new water system for Luzira and successfully negotiated with the Government for families to be permitted to bring food to prisoners throughout Uganda, improving their nutrition. In 1993 there were media reports of homosexual rape among the inmate population. Luzira prison, Uganda's largest with an intended capacity of 600, held about 1,200 at the end of 1993, down from more than 2,000 at the beginning of 1992. The Foundation for Human Rights Initiatives in Uganda and Penal Reform International, an organization based in Britain, conducted a conference in August on penal justice and prison reform, including a visit by participants to Luzira.

d. *Arbitrary Arrest, Detention, or Exile.*—Although Ugandan law requires that a suspect must be charged within 24 hours of arrest and be brought to trial or considered for bail within 240 days (480 days for a capital offense), government officials failed to enforce both requirements.

The Government has a variety of legal means to detain indefinitely suspected opponents, including through broadly interpreted charges of treason that may be used to hold a suspect for 480 days before trial or consideration of an application for bail. The Public Order and Security Act of 1967 (The Detention Order) permits unlimited detention without charge, and remains a lever for the Government to use against opponents, but the Act has not been invoked by the NRM.

The Government released most of the remaining civilians and rebel soldiers who had been detained in the various insurgency campaigns; at one time they numbered in the thousands. The Government or NRA usually held these persons on treason charges, often in military barracks, but rarely brought them to trial. Among those released in August were nine military officers who were arrested in 1990 for conspiracy to overthrow the Government by force of arms. One of the nine released officers plans to stand for the Constituent Assembly election.

With relative peace throughout the country, the Government detained fewer persons without charge than in past years. The Government did not formally charge anyone with treason in 1993. Ten suspected rebels were arrested during the year; those who were not released were charged with criminal offenses. Police arrested three journalists on charges of sedition for printing stories critical of government policy and officials (see Section 2.a.). At the end of the year, the Government held approximately 100 persons on state security grounds, with 14 new cases reported in 1993, as opposed to 423 new cases in 1992.

The Government does not use exile as a means of political control. A presidential amnesty for former rebels remains in effect and applies to opponents in exile. Those who return, however, may be prosecuted for criminal acts they may have committed. Ugandans continued to return from exile in 1993, including former president Tito Okello.

e. *Denial of Fair Public Trial.*—The Ugandan court system consists of magistrates' courts, the High Court, and a Supreme Court. There is also a military court system for hearing offenses against military personnel. The judicial system contains procedural safeguards modeled after British law, including the granting of bail and appeals to higher courts. However, the Government has circumscribed the right to a fair trial in recent years by its reliance on indefinite detention of its opponents, by an inadequate system of judicial administration, and by the reluctance of military authorities to respect civilian court orders. In one instance, for example, a military court refused to honor a civilian court's writ of habeas corpus. Trials in the military court system also lack important due process safeguards and do not meet international standards.

A serious backlog of cases denies most defendants a speedy trial. Criminal cases can take 2 or more years to reach the courts. In rural areas, there is often no magistrate. There were no reports of the use of military field tribunals in remote areas as had occurred in previous years.

The Ugandan Law Society operated legal aid clinics in Kampala and Jinja, with plans to open an additional clinic in Fort Portal, assisting free of charge more than 100 people.

The Ugandan judiciary is generally independent; the Government usually complies with court decisions. In appointing the four members of the Judicial Service Commission which makes recommendations on High Court and Supreme Court appointments, the President maintains considerable control over the judiciary. The Commission must concur in the dismissal of a magistrate. A judge may be removed only after a tribunal comprised of three judges finds that he is "unable to perform the functions of his office."

In June a Commission of Inquiry into the mismangagement of criminal cases, headed by a British High Court Justice, began public hearings, preceded by the suspension of the Director of Public Prosecution and another officer. At the end of the year, some state attorneys had also been suspended. The Commission will continue its hearings in 1994, with an expected completion date of March.

Village resistance councils (RC's) have the authority to settle civil disputes, including those related to land ownership and payment of debts. The RC courts, typically the only ones available to villagers, often exceed their authority by hearing criminal cases, including murder and rape. Legally the RC decisions may be appealed in magistrates' courts. In practice this does not often happen because people are ignorant of their right to appeal or are limited by lack of finances. The Ugandan Law Society proposed to the Attorney General in 1992 that the village RC courts be replaced by a group of elected elders of impeccable character to be supervised by magistrates, thus separating the judicial and executive functions at the village level. The Government did not respond to the proposal.

The military court system does not meet international standards for assuring a fair trial. Although the accused has the right to legal counsel, the defense attorney is often untrained and is usually assigned by the military command which also appoints the prosecutor and the adjudicating officer. The sentence passed by a military court, which may invoke the death penalty, may be appealed to the High Command. The Government has never implemented a 1989 law permitting the establishment of special magistrates courts in areas of insurgency, but, like the Detention Order, the Government is not likely to revoke it.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Government does not intrude on the privacy, family, or home of citizens on a wide scale, and there is no indication that it interfered with private correspondence in 1993. However, although search warrants are legally required before private homes or offices may be entered, the police and the army in Kampala and Gulu violated this requirement. In February before the Pope's visit, the police conducted security searches without warrants. Police officials also reportedly conducted sweeps of vehi-

cles and pedestrians without warrants, searching for illegal weapons in cities throughout the country.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Government restricts freedom of speech by limiting political party activities and by arresting journalists for sedition. Three arrests of journalists in late 1993 had a temporary chilling effect on both the press and the opposition, although the journalists were released on bail and continued to publish articles critical of the Government and its human rights abuses. Despite restrictions on party rallies and other public activities, open debate occurs in the NRC, in the media, and in public forums. Public figures openly criticize government policies, corruption, and human rights abuses.

Fifteen newspapers and magazines cover a wide range of viewpoints. Despite other restrictions on political party activity, political parties publish newspapers to promote their views. The Government owns the New Vision, which has accurately reported on corruption in government and human rights abuses by the NRA. Among the main problems confronting Uganda print media are extremely tight operating budgets, limited access to information, and the absence of formal distribution channels outside the capital. There are no foreign correspondents in Uganda.

Unlike the regimes that preceded it, the NRM has not instituted formal censorship. However, the legal provisions for doing so remain on the books, and the Government has used sedition charges to attack its press critics. Government actions against journalists have resulted in some self-censorship. A journalism bill called for the creation of a media council to monitor and discipline journalists. The bill was strongly criticized by members of the press; the journalists' union sponsored a seminar in November attacking the bill. The Government withdrew the bill for further revision and review.

There were a number of government-initiated actions against the press. On October 1, police arrested two journalists, the editor in chief of Uganda Confidential, Teddy Seezi Cheeye, and a subeditor of Shariat, on charges of sedition. On October 25, police arrested the editor of Shariat on charges of publishing seditious stories. He was later released on bail; his case, and that of his subeditor, remained pending in the courts at year's end.

In early December, Kampala's Chief Magistrate dismissed charges of defamation and sedition against Uganda Confidential editor Cheeye dating from 1991 and 1992. On December 4, however, the Government added two new charges of sedition against Cheeye for an August issue of Uganda Confidential. The court scheduled the next hearing in this case against Cheeye for January 1994.

Before his October 1 arrest, editor Cheeye had faced seven different law suits for publishing allegedly defamatory and seditious articles about the President, Cabinet ministers, and other prominent Ugandans. In March the president of the Uganda Journalists Association won about $3,000 (3 million Uganda shillings)in damages in one such case against Uganda Confidential.

Uganda Television (UTV) and Radio Uganda are controlled by the Government. They disseminate NRM views, but also broadcast discussions of public policy that reflect a variety of opinion. Political party spokespersons have appeared on UTV and Radio Uganda, usually facing critical interviewers, but openly expressing their views.

A considerable degree of academic freedom exists at Uganda's five public and three private universities, with no government interference in teaching, research, or publication. Professors appear to exercise caution rather than test the limits of their academic freedom. Students, however, have sponsored wide-ranging political debates in open forums on campus.

b. *Freedom of Peaceful Assembly and Association.*—All associations in Uganda must register with the Government. Permits for public gatherings must be obtained from police authorities, who have and exercise the right to deny permits in the interest of public safety. Although political parties are not banned, political activity is restricted, and political rallies are not allowed. The police and district administration officials broke up four meetings convened by UPC officials: A joint executive meeting for UPC leaders in Arua in February, and UPC meetings in Nebbi in March, and in Pallisa and Mbale in April.

In May the mobilizers' group of the Democratic Party scheduled a rally in Kampala in defiance of the restrictions on party activities. A strong show of force by the police, unchallenged by the mobilizers, blocked the rally. The DP Mobilizers scheduled a second rally for November 13. Police again presented a show of force and the organizers canceled the rally before it began.

In December an unofficial UPC meeting at a funeral in Lira resulted in a confrontation with the police; UPC officials disbanded the meeting to avoid violence.

Later in the month, police shot into the air when a a crowd of UPC supporters gathered to block the arrest of a UPC leader; several people were injured. The UPC has brought a case to court challenging the restrictions on public political party activity as unconstitutional since they violate the freedoms of speech and assembly in the current (1967) Constitution. On December 14, a High Court judge referred the case to a Constitutional Court, which will be constituted of three senior High Court judges.

Professional associations operate without hindrance, as do international service asssociations.

c. *Freedom of Religion.*—There is no state religion in Uganda. Christianity, Islam, Hinduism, and African traditional religions are freely practiced. Conversion between religions is not obstructed. Foreign missionaries and other religious figures are generally welcome in Uganda. There is no government control of religious publications, even those with an antigovernment bias. Religious leaders frequently speak out publicly on topics relating to their followers' welfare, addressing in particular human rights, security, and political issues.

While it has not been uniformly enforced, the Government requires religious groups to register as nongovernmental organizations (NGO's). Registration has not curtailed activities by these groups.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—As security conditions continued to improve, freedom of movement in Uganda expanded greatly, although access to some areas remained restricted. The NRA required vehicles to travel in convoys on the route between Karuma and Pakwach in the northwest for several months in early 1993. Travel in the east, and particularly Karamoja in the northeast, remained difficult due to sporadic attacks by armed bandits.

Ugandans are free to emigrate and to travel abroad. Uganda accommodates refugees from Sudan, Rwanda, Zaire, Somalia, and other countries. There were over 250,000 registered, and a large number of unregistered refugees in Uganda in 1993. In August and September, new waves of Sudanese refugees began crossing the border into northern Uganda fleeing war and insecurity. At the same time, the ceasefire and the August Peace Accord between the Rwandan Government and the Rwandan Patriotic Front brought the voluntary repatriation of thousands of Rwandan refugees from Uganda.

There were no instances of expulsion or forced repatriation of refugees in 1993.

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

Citizens did not have this right in 1993. However, the constitutional commission presented the draft constitution to the President in December 1992, and the NRC passed the Constituent Assembly Statute in April 1993. The Statute established the composition and duties of the Assembly, which will debate and enact a new constitution, and created an independent election commission tasked with laying the groundwork for and conducting elections. The Assembly has a mandate of 4 months, with one 3-month extension, to prepare a final constitution. The NRC is planning elections for President and Members of Parliament in 1994, following the enactment of this new constitution.

The Constituent Assembly will have 288 members: 214 elected directly, 39 women elected within the RC's, 10 delegates for the army, 10 presidential appointees, 2 delegates for each of the 4 established political parties, plus representatives for youth (4), labor (2), and the disabled (1).

Until the new constitution is in place and elections are held, President Museveni, who was never elected and has never faced a vote of confidence, continues to hold power as Chief Executive, Minister of Defense, and Chairman of the National Resistance Council. Although he has avoided serious confrontations with major institutions and interest groups (including the parties), there are few meaningful checks and balances on his presidential power. Museveni has publicly stated his opposition to multiparty politics, but he also has said repeatedly that he will accept such a system if it emerges from the deliberations on the new constitution. In July the NRC, at Museveni's urging, restored Uganda's four kingdoms in cultural terms only (without political power), a move which won him support from the 4 million Baganda.

There are no restrictions in law on the participation of women in politics. Women hold positions of responsibility at all levels of the Government and within some of the political parties, one of which (the UPC) has a woman as its highest acting official. In the NRC, women hold 39 of the 264 positions; 4 of the 39 government ministers, deputy ministers, and ministers of state are women.

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

Of 10 nongovernmental human rights organizations, 4 actively monitor human rights cases: the Foundation for Human Rights Initiatives (FHRI), the Uganda Human Rights Activists, the Ugandan Law Society, and the Ugandan chapter of the International Women's Lawyers Association (FIDA). In October FHRI published the first edition of its journal, The Human Rights Defender. The Uganda Human Rights Activists publish a quarterly review of the human rights situation in the country and have moved toward an educational role in sponsoring seminars on human rights throughout the country. The Law Society focuses on human and legal rights and defending the independence of the judiciary. Members of the Society defend political figures indicted by the Government. FIDA concentrates on cases involving women and children. All of these groups operate without government interference.

In February President Museveni directed that human rights subcommittees be set up in the RC's in every district to monitor local human rights violations. A Human Rights Desk was established in the Ministry of Justice to produce reports from these subcommittees. The desk has begun functioning but has not produced any reports.

The NRC created the Uganda Human Rights Commission to investigate abuses perpetrated before 1986. The Commission has heard public testimony from over 1,000 witnesses. Its report is scheduled for release in March 1994.

The Government allows access to international human rights monitoring groups, but few such groups came to Uganda in 1993. However, ministers, attorneys (including the President of the American Bar Association), parliamentarians, and journalists from a wide variety of countries came to Uganda to investigate the human rights situation.

Internationally published reports on Uganda's human rights are given broad publicity in the private and official media.

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

Women.—Traditional discrimination against women continues, especially in rural areas. "Customary" laws disadvantageous to women are still recognized in the areas of adoption, marriage, divorce, and devolution of property on death. Women may not own or inherit property or have custody of their children under customary law. Adultery by men is treated more leniently than adultery by women. Women cannot sponsor a foreign-born spouse or the children of such a union for Ugandan citizenship, whereas foreign women who marry Ugandans and the children of those marriages automatically receive Ugandan citizenship. Women do most of the agricultural work but own only 7 percent of the land.

Domestic violence, including rape, is common, and there are no laws to protect battered women apart from a general law on assault. Public and law enforcement officials view wife beating as a man's prerogative and rarely intervene in cases of domestic violence. There are an increasing number of public education projects which emphasize a woman's right to be free of sexual exploitation, but to date they have had little effect.

The Government has made efforts to redress discrimination based on sex, including specific provisions in the draft constitution on women's rights and designating special women's seats in the Constituent Assembly that is to debate the constitution. A Ministry of Women, Youth, and Culture was established in 1988, but it receives the smallest budget of any ministry. The Ugandan branch of FIDA is currently undertaking a 3-year research and law reform program focusing on women (1992–95). FIDA opened a legal aid clinic in Kampala in early 1992 and provides free legal advice to women. FIDA lawyers also provide information on Ugandan law to women in rural areas and carried out a project in writing wills to strengthen women's inheritance rights.

Children.—The Government has severely limited budgetary resources devoted to child welfare; however, the Uganda National Programme of Action for Children in the 1990's outlined priorities for social services development for children and women. The 1993/94 budget report by the Ministry of Finance noted the importance of primary education; health programs such as infant immunization, malnutrition, and disease and diarrheal control for children; a sensitization campaign for the public about the rights of children; resettlement of children from orphanages, and continued rehabilitation of children's custodial institutions.

Child abuse continues to be a problem in Uganda. A 1990 law defined the age of a minor victim of defilement as 13. In 1993 the NRC amended the law to cover all minor children under 18. Accusations of defilement and prosecutions under the law occur, but convictions and punishment are rare. The press reports regularly on cases of defilement, with victims, mostly girls, of increasingly younger ages. Observ-

ers attribute the growing number of reports of child beating and molestation to the breakdown of the traditional village family structure and to stresses induced by economic problems, alcohol abuse, and social dislocations. A Ugandan chapter of the African Network for Prevention and Protection Against Child Abuse and Neglect formed in 1993 and began an educational campaign on the issue.

Female genital mutilation (circumcision) is not widespread, but some communities in eastern Uganda subject young females to it. There is no law against the practice; the Government is working to stamp it out through education. An international seminar in September, including the Government and the World Health Organization among its sponsors, publicly condemned the practice.

A large number of children have lost at least one parent to war or disease; the number of orphans is thought to exceed 1 million. These children migrate to towns and trading centers and may be treated roughly by police or employers. Corporal punishment is not condoned by the Government but is common in some schools.

National/Racial/Ethnic Minorities.—Africans of about 40 ethnic groups constitute the vast majority of the population of Uganda, with tiny percentages of Asians and Europeans. Asians, expelled by former president Idi Amin in the early 1970's, are returning to Uganda under the current Government's policy of adjudicating claims to confiscated property. Ethnic divisions between Bantu-speaking peoples in the south and Nilotic speakers in the north have been aggravated by civil conflict since Uganda's independence. However, only a few minority populations have truly suffered discrimination, such as the Bakonjo of the Ruwenzori Mountains, who were once slaves within the traditional kingdoms, and the Karamajong, independent cattle herders in eastern Uganda described as violent and underdeveloped by other Ugandans. Neither of these groups participates fully in Ugandan society, government, or educational institutions.

People with Disabilities.—The Government has not legislated accessibility for the disabled. The proposed Constituent Assembly is slated to have one representative for the disabled. Provisions to protect the disabled are included in the draft constitution. Widespread discrimination by society and employers limits job opportunities for those with physical disabilities; most are self-employed or are beggars. Educational opportunities, however, exist for those who can afford standard school fees. A small office within the Ministry of Local Government tries to assist disabled Ugandans, but it is hampered by lack of funding.

Section 6. Worker Rights

a. *The Right of Association.*—Ugandan labor law is undergoing major reform. Uganda has adopted a tripartite (government-employer-worker) cooperative approach to labor issues. The Government, in the midst of structural adjustment, is reviewing its laws and institutions in the labor field and vetting them with the International Labor Organization (ILO). In 1993 civil servants were permitted to join and form unions, a right previously reserved for private sector workers. Certain categories of government employees are still not permitted to form unions; these include the police, army, permanent secretaries in the ministries, heads of departments and state-owned enterprises, school principals, and other management level officials.

The National Organization of Trade Unions (NOTU), with 15 labor unions, is the only labor federation in Uganda. Proposed legislation will reaffirm a single umbrella organizational system, but will not prevent multiple unions within individual industries. NOTU is independent of the Government and political parties. It publishes a periodic newspaper on labor issues, NOTU Speaks. NOTU's influence on the overall economy remains marginal since about 90 percent of the Ugandan work force consists of peasant farmers. Even among industrial workers, high communications costs and lack of transportation have made it difficult for individual unions to organize, especially outside the major commercial centers of Kampala and Jinja.

The right to strike is recognized by law, but the Government expects all efforts at reconciling labor disputes to be exhausted before workers resort to strikes. They must first submit their grievances and notice to strike to the Minister of Labor. Under the Trades Disputes Arbitration and Settlement Act, an Industrial Court hears trade disputes referred to it, either by the Minister of Labor or the parties to the dispute. NOTU has proposed that the right to strike be recognized in the future constitution. There is no law prohibiting retribution against strikers.

At least 14 strikes occurred in 1993, including: African textile mill workers and Sanwa electrical workers in April; the magistrates in Mbale in May; the Uganda Cooperative Transport Workers, lecturers at the National Teachers' College, Uganda Fisheries Enterprises workers, and Uganda Polytechnic lecturers and students in June; doctors and workers at the Kyamulibwa Medical Research Center in July; Nyanza textiles workers in August; laborers at the Kakira Sugar Estate and Crown

Bottlers factory in September. In September workers of GM Combined Uganda Ltd. (a detergent company) struck for payment of salary arrears, and workers of Match International went on strike for nonpayment of wages. In October workers at the Mandela Freedom International Stadium at Namboole went on strike demanding higher wages. The Uganda Cooperative Transport Workers Union sponsored the largest strike in 1993. Violence followed unsuccessful wage negotiations at the Kakira Sugar Estate, when some strikers burned over 2,000 acres of sugar cane and destroyed machinery. The only strike that resulted in higher wages was that of the Kakira Sugar workers.

A tripartite committee composed of NOTU, the Federation of Ugandan Employers, and government ministries is reviewing Uganda's labor legislation. The Cabinet passed on to the NRC draft laws on employment and workers' compensation. Other legislation on industrial trade unions, a minimum wage, social security, disputes and arbitration, occupational health and safety, and hygiene were in various stages of review at year's end. "Labor" is slated to elect two representatives for seats in the future Constituent Assembly.

NOTU freely exercises the right to affiliate with and participate in regional and international labor organizations.

b. *The Right to Organize and Bargain Collectively.*—The right to organize and bargain collectively is recognized by law and established in practice. On July 31, the law giving workers the right to form unions was liberalized to include civil servants and Bank of Uganda employees.

Agriculture is the backbone of the economy, employing 80 percent of the population. The modern sector employs only an estimated 400,000 persons. The Government is the largest employer in the country. According to the 1988–89 census, about 20 percent of all workers in Uganda are unionized. While unionization and collective bargaining are common in the industrial wage sector, they are much less significant in the agricultural sector. A National Union of Plantation and Agricultural Workers exists, but the vast majority of small cultivators organize themselves on the basis of cooperatives for the purpose of selling their crops. Union officials are not harassed, and unions have access to the tripartite Industrial Court. However, the Court suffers from lack of resources, and some of its decisions have been overruled by the Government. There is no law prohibiting antiunion discrimination by employers.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Compulsory labor is prohibited by law. There is evidence, however, that forced prison labor is employed on private farms and construction sites. There are no reports of forced labor in export industries.

d. *Minimum Age for Employment of Children.*—Although employers are prohibited from employing workers below the age of 18, many children are employed in the informal sector out of economic necessity. There is no child labor in the formal sector or export industries. The Ministry of Social Services is charged with enforcing the law on child labor. There are no minimum education requirements.

e. *Acceptable Conditions of Work.*—No explicit minimum wage policy exists in Uganda. Wages are set by negotiation between unions and employers or by the boards of directors of state-owned industries. Wages in general are low, and many civil servants and other workers find second jobs, grow their own food, or engage in pilferage or corruption in order to feed their families and pay school fees.

Although there is no legal maximum workweek, the normal workweek is 48 hours, and time and a half is paid for each additional hour worked. The only occupational health and safety legislation in place is contained in the outdated Factories Act of 1954, which concentrates on engineering aspects of work and does not address many present-day working hazards. It is enforced by the Ministry of Labor's Department of Occupational Health, but in practice little inspection takes place due to lack of resources. A proposed law on occupational health and safety was sent to the ILO in Geneva for review in 1993.

ZAIRE

President Mobutu Sese Seko has dominated an authoritarian governmental system since 1965, when he took power in a military coup. Although forced by opponents to announce in 1990 an end to the one-party state, Mobutu has steadfastly refused to permit a transition to democracy. A National Conference was convened, composed of 2,800 delegates and chaired by the Archbishop of Kisangani, Laurent Monsengwo Pasinya. The Conference, which closed under pressure from Mobutu in December 1992, investigated official wrongdoings, drafted a new constitution (in-

tended to be ratified by a referendum), extended President Mobutu's term of office for 2 years, to December 1993, and selected Etienne Tshisekedi Wa Mulumba, Mobutu's most implacable foe, as Prime Minister. In the Transitional Act the Conference also decided to establish a High Council of the Republic (HCR) to exercise legislative functions and to ensure the implementation of conference decisions. Archbishop Monsengwo was chosen as its President.

However, since the end of the Conference, President Mobutu has contested Prime Minister Tshisekedi's authority and has also taken actions which challenged the authority and the decisions of the National Conference. On April 1, Mobutu announced Tshisekedi's dismissal as Prime Minister and appointed a defector from Tshisekedi's Union for Democracy and Social Progress (UDPS) party, Faustin Birindwa, to run a parallel government. Tshisekedi refused to recognize the President's authority to remove him from office, although Mobutu's control of the security apparatus permitted him easily to evict the Tshisekedi ministers from their offices and to maintain de facto control of government operations. At year's end, negotiations to break the political deadlock between the "dual governments" were still in progress. The core questions, which the Zairian political class is unable to resolve, are Mobutu's role and who will lead the transition to democracy as Prime Minister.

Control of the security forces continued to be of crucial importance in the ongoing struggle over the transition process. Mobutu has built up overlapping forces. The elite forces of the Civil Guard, headed by President Mobutu's brother-in-law, General Baramoto Kpama Kpata, and the Special Presidential Division (DSP), under his ethnic kinsman General Nzimbi Ngbale, remained generally loyal to the Chief of State. The DSP, in particular, was implicated in many human rights abuses during the year, yet the President took no action against its commander. The 70,000-person regular armed forces became both perpetrator and victim of human rights abuses. Compensation for these forces continued to be at the center of incidents of military indiscipline and abuse of civilians. Looting by soldiers broke out at the end of January in Kinshasa after President Mobutu ordered the troops paid with newly issued 5,000,000 (then worth about $2) Zaire notes, which Prime Minister Tshisekedi had earlier proclaimed "demonetized," and which then were not accepted in commerce.

Subsistence agriculture has long been the base of Zaire's economy, but its minerals and mining output—especially copper—traditionally generated the hard currency revenue. Throughout 1993, however, Zaire continued to suffer sharp economic contraction. Diamond exports, mainly outside regulated channels, became the mainstay of Zaire's hard currency revenues, while the output of the rest of the mining sector, hobbled by the lack of new investment, dwindled into insignificance.

With public employees unpaid for months at a time, and with little investment or maintenance, Zaire's infrastructure has continued to deteriorate. At the same time, corruption, blackmail, extortion, and embezzlement remained endemic. Inflation slowed to an annualized rate of between 300 and 400 percent during the first 9 months of the year, but accelerated at a hyperinflationary pace during the final 3 months of 1993 in the wake of the Birindwa Government's so-called monetary reform in late October. Average annual inflation for the year is estimated close to 9,000 percent, compared with just over 3,000 percent in 1992. About 70 percent of the population is rural, mainly engaged in subsistence farming; this, along with a deeply rooted extended family system, has permitted people to survive the current economic crisis.

Zaire is undergoing its worst human rights crisis since the end of the civil war in the early 1960's. There were massive human rights violations, especially by the Mobutu Government in blocking democratic reform. It used a variety of brutal techniques, including assassination and unlawful detention, to hit at opposition politicians, labor officials, journalists, and human rights monitors. It continued to incite ethnic violence to cause loss of life and massive internal displacement of thousands of persons in Shaba province. Although there was no hard evidence of direct government involvement, there was extensive additional ethnic violence in the province of North Kivu, with resulting heavy loss of life and property. Throughout the year, an atmosphere of insecurity plagued Zaire, with frequent nighttime violence by military elements, disrupting many aspects of government, including judicial operations. Prison conditions, already seriously health threatening, deteriorated further during the year.

Hundreds of people lost their lives during the January armed forces uprising, both as a result of the rioting and during the suppression of the looting by loyal elements of the armed forces. No prosecutions resulted from the January mutiny.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There was a pattern of attacks by security forces in 1993, some of them lethal, against opposition party activists. Security forces killed the 28-year-old son of UDPS party leader Frederick Kibassa Maliba, and wounded two of his other children, in an attack on Maliba's home during the January riots.

Thirteen gendarmes were implicated in the January 3 death of another politician, Nyamwisi Mwingi of the Federalist Christian Democratic Party, while he was investigating reports of disturbances in the eastern town of Butembo. There were no reports of legal prosecution of the gendarmes arrested in this case.

The most serious incident of extrajudicial killing stemmed from an armed forces mutiny that broke out in Kinshasa on January 28. Elements of the SARM (Military Intelligence Unit), the Civil Guard, and the DSP, who remained loyal to President Mobutu, summarily executed up to several hundred soldiers from the regular armed forces during the course of their efforts to suppress military looting. Bodies were observed unburied at roadsides in Kinshasa in the days following the uprising.

The Zairian Association for the Defense of Human Rights (AZADHO) a local human rights group, estimated the number of dead at 259; other estimates ranged as high as 1,000. The dead were largely mutinous military personnel; however civilian deaths included the French Ambassador, who was shot while standing at the window of his office; a Zairian employee of the French Embassy killed at the same time; and several foreign businessmen killed while trying to protect their property. No one was prosecuted for the murders committed during the uprising. Press accounts reported, however, that a military council convicted 34 commandos in late November for their role in a 1992 uprising in Kisangani.

Several people were reported killed in Kinshasa July 4 when police forces put down a rally by the opposition UDPS party; some eyewitnesses said police shot directly into the crowd. A priest was killed in late November when security forces looted a Catholic center and a warehouse for relief supplies in the provincial town of Kananga.

Poorly paid and undisciplined, the security forces are frequently accused of robbing and intimidating civilians, sometimes using lethal force. One example of violence and retaliation between undisciplined troops and civilians occurred in February in the Kinshasa neighborhood of Kingasani, when soldiers reportedly killed a well-known sports trainer. Civilians killed a soldier in retaliation, and troops, probably DSP, responded by firing on the funeral procession and the surrounding neighborhood, leaving 20 to 50 people dead.

Local human rights groups report several incidents per month in which uniformed personnel assumed to be security forces shoot or beat a civilian to death, often during the course of a robbery. It was not always possible to obtain independent verification of these incidents or of armed forces participation in them. Given the remoteness of much of Zaire's territory, many other incidents in the interior undoubtedly went unreported. While it was impossible to determine with any precision how many deaths can be attributed to armed forces indiscipline, there is enough consistency in the reports to indicate that such deaths are a fairly regular occurrence.

Few, if any, of these cases are ever legally prosecuted. The critically underfunded judiciary system has nearly ground to a halt, hampering prosecutions. Furthermore, local human rights groups and others suspect that a degree of Government complicity in the January pillage has caused even more than the usual footdragging in prosecutions of soldiers involved in pillage-related abuses.

There are occasional allegations that extremist elements of the Holy Union Opposition Coalition, which backs Tshisekedi, intimidate political opponents, although it was difficult to confirm these incidents. The pro-Mobutu MPR party and a human rights organization, Voice of the Voiceless (VSV), report that Makoba Bidimu, the MPR's Assistant Secretary General for Information, died following a confrontation with a group of militants from the Holy Union's UDPS party.

b. *Disappearance.*—Given the breakdown of administration throughout Zaire, some reports of disappearances may be attributable to common crimes. While security forces frequently held detainees incommunicado or in secret jails, (see Section 1.d.), they typically have not attempted to conceal the fact of detention.

While the number of disappearances may have declined in 1993, there are indications the practice nonetheless persists. Amnesty International reported that at least one person, Emile Nkombo, disappeared in the aftermath of the UDPS demonstration repressed by security forces on July 4. A second UDPS supporter, Rene Kanda, was seized by men in plainclothes in July; he has not been seen since. Occasionally, unidentified bodies are reported floating in the Zaire River near Kinshasa.

Disappearances in 1993 and in previous years are widely attributed to secret special intervention forces (or "antiterrorist" units) composed of elements of the DSP or the Civil Guard. These forces, popularly called the "hiboux," or "owls," are believed to have been given the mission of intimidating the political opposition.

Human rights monitors had no further information on the 62 Zairian Air Force personnel detained in 1992, allegedly for engaging in pillaging. The Government has ignored repeated requests to allow visits or to disclose these prisoners' whereabouts.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although torture is forbidden by Zairian law, its use is widespread. Security personnel routinely beat suspects during criminal interrogations, and there are credible reports of cruel, inhuman, and degrading treatment aimed at punishing and humiliating those suspected of supporting President Mobutu's opponents. Claims of torture are virtually never investigated by the authorities, including the judiciary.

Throughout 1993 security forces subjected numerous politicians, armed forces personnel, and journalists associated with the opposition to intimidation. Security forces ransacked their homes, subjected them to obvious surveillance, or beat them. Uniformed men shot and wounded the Counselor for Security to the transitional Prime Minister during a late September attack in his home. Press sources and human rights groups reported that ordinary citizens were frequently subjected to random acts of violence and intimidation as undisciplined and often unpaid security forces resorted to robbery and extortion.

Appalling conditions in most of Zaire's 220 prisons are a serious threat to health. Conditions in Kinshasa's Makala Central Prison are typical: Inmates sleep on the floor and have no access to sanitation, potable water, or adequate health care. Meals are of poor quality, scanty, and sporadic. In September the prisoners went for over a week without being fed at all, except by visiting relatives or from the produce of small-scale gardening on the prison grounds. Malnutrition is rampant, as are tuberculosis and other infectious diseases. The Zairian Prison Fellowship and the International Committee of the Red Cross (ICRC) report that they have regular access to the prisons nationwide. Women and juveniles are housed in separate quarters in Makala, but human rights monitors report that controls are inadequate and rapes sometimes occur.

d. *Arbitrary Arrest, Detention, or Exile.*—Under Zairian law for serious offenses, punishable by more than 6 months' imprisonment, a warrant is not required for the arrest of a suspect. Any law enforcement officer having the status of "judicial police officer" is empowered to authorize arrest. This status is also vested in senior officers of each of the security services. The law provides that detainees be brought before a magistrate for a hearing within the first 48 hours of arrest. If grounds for arrest are presented, the magistrate may order detention for an initial period of 15 days followed by renewable 30-day periods.

In practice, the Mobutu Government continued to use arbitrary arrest and detention as a means to intimidate political opponents. In April Mobutu's security forces interrogated the transition Government's Foreign Minister, Pierre Lumbi, for 2 days, then kept him under house arrest for several weeks, in connection with the President's contested attempt to replace the transitional Government and force its members to relinquish government documents and seals.

According to Amnesty International, AZADHO, and other organizations, the Mobutu forces made over two dozen politically motivated arrests of journalists, labor activists, and opposition party leaders. Many of these arrests occurred in a sweep in late March. A second round of arrests, mostly involving midlevel opposition party officials, began in late October after the Birindwa Government introduced a new currency and decreed imprisonment for anyone who counseled against accepting the new notes. Typically, Mobutu security units held these detainees incommunicado for several weeks or months on accusations that their writings and political activities threatened national security, then granted them a conditional release. The SARM (military intelligence) kept a journalist, Kalala Mbenga Kaleo, in custody from his August 25 arrest through September 22, apparently in connection with an article he wrote for the newspaper La Tempete Des Tropiques, in which he listed the ethnic backgrounds and educational achievements of Zaire's generals and admirals. He was never charged with a crime.

In February government troops surrounded the People's Palace, where the High Council of the Republic, the Parliament established under the Transitional Act, was in session. The troops detained HCR members and others in the building without food or potable water for a period of over 48 hours.

According to AZADHO's September records, about 66 percent of the inmates of Makala Prison were awaiting trial. This figure represents some improvement over the previous year, when an estimated 85 percent of Makala's inmates were awaiting trial. However, human rights and religious groups report that approximately 80 per-

cent of inmates in Zaire's prisons are still awaiting trial. Many have been imprisoned without trial for several years, in some cases for periods of time longer than the maximum period for which they could have been sentenced if convicted.

The number of political detainees and political prisoners held by Mobutu's security forces at year's end was unknown. In December there were 21 people in detention as a result of recent Lumumbist party political demonstrations. There were no known detainees still in detention for opposition to the October "monetary reform." Persons detained in Zaire for political reasons have traditionally been held under administrative detention or house arrest. Many of them are held clandestinely or in military prisons. Human rights organizations estimate there are 40 such prisons in Kinshasa alone. The Government has never implemented the National Security Council guidelines issued in 1990 to end unlawful incommunicado detentions and the practice of internal exile. The law mandates judicial oversight of detention centers, but such oversight rarely occurs, due to official indifference and to a lack of personnel, materiel, and transport.

There were no known cases of internal or external exile in 1993.

e. *Denial of Fair Public Trial.*—While the amended 1977 Constitution and the proposed new 1992 constitution provide for an independent judiciary, in practice the judiciary is not independent of the executive branch and has consistently been responsive to priorities and objectives set by the President and his Government. Zaire's Civil and Criminal Codes are based on Belgian and customary law. Its legal system includes lower courts, appellate courts, the Supreme Court, and the Court of State Security. Most cases are initiated at the local level, and many disputes are adjudicated by local administrative officials or traditional authorities. Adherence to acceptable legal procedures varies in most instances. Charges of misconduct against senior government officials must be filed directly with the Supreme Court.

The Constitution provides defendants with the right to a public trial and counsel. The right of appeal is provided in all cases except cases involving national security, armed robbery, and smuggling, which are adjudicated by the Court of State Security. When a defendant is unable to afford a lawyer, the law provides for court-appointed counsel at state expense in capital cases, in all proceedings before the Supreme Court, and in other cases when requested by a court. In practice, these protections are frequently ignored. Many defendants never meet their counsel or do so only after months of detention and interrogation.

Tshisekedi's transitional Government had vowed to improve Zaire's judicial system and deliver fair and impartial justice. However, it has been powerless do so since Mobutu dismissed it and installed the rival Birindwa Government early in 1993. The judicial system is hobbled by a continuing shortage of trained and motivated personnel, a scarcity of essential supplies, continued intimidation of justices, and other constraints. In particular, magistrates, like many other Zairians, suffer from inflation-ravaged wages and poor working conditions, a situation that gives rise to corruption. The magistrates were on strike for a substantial part of 1993 as a result of the Government's failure to pay them.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Security forces routinely ignored legal provisions that require a warrant before searching a home and entered and searched residences at will. The attack on UDPS party leader Kibassa Maliba's home is only one of the more blatant examples of a pattern of intimidation carried out against opposition supporters in their homes. The homes of several of the political activists who were arrested in March were searched and ransacked, as was the home of transitional Prime Minister Etienne Tshisekedi. Undisciplined security forces also continued to beat, rob, rape, and kill citizens in their own homes. Hundreds of such cases occurred during armed forces' looting in January. It is widely assumed that the Government monitors mail and telephone communications.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Zaire's continuing political crisis greatly exacerbated ethnic tensions and regional disputes, resulting in many violations of humanitarian law. In particular, government officials continued to provoke ethnic clashes in Shaba province and to expel members of certain ethnic groups from that area. Provincial Governor Gabriel Kyungu Wa Kumwanza publicly blamed Shaba's economic problems on the inhabitants originally from the neighboring provinces of eastern and western Kasai (Tshisekedi's region), many of whom have lived in Shaba for several generations. Kyungu proclaimed any Kasaians who had not left Shaba by the end of July would be killed or imprisoned. Militant members of Kyungu's Party of the Union of Independent Republicans (UFERI), which had led several violent attacks against Kasaians in 1992, reinforced these statements by leading several additional clashes in 1993, including in Kolwezi in March, which left several people dead and many houses destroyed. As a result, Kasaians continued to leave Shaba province through-

out 1993. At year's end, credible sources estimated that about 600,000 people had been displaced since the conflict began in 1992.

Throughout the year, tens of thousands of people waited for transportation to the Kasais at railroad stations in the Shaba towns of Kolwezi, Likasi, and Kamina, often for weeks at a time. Conditions in the makeshift railway station camps and on the trains were extremely poor, leading to cases of malnutrition, illness, and death from exposure. Deaths were recorded on every train taking Kasaians from Shaba. Many people, robbed or charged extortionate fees for transportation, arrived destitute in eastern and western Kasai.

Interethnic violence in western Shaba province resulted in the reported burning alive of 25 people in Kalemie village on October 11 and the burning of 15 houses in Moba village on October 29. Human rights organizations called for an investigation to determine the perpetrators of these abuses.

Ethnic strife broke out in March between residents native to North Kivu province and "Banyarwandan" residents who have immigrated to Zaire from Rwanda in several successive waves beginning in the last century. Hostilities between the rival groups in Kivu had resulted in up to 6,000 dead and 230,000 displaced between the outbreak of violence in March and the end of July, when the violence mostly subsided. Opposition leaders' allegations of central (i.e. Mobutu) Government involvement in provoking ethnic conflict in North Kivu have not been verified, although it is generally assumed that local officials, including the vice governor, were implicated. However, hostilities continued virtually unchecked for almost 4 months until the Government sent DSP troops to quell the disturbances.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides citizens the right to express their opinions freely. Although there is no prior censorship of the media, there is a requirement that newspaper publishers deposit copies of each issue prior to publication with the Minister of Information and Broadcasting. The print media are also subject to an ambiguous ordinance on "press freedom" promulgated on April 20, 1981, which fails to define "freedom of the press" and is intimidating to journalists.

The Mobutu Government's control of the Zairian Radio and Television Office (OZRT), the only media organ capable of reaching audiences nationwide, and its increasing harassment and intimidation of journalists and other outspoken figures of the opposition tended to repress free expression and encourage self-censorship during the year. Twelve OZRT employees were suspended in 1993 in what was almost certainly a clampdown on excessive independence in reporting.

Although numerous newpapers were published in Kinshasa in 1993, the impact of the press remained largely confined to Kinshasa as the lack of transport and other obstacles limited distribution of private newspapers to rural areas.

The Mobutu Government continued to harass and intimidate the print media. It arrested journalists from the opposition- linked Le Potentiel, Le Phare, La Tempete Des Tropiques, Umoja, and the Kasai-based Les Petites Annonces De La Semaine in connection with articles they had published. All were granted conditional liberty after several weeks or months of imprisonment. In addition, the Government announced a 3-month suspension of the Kinshasa newspaper Les Palmares on August 4, apparently in connection with a special edition that was considered to have insulted President Mobutu. No law was cited in the order mandating the suspension. The authorities arrested at least one person for possession of the issue. They banned completely another newspaper, L'Interprete, and declared its possession a crime following the publication of a single, highly scatological issue.

Subsequent to the October 24 "monetary reform," a Government decree threatened suspension of all periodicals that advised against acceptance of the new currency. The Birindwa Government suspended Umoja, its sister publication La Renaissance, Elima, and Salongo under this decree. All of these periodicals resumed publication within days, in defiance of the ban.

As of the end of the year, those responsible for the 1992 destruction of printing equipment belonging to an opposition newspaper as well as the firebombing of a printing plant that published opposition newspapers had neither been charged nor brought to trial.

Security forces also reportedly resorted to direct action against the distribution of opposition newspapers in Kinshasa and in the interior, particularly during the months of March and April, when several vendors were beaten and their newspapers confiscated. At the same time, the Government prevented six journalists selected to attend a seminar in Brazzaville from departing Zaire.

The Government allowed many foreign journalists into Zaire to report on developments throughout the year. However, the local human rights group, Voice of the

Voiceless, reported that several foreign journalists in possession of valid visas were either denied entry or had their visas revoked shortly after their arrival. Furthermore, the Mobutu authorities arrested two American free lance journalists, forced them to leave Shaba province, and held them under house arrest in Kinshasa for several days after they made contact with Kasaian political figures in Shaba.

Free discussion is generally respected within the university, although the right to publish is restricted. Public universities were in operation from January through the end of the academic year in September, even though professors were not paid during that time. At year's end, it appeared unlikely that the universities would reopen.

b. *Freedom of Peaceful Assembly and Association.*—The right of the people to assemble peacefully has never been firmly established in Zaire. Under previously existing law, the Government requires all organizers of public meetings to apply for a permit. Many opposition parties complained that the Mobutu Government continued to deny them permission to hold demonstrations. In July security forces forcibly repressed a UDPS party demonstration in Kinshasa, leaving between one and five persons dead (See Section 1.a.). Government troops rioted outside of the Catholic Interdiocesan Center February 26; they destroyed several vehicles parked there when several members of the High Council of the Republic, released from captivity at the People's Palace, had gathered to greet the Assembly's President Archbishop Monsengwo. Twenty-one people were arrested and several more were injured in early December when security forces broke up a series of demonstrations by the Lumumbist Palu Party.

A wide range of private organizations concerned with civic and other affairs have been free to organize and conduct their affairs peacefully, without constraints being imposed upon them by the Government. However, leaders of political parties and other groups, most notably human rights organizations, are routinely subject to harassment (see Section 4).

c. *Freedom of Religion.*—About 50 percent of the population is Catholic, 40 percent Protestant and Kimbanguist (a Zairian Christian church), and 5 percent Muslim. The remainder profess indigenous or other religious beliefs. There is no legally favored church or religion in Zaire, but the Constitution limits religious freedom by authorizing the Government to regulate religious sects by law.

The 1971 law regulating religious organizations grants to civil servants the power to establish or dissolve religious groups. Under this law the process for becoming recognized is restrictive; however, officially recognized religions are free to establish places of worship and to train clergy. Most recognized churches have external ties, and foreign nationals are allowed to proselytize. In a remarkable decision in March, the Supreme Court overturned President Mobutu's 1986 order banning the Jehovah's Witnesses. While the Court acknowledged that the President had authority to ban the Church under the Constitution and laws in force, it held that he had not sufficiently specified the dangers to national interests that compelled him to ban the group. The Court ordered the Government to pay damages to the Church. At year's end, the Government had not paid the damages, but it had apparently ceased persecuting Witnesses. The Government does not generally interfere with foreign proselytizers.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—All citizens, refugees, and permanent residents must carry identity cards. Police and soldiers erect checkpoints on major roads to inspect papers.

Passports and exit permits are available, in principle, to all citizens (often at exorbitant cost from corrupt officials), but the Government has regularly prevented individual travel by withholding such documents or by arbitrarily preventing departures. In 1993 human rights groups also reported several incidents in which the Government blocked journalists, opposition politicians, and human rights monitors from leaving Zaire.

Government treatment of refugees has been generally benign and asylum has been liberally granted. (However, disputes over the citizenship rights of Rwandan immigrants or their descendants appear to be at the root of ethnic disputes in Kivu.) Most refugees in Zaire do not live in camps. Many have settled in already existing Zairian villages and towns, and Angolan refugees, especially in Bas Zaire, live in villages they have settled. Two indigenous nongovernmental organizations, the Church of Christ of Zaire and the Committee for Intervention and Assistance to Refugees, provide assistance in conjunction with the United Nations High Commissioner for Refugees (UNHCR), which maintains an office in Kinshasa. Doctors Without Borders of Belgium serves Angolan refugees in western Shaba province. Doctors Without Borders of Holland is assisting Burundian and Rwandan refugees in the Kivu region. As of November, the UNHCR estimated there were about 465,000 refugees in Zaire, including about 200,000 Angolans, 125,000 Sudanese, and 50,000 Rwandans. In October and November, Zaire received an influx of 40,000 Burundian

refugees following an attempted coup and ethnic conflict in Burundi. They are receiving UNHCR assistance. There were no known instances of forced repatriation in 1993.

Some 60,000 Zairians have sought asylum in neighboring countries. Prospective returnees are dealt with individually, and there is no evidence of discrimination against them. The continual and worsening economic, political, and social crises stimulated increasing numbers of asylum requests at Western embassies in Kinshasa and abroad. Most of these Zairians seeking asylum have been interviewed by UNHCR and have been found to be economic rather than political refugees.

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

The Mobutu regime has never permitted Zairian citizens to exercise their right to change their government. In 1993 President Mobutu maintained de facto authority over government operations through his control of key units of the military and the administration, including the central bank, and by co-opting as Prime Minister one of the well-known opposition members.

He effectively blocked the 2-year program of transition to democracy adopted by the Sovereign National Conference in 1992 in a series of moves: In January he barred Tskisekedi's cabinet members from their offices and named senior civil servants as an interim government; in February he prevented the functioning of the High Council of the Republic (HCR), the highest authority established by the National Conference, by having his security forces surround the Peoples' Palace (the High Council's seat), and virtually holding hostage the HCR members for over 48 hours; in March he announced the formation of a new government, headed by Prime Minister Faustin Birindwa, a member of UDPS, and reconvened the old National Assembly, which was elected under the previous one-party system and whose electoral mandate had expired.

Nevertheless, in the face of the President's moves, the Tshisekedi Government refused to step down, protesting that only the HCR had the authority to dismiss the transitional Government, and throughout the year continued to have backing from most of the democratic opposition (known as the Holy Union) and diplomatic support from the international donor community.

Several attempts to negotiate a compromise failed to end the impasse. In March HCR President Monsengwo called for a "conclave" to discuss potential resolutions, but he and the opposition leaders subsequently decided to boycott the conclave, objecting to the lack of security guarantees. The conclave, dominated by Mobutu supporters, then selected Faustin Birindwa as Prime Minister. Negotiations between representatives of the conclave and the Holy Union began again on September 10, resulting in a draft agreement on the institutional framework of the transition. The accord remains unsigned, and on December 3, the Holy Union announced a unilateral rupture of its participation in the talks.

There is no official discrimination against the participation of women or minorities in politics. However, the rival Tshisekedi and Birindwa Governments each include only 1 woman in their 32-member Cabinets, and the indigenous Pygmies living in remote areas take little part in the political process. The Pygmies did not participate in the National Conference, but their interests were represented and their plight was debated in plenary sessions. The Conference voted that all Pygmies should be considered Zairian citizens with full citizenship.

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

Several nongovernmental Zairian human rights organizations have been active in the country since 1990. These include the Zairian League of Human Rights (LIZADHO), the Voice of the Voiceless (VSV), the Zairian Association for the Defense of Human Rights (AZADHO), the Zairian Elector's League, the Amos Group, and the Zairian Prison Fellowship. All have reported and documented human rights abuses and issued reports on the Government's attitude regarding its responsibility to protect these rights and to meet the basic human needs of the population. Justice Ministry officials threatened AZADHO with closure in September on the grounds that some of its branch offices were not formally registered; for its part AZADHO notes that the organization's applications for legal standing have met with unexplained delays. Representatives of LIZADHO and the Voice of the Voiceless, among others deemed politically sensitive, were prevented from leaving Zaire in the first half of the year. After several rebuffs, U.N. envoy Darko Silovic finally received permission August 22 to lead a 2-week mission to assess the need for humanitarian assistance.

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

Women.—Both the Constitution of the Second Republic and that drafted by the National Conference forbid discrimination based on ethnicity, sex, or religious affiliation. Despite these constitutional provisions, women are in practice relegated to a secondary role in Zaire's traditional society. They are the primary farm laborers and small traders and are exclusively responsible for childrearing. In the nontraditional sector, women commonly receive less pay for equal work. Women in Zaire tend to receive less education than men; a recent U.N. study indicates that females in Zaire receive only one-third of the schooling given males. Although women are represented in the professions and the civil service, only rarely do women occupy positions that permit them to exercise authority over male professionals. Few have attained positions of high responsibilty.

Women are required by law to obtain their spouse's permission before engaging in routine legal transactions, such as selling or renting real estate, opening a bank account, accepting employment, or applying for a passport. A 1987 revision of the Family Code permits a widow to inherit her husband's property, to control her own property, and to receive a property settlement in the event of divorce.

The Government did not address the issues of discrimination and domestic violence against women in 1993. The question of domestic violence has generally been ignored by the press and human rights groups despite acknowledgment that it occurs and may indeed be common.

Children.—The sharp decline in public spending—the Government has not even published a budget for several years—has had a significant impact on programs addressing children's welfare. Most schools, for example, only function in areas where parents have formed cooperatives to pay teacher salaries. There are no documented cases in which security forces or others target children for specific abuse, although children suffer from the same conditions of generalized social disorder and widespread disregard for human rights that affect society as a whole.

Female genital mutilation (circumcision) is not widespread in Zaire, but it is practiced on young females among isolated groups in northern Zaire.

Indigenous People.—Discrimination against Zaire's Pygmy population, estimated at between 6,000 and 10,000, continues. There were conflicts over land between the nomadic Pygmies and the agrarian populations in the Kivu provinces, and such clashes may have resulted in some deaths in 1993. The 1992 National Conference proposed a census of the diminishing Pygmy population, with a view toward the eventual establishment of territorial reserves. No further action was taken on this measure in 1993, as the political impasse blocked most National Conference initiatives.

National/Racial/Ethnic Minorities.—Zaire's population of about 40 million includes over 200 separate ethnic groups. Four indigenous languages have national status. French is the language of government, commerce, and education. Political offices have generally been proportionally allocated among the various ethnic groups, but members of President Mobutu's Ngbandi ethnic group are disproportionately represented at the highest levels of the security and intelligence services. Ngbandi predominate at all levels within the Special Presidential Division, the best equipped and trained unit of the armed forces.

People with Disabilities.—The Government has not mandated any law or expenditures to improve access for the disabled and has not passed legislation specifically forbidding discrimination against disabled persons. A network of privately and publicly funded specialty schools provide education and vocational training to blind and physically disabled students. These schools, however, suffer from the same critical funding shortfalls that have devastated the educational system as a whole. Continued economic decline and a consequent dearth of investment in roads, sidewalks, public buildings, and transportation has rendered public facilities increasingly inaccessible to everyone, regardless of disability.

Section 6. Worker Rights

a. *The Right of Association.*—The right of workers to form and join trade unions is provided for in the Constitution and in legislation, but there are two exceptions. Magistrates and other employees of the judicial system are governed by a statute which stipulates that they may not create their own union. In addition, all military personnel (including gendarmes or the national police) are subject to a statute which states that they, too, cannot establish a union.

Before April 1990, all trade unions were required by statute to affiliate with the National Union of Zairian Workers (UNTZA), the single legally recognized labor confederation which was an integral part of the only political party then allowed, President Mobutu's the Popular Movement for the Revolution (MPR). After April 24,

1990, when political pluralism was permitted, the UNTZA disaffiliated itself from the MPR and reorganized under new leadership chosen through elections deemed fair by outside observers. Other independent labor unions and nascent confederations emerged in the ensuing months, most of which organized along occupational or party lines. Some of these have antecedents which existed in the early years of Zaire's independence. Between 80 to 85 such organizations are now officially registered with the Labor Ministry, although many exist only on paper.

Among some of the more prominent union centrals are UNTZA, considered relatively independent of the MPR since its latest internal elections; Organization of United Zairian Workers (OTUZ), which is directed by the former pro-MPR leaders of UNTZA; the Democratic Confederation of Labor (CDT), which includes the two major public employees unions and is associated with the opposition UDPS party; and the pro-PDSC (Social Democrat) Union Central of Zaire (CZA).

The rapid contraction of the Zairian economy in the last 3 years has decimated the formal (wage earning) sector of the economy. According to one estimate, only 1 million of Zaire's 40 million population held wage-paying jobs at the end of 1992; the figure was probably lower at the end of 1993. Although there are no reliable statistics, it is probably safe to assume that most of the rest of the population, with the exception of the very young or the very old, is engaged in productive but nonwage earning activity. Most of these nonwage workers are employed in subsistence agriculture; in urban areas, many are employed in small-scale retailing, services, or workshops. UNTZA, still the largest labor confederation in terms of membership, claims about 300,000 members. Traditionally, the bulk of unionized jobs have been clustered in urban or mineral-producing areas and are concentrated in key economic sectors such as ports and transportation, mining, large-scale manufacturing, and the public sector. These sectors, and their corresponding unions, have been among the hardest hit in the ongoing economic contraction.

The right to strike is recognized in Zairian law; however, "legal" strikes rarely occur since the law requires prior resort to lengthy mandatory arbitration and appeal procedures. Labor unions have not effectively defended the rights of workers in the deteriorating economic environment. The wildcat strikes against the Matadi Port and the quasi-legal strike against the Onatra Transportation Company ended with negotiated wage increases; a legal strike against the Zaire SEP Petroleum Products Distribution Company, however, ended with the firing of several workers. Public employees, most of whom were unpaid for a period ranging from 9 to 12 months, were on strike legally for most of the year. The Vice President of the Dinafet Public Employees Union was arrested and held for 2 months on charges of "inciting revolt" after he called on public employees to demonstrate to protest the nonpayment of their salaries.

UNTZA participates actively in the Organization of African Trade Union Unity, and the Confederation of Zairian Syndicates (CSZ) is affiliated with the World Confederation of Labor (WLC). Several other confederations have expressed an interest in an affiliation with the International Confederation of Free Trade Unions (ICFTU). The Konrad Adenaur and Fredrich Ebert Foundations administer trade union programs.

b. *The Right to Organize and Bargain Collectively.*—Legislation provides for the right to bargain collectively, and an agreement between the UNTZA and the Employers Association (ANEZA) provided for wages and prices to be negotiated jointly each year under minimal government supervision. This system, which functioned until 1991, broke down as a result of the rapid depreciation of Zaire's national currency and has not been replaced by an alternative system. Continuing hyperinflation has encouraged a return to pay rates individually arranged between employers and employees; collective bargaining still exists, at most, on the level of the individual enterprise. Economic deterioration has also resulted in a decline in the influence of unions, a tendency to ignore existing labor regulations, and a buyer's market for labor. The Labor Code prohibits antiunion discrimination, although this regulation is not strongly enforced. The Government has not yet promulgated modifications to the Labor Code that would strengthen provisions safeguarding the right to form unions and to bargain collectively. In the public sector, wages are established by decree, with public sector unions acting only in an informal advisory capacity.

There are no export processing zones in Zaire.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is prohibited by law in Zaire and is not practiced. However, the International Labor Organization's (ILO) Committee of Experts (COE) in 1993 continued to express concern about Zairian laws dating to 1971 and 1976 requiring able-bodied citizens not otherwise employed to perform agricultural and development work as determined by the Government

and providing for imprisonment with compulsory labor for persons determined to be delinquent on tax payments. These laws have not been enforced in recent years.

d. *Minimum Age for Employment of Children.*—The legal minimum age for employment is 18 years. Minors 14 years and older may be employed legally with the consent of a parent or guardian. Employment of children of all ages is common in the informal economic sector and in subsistence agriculture. Neither the Ministry of Labor, which is responsible for enforcement, nor the labor unions make an effort to enforce child labor laws. Larger enterprises do not commonly exploit child labor.

e. *Acceptable Conditions of Work.*—Most Zairians are engaged in subsistence agriculture or commerce outside the formal wage sector. The minimum wage, last adjusted by government decree in 1990, became totally irrelevant as high inflation continued throughout 1993. Most workers relied on the extended family and informal economic activity to survive.

The maximum legal workweek (excluding voluntary overtime) is 48 hours. One 24-hour rest period is required every 7 days. The Labor Code specifies health and safety standards.

The Ministry of Labor is officially charged with enforcement of these standards. However, in 1993 the COE expressed concern about the inadequacy of reporting during the previous 3 years, blaming this unsatisfactory performance on the dearth of human and material resources provided to the Ministry. There are no provisions in the Labor Code permitting workers to remove themselves from dangerous work situations without penalty.

ZAMBIA

Zambia is a republic governed by a president, a unicameral national assembly, and a constitutionally independent judiciary. Free and fair multiparty elections in October 1991 resulted in the victory of the Movement for Multiparty Democracy (MMD) and the election of President Frederick J.T. Chiluba. With one exception, the more than 30 opposition parties generally operated without government interference in 1993.

On March 4, President Chiluba invoked his constitutional powers to declare a state of emergency in response to a purported plot by members of the former ruling party, the United National Independence Party (UNIP), to destabilize the country. The security forces detained without charge and interrogated 26 persons, most of them UNIP members. The Government revoked the state of emergency on May 25 and charged eight detainees with offenses ranging from treason to possession of seditious documents. It released all other detainees without charge. By late 1993, a Lusaka magistrate had convicted one of the eight of possession of a seditious document and sentenced him to 9 months in prison. He remained free on bail pending the outcome of an appeal to the High Court. The remaining detainees were also free on bail as their cases were tried in the courts.

In May the Government established a Commission of Inquiry to investigate human rights abuses under both the current and the previous governments.

The Zambian police, divided into regular and paramilitary units and operating under the Ministry of Home Affairs, have primary responsibility for maintaining law and order. Police often ignore procedural requirements and engage in abusive and brutal behavior, including beating and at times killing criminal suspects and detainees.

After steady declines in per capita gross domestic product, Zambia in 1992 was redesignated a least developed country by the United Nations. The Chiluba Government remained committed to a free market economic reform program, but high inflation had a serious impact on the poor, the middle class, and business, eroding public support for the reform policies. Beginning in August, the inflation rate dropped dramatically, the first sign that tight monetary and fiscal policies were beginning to have an effect. After the drought of 1992, agricultural production rebounded with record harvests of many crops, but the Government's tight cash budget policy limited its capacity to purchase the crops. The key copper industry maintained production levels, but depressed world prices kept revenues at lower levels.

Zambia's major human rights problem, police brutality, continued unchecked in 1993, resulting in extrajudicial killings of persons in police custody and torture, as exemplified by the torture of three detained UNIP leaders at the hands of security forces. Other significant human rights abuses occurred, including arbitrary detentions under the State of Emergency and government efforts to curb press freedom with a concomitant increase in self-censorship by the press. The Government's commitment to constitutional and legal reform remained unfulfilled, abysmal prison

conditions continued to threaten health and life of inmates, and women continued to experience both de jure and de facto discrimination. Wife beating and rape remained common.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no known political killings during the year, but police brutality and use of excessive force continued to result in extrajudicial killings. According to reports in the Zambian press, the police killed at least 19 criminal suspects between January 1 and September 15. So far as is known, the police undertook no serious investigations to determine possible police use of excessive force in attempting to apprehend the suspects. In November a Chingola High Court judge convicted a police officer of manslaughter and sentenced him to 3 years' imprisonment for the accidental shooting death of a man during a melee in a town market.

At least two criminal suspects died in police custody. In one case in January, two police officers reportedly beat the victim to death. In the other, police alleged that a young suspect in apparent good health died suddenly of pneumonia. The authorities investigated neither case to determine possible police culpability. In another case, a police officer was arrested in connection with the December 1992 death of a suspect while in custody. No information on the disposition of the case was made known during 1993. Responding to public concern about police treatment of suspects, Home Affairs Minister Newstead Zimba said in January that officers guilty of abuses would be subject to legal action, but there were no reports that offenders were prosecuted.

b. *Disappearance.*—There were no known cases of government-inspired disappearance.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The 1991 Constitution prohibits torture but members of the police and security forces regularly used excessive force when apprehending, interrogating, and holding criminal suspects or illegal aliens. Beatings and other mistreatment by police were in most instances not subject to serious investigation, and offenders were rarely disciplined or prosecuted.

There were credible reports that during March and April police, security service, and military interrogators severely mistreated three of the persons detained under the State of Emergency. In the course of interrogation between March 13 and 16, one detainee was repeatedly struck, required to perform exhausting physical exercises, and forced to kneel on small stones that caused pain and swelling. Interrogators also reportedly pulled his hair and dunked his head in a dirty toilet. Interrogators systematically abused a second detainee during interrogation by forcing him to sit in a chair with his hands tied behind him and his buttocks raised off the seat, striking him when he tired and lowered his body to the seat of the chair. This person became ill during interrogation, was hospitalized, and then was returned to prison for further interrogation. A third detainee was observed to have marks on his back from beatings.

In response to the allegations of torture and to growing public criticism, the Government stated that it opposed torture and claimed that any mistreatment of the detainees was not the result of policy but rather, of the actions of individuals. The Government permitted delegations from the Foundation for Democratic Process (FODEP) to visit 10 of the detainees at 2 separate prisons on April 5. None of the 10—who did not include the 3 reported torture victims—alleged mistreatment. On March 22, Legal Affairs Minister Chongwe said that law enforcement officers found to have abused detainees should be fired and prosecuted. There were no reports, however, of disciplinary or legal action against any of the security force personnel involved. The Government continued to sponsor a series of human rights training seminars for police and other officials, but there were no signs of an impact on actual conditions.

In further response to the allegations of torture, the Government on May 5 announced the establishment of a Commission of Inquiry to investigate human rights abuse under both the current Government and the previous one. The terms of reference of the Commission, chaired by an eminent lawyer, included recommending measures to the Government to prevent human rights abuses by government personnel. For several months the Commission toured the country taking witnesses' testimony, most of which detailed abuses under the previous Government, but which also produced allegations that torture and "torture chambers" continued to exist under the MMD Government. As the year ended, the Commission continued to hold

hearings. It was to submit its findings and recommendations to the Government early in 1994.

Conditions in Zambian prisons continue to be harsh and life threatening. Tuberculosis, anemia, dysentery, malaria, chest infections, and other maladies are rampant due to low protein diets, lack of clean water, severe overcrowding, and poor sanitation and medical facilities. In June, for example, a Zambia prison services official confirmed that a food shortage at prisons had forced inmates to live on one meal per day. Similar conditions are found in police holding cells. According to the Law Association of Zambia (LAZ), three prisoners at Singogo Remand Prison in Ndola died within a 6-week period in July and August. Because of the poor conditions in the prison, an Ndola magistrate subsequently ordered the release on bail of many prisoners awaiting trial. In January the LAZ petitioned the Home Affairs Minister to permit access to prisons and police cells, but the Government denied the request. However, the Human Rights Commission of Inquiry toured provincial prisons and police cells, including juvenile facilities, pursuant to its terms of reference. The Government did not allocate nearly enough resources to ameliorate the poor conditions in most prisons and police cells.

d. *Arbitrary Arrest, Detention, or Exile.*—On March 5, President Chiluba invoked powers granted to him under the Constitution to declare a 90-day state of emergency in response to the so-called Zero Option Plan involving members of UNIP. The plan, which had circulated among UNIP leaders for weeks, advocated fomenting widespread civil unrest in order to make the country ungovernable, thereby paving the way for UNIP's return to power. President Chiluba and his Government were concerned that the plan represented an immediate threat to national security. The National Assembly ratified the President's declaration on March 12 by a vote of 114–23.

Imposition of the state of emergency automatically activated the provisions of the 1960 Preservation of Public Security Act (PSA), under which the President and law enforcement authorities have wide powers to curtail civil liberties. In particular, the PSA permits the Government to arrest persons without a warrant and to detain them without charge. After declaring the state of emergency, the Chiluba Government amended some sections of the PSA to restrict its scope and limit the potential for abuses. For example, the period for which a detainee could initially be held without charge was reduced from 28 to 7 days.

Authorities detained 26 UNIP members and supporters in March under the provisions of the PSA. The President signed orders authorizing the detentions after consultation with the Attorney General and other legal advisers. Family members and attorneys were usually given access to the detainees, except during interrogation. When questioned about the right of detainees to have attorneys present during interrogation, government officials gave conflicting legal opinions, but in most cases attorneys were not permitted to be present. Despite the 7-day time limit on detentions specified in the amended PSA, the Zero Option detainees were held without charge appreciably longer, some for 77 days. The Government never convened the special tribunal called for under the PSA to review and authorize additional periods of detention of up to 6 months.

During March and April, most of the detainees were released from custody without being charged. On May 21, the Government revoked the presidential detention order against the remaining eight detainees and charged them with offenses under the criminal statutes ranging from treason to possession of seditious documents. All eight were released on bail, and their trials, which began in August, were continuing as the year ended. The first verdict came in October, when a Lusaka magistrate convicted UNIP leader Bwendo Mulengela of possession of a seditious document and sentenced him to 9 months's imprisonment. Mulengela appealed the judgment to the High Court.

In March, 13 of the detainees petitioned the courts to review the legality of their detentions. Hearings before two Lusaka High Court judges began on April 6 and continued intermittently until the state of emergency was revoked by the President on May 25. The courts pursued the cases evenhandedly and took steps to safeguard the detainees' rights. High Court Justice James Mutale, for example, ordered the state to hold the detainees in the Lusaka area during the hearings (previously they had been held at various prisons around the country) and demanded that all mistreatment be halted. Ultimately, the detainees were released before the courts could rule on their petitions.

In regular criminal cases, the law requires that a detainee be charged and brought before a magistrate within 24 hours, but there are delays at each step of the process, and deadlines are frequently missed due to police inefficiency or lack of transportation to bring a suspect before a magistrate. According to the LAZ, many persons are held in police cells and prisons for weeks and even months before

being charged and brought before a magistrate. No statistics on the number of these detainees were available to the public. Foreigners, principally from neighboring countries, are regularly apprehended as illegal aliens and detained until they can be deported. At times these detentions last months or years. In February a high-ranking prison official told a Lusaka judge that 51 "prohibited immigrants" were then detained in Lusaka prisons, some of them since 1991. The official also admitted that Lusaka prisons held many Zambians who had been detained for long periods without trial. One of these, according to the official, had been detained since 1987.

Katiza Cebekhulu, a South African national detained at Lusaka Central Prison in 1991, was released from custody on December 15. At year's end he was residing at the Maheba refugee camp near Solwezi.

e. *Denial of Fair Public Trial.*—The MMD Government respects the independence of the judiciary. At the apex of the judicial system is a nine-member Supreme Court headed by the Chief Justice. The Chief Justice and members of the Court are nominated by the President and confirmed by Parliament. The Supreme Court has appellate jurisdiction for all legal and constitutional disputes. The High Courts have authority to hear all criminal and civil cases and appeals from lower courts. The 55 magistrate courts have original jurisdiction in criminal and some civil cases, while 431 local, or customary courts handle most civil cases at the local level. These local courts employ the principles of customary law, which vary widely throughout the country. Lawyers are barred from participating, and there are few formal rules of procedure. Facilities are often rudimentary. Presiding judges, who are usually prominent local citizens, have great power to invoke customary law in rendering judgments regarding weddings, divorces, inheritances, other civil proceedings, and minor criminal matters. Judgments are often not in accordance with the Legal Code; for example, they tend to discriminate against women in matters of inheritance and other issues (see Section 5).

In ordinary criminal cases, the law provides a number of protections for defendants, including protection during interrogations. Trials are public and defendants have the opportunity to confront accusers and present witnesses. Members of the legal community maintain that if a lawyer can be obtained, defendants can expect to receive a fair trial. However, many defendants are either too poor to retain a lawyer or unaware of the few nongovernmental citizen advocacy groups that might help them. The Government's Legal Aid Department is severely understaffed, and Zambians entitled to legal aid often find that it is unavailable.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Respect for privacy and the inviolability of the home is provided for in the Constitution and is generally respected in practice. During the state of emergency, however, the homes and offices of dozens of UNIP member and supporters were searched. All of these searches took place without a warrant, under the provisions of the Public Security Act, and in some cases authorities forcibly entered premises. Roundups of suspected illegal aliens in the home or workplace continued during 1993. According to the Government Commissioner for Refugees, immigration officials are empowered under the law to conduct these roundups without a warrant.

Section 2. Respect for Civil liberties, Including:

a. *Freedom of Speech and Press.*—The broad public debate of issues that characterized the first year of the MMD Government continued during 1993. Public discussion regarding the state of emergency and other controversial government actions was vigorous and constituted a significant change from public reaction to similar events under the previous government. However, the press and other media continued to run afoul of legal restraints on freedom of expression and suffered political reprisals for expressing independent views.

The Constitution provides for freedom of expression and of the press, but these rights can be circumscribed by laws deemed to be in the interest of defense, public safety, public order, public morality, or public health. In practice, the MMD Government generally respected freedom of expression during 1993, but in a few cases individuals were either denied this right or arrested for expressing views deemed to be contrary to the law. The Penal Code lists various prohibited activities that restrict freedom of expression and the press, including defamation of the President, expressing or showing hatred or ridicule, publication of false news with intent to cause fear and alarm to the public, publishing a seditious document, uttering words with intent to wound religious feelings, and trafficking in obscene publications. In May authorities prevented former Finance Minister Emmanuel Kasonde and others from addressing a rally because the authorities believed speakers would make defamatory comments about President Chiluba (see Section 2.b.). In another instance, authorities arrested and convicted a UNIP supporter for having "defamed" the Presi-

dent, and in a separate case arrested a businessman for allegedly making comments critical of Mrs. Chiluba.

The appearance of three additional nongovernment weekly newspapers, the announcement of a process for licensing private television and radio stations, and the publication of a set of recommendations for media reform that endorse democratic free press ideals, all marked appreciable if tentative progress toward real freedom of the press during 1993. The Government continued to refrain from enforcing the more draconian of the press restrictions in the Legal Code, but made no perceptible move to amend or repeal them. Such laws include the President's power under the PSA, which came into force during the state of emergency, to prohibit the publication, sale, supply, distribution, and possession of information deemed prejudicial to public security. In addition, under the State Security Act, journalists are subject to prison terms of up to 20 years for receiving leaked government documents and information. The Media Reform Committee made specific recommendations to reform the Legal Code, but as the year ended these recommendations had not been approved by the Cabinet or enacted into law.

Despite indications of progress towards genuine press freedom, government officials continued to distrust the press and often attempted to control the dissemination of stories critical of government policies or high-ranking officials. Reporters and editors, especially in the government-owned media, reported receiving calls from senior officials threatening their livelihood over critical stories they had run or that were being written. Police briefly detained the managing editor of The Weekly Post, the most prominent independent newspaper, following publication of a story linking a Cabinet minister with drug trafficking. Also, the President sued The Weekly Post for libel as a result of its reprint of a story, originally appearing in the South African press, that alleged that Chiluba had benefitted financially from an arrangement to allow South African conservationists to conduct studies in Zambia. The Government's dismissal of the much-respected Director General of the Zambia National Broadcasting Corporation—ostensibly for irregularities in his hiring, but in reality for exercising independence in programming— demonstrated the limits of press freedom in 1993. The firing left its mark on reporters, editors, and managers of all government-owned media, who became less willing to investigate, write, or publish stories critical of the Government.

The Government took no action to restrain academic freedom during the year.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly and association, but on occasion the Government ignored these provisions. Under the Fublic Order Act of 1955, persons or organizations wishing to hold an assembly, public meeting, or procession must first apply for a permit. In almost all cases during 1993, authorities routinely issued such permits. Normally, grounds for denial of a permit involve concerns over a threat to public order and security, which is provided for both in the Public Order Act and the 1991 Constitution. On May 24, however, Northern Province Deputy Minister Daniel Kapapa ordered police to revoke a permit for a political rally organized by two former cabinet ministers, because, Kapapa told the press, the ministers had not paid a courtesy call on him and because they were likely to make insulting remarks about the President.

On August 18, the Home Affairs Minister ordered police not to issue permits to MMD Members of Parliament who had resigned to form the National Party (NP). He warned that the former MMD members would be arrested if they attempted to address public gatherings in their constituencies. Three days later Vice President Mwanawasa announced that the Government had reversed the Minister's decision. During several parliamentary election campaigns late in the year, the NP experienced no significant difficulties in holding campaign rallies and other public meetings.

All organizations must apply formally for registration to the Registrar of Societies. In most cases these applications are routinely approved. For example, there are now more than 30 registered political parties. The National Party, led by prominent breakaway MMD leaders, was registered within days of having filed its application in early September. In April, however, the Government refused to register an Islamic party formed by the youth and student wing of the Islamic Council of Zambia. When the Registrar of Societies rejected the application, the group appealed to Home Affairs Minister Zimba to intercede. The Minister responded that the Registrar had made the correct decision, as the Constitution did not allow for the formation of religious parties. However, Article 21 of the Constitution provides that "no person shall be hindered in the enjoyment of his freedom of assembly and association . . . and in particular to form or belong to any political party . . . ." The same Article provides for the registration of political parties but says that only "reasonable conditions" may be established for the registration of parties and that it is un-

constitutional to impose conditions "shown not to be reasonably justifiable in a democratic society." During the state of emergency, the Government took no action to curtail the rights of political parties, including UNIP and other groups, to hold public meetings and assemblies.

c. *Freedom of Religion.*—Freedom of religion is provided for in the Constitution and is respected in practice. Although President Chiluba has declared Zambia to be a Christian nation, other religions are practiced without interference.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution guarantees citizens the right to move freely throughout Zambia, to reside in any part of the country, and to depart from and return to the country without restriction. The authorities generally respected these rights during 1993, but police roadblocks to control criminal activity continued and police often extorted money and goods from motorists.

According to UNIP, the Government seized the passports of 39 party leaders in connection with the state of emergency and the subsequent investigation. By year's end all of these passports had been returned to their holders.

The United Nations High Commissioner for Refugees (UNHCR) estimated that there were approximately 142,000 refugees in Zambia in 1993, up slightly from 1992. The majority were Angolans, with significant numbers of Mozambicans, Zairians, Somalis, and South Africans. The repatriation of the approximately 15,000 Mozambicans proceeded slowly, while repatriation of approximately 125,000 Angolans stalled due to the renewed fighting in that country. In July approximately 1,500 minority Kasai from Shaba Province in Zaire fled into Zambia and requested refugee status. They were fleeing both attempts by the Shaba Government to remove them forcibly from the province and restrictions that made it impossible for them to earn a living there. After some hesitation, the Zambian Government agreed to let the Zairians proceed to a UNHCR refugee settlement in the northwest. A steady trickle of Zairians continued to cross into Zambia during the year. The alleged criminal activities of many Zairians in the border region was of considerable concern to the Government, and roundups, arrests, and deportations of Zairians and other illegal aliens continued throughout the year. With respect to illegal aliens, these actions are lawful. However, Zairians and others who have been accorded refugee status by the UNHCR are sometimes picked up and held for varying lengths of time before being released.

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

Zambian citizens exercised the right to change their government in free and fair multiparty elections in 1991 following years of one-party rule by the UNIP. However, under the 1991 Constitution the President wields broad authority. Although Parliament ratifies major appointments and has other powers, in practice it is an ineffectual check on executive authority. While President Chiluba kept his promise to limit the scope and duration of the state of emergency, coming so soon after the advent of multiparty democracy, it constituted an ominous precedent. Constitutional reform to increase the power of Parliament, a prominent plank in the MMD election platform, continued to proceed at an extremely slow pace, although in September the Government announced the formation of a constitutional commission to draft a new constitution. The 24-member commission represents a broad spectrum of Zambian society. It is expected to complete its work in 1994.

The ruling MMD controls the executive branch and the Parliament. With one exception, noted in Section 2.b., the MMD Government allowed opposition parties to operate freely. Several parliamentary byelections were hotly contested. These elections, using the secret ballot, were generally free and fair. In many constituencies turnout was low, continuing the pattern of 1992, but in others a considerable percentage of registered voters participated. Though adult suffrage is universal, an outdated voter register requires revision in order to enfranchise new voters. In August prominent MMD members, including former cabinet ministers, resigned from the party to form the National Party (NP). After a brief delay, the Government permitted these politicians to operate freely and approved the registration of the new party

The number of influential women in politics and government is increasing; it includes cabinet ministers, deputy ministers, Members of Parliament, the Interim Chairman of the opposition National Party, ministerial permanent secretaries, and numerous elected local government officials.

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

A number of human rights and civic organizations operate without hindrance. These include the LAZ and FODEP. The latter, along with the Young Women's Christian Association (YWCA), the Nongovernmental Organization Coordinating Committee (NGOCC), and other groups was active in promoting women's civil and political rights. In general, the Government continued to be receptive to criticism from such organizations, but individual ministers sometimes became confrontational. In September, for example, the Home Affairs Minister said that human rights advocates critical of government policies should "shut their mouths." In September the Inspector General of Police complained that the actions of human rights monitors led to an increase in crime.

The Government was receptive to inquiries or visits by international human rights organizations.

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

The population of about 8 million comprises more than 70 Bantu-speaking tribal groupings. Economic and social needs are met on a generally nondiscriminatory basis. The Constitution prohibits discrimination based on race, tribe, sex, place of origin, marital status, political opinion, color, or creed. Members of the Asian community, which includes many shopowners, continued to complain in 1993 of hostility from other Zambians.

Women.—Under civil and constitutional law, women are entitled to full equality with men in most areas. In practice, Zambian women are severely disadvantaged compared to men in formal employment and education. Married women who are employed often suffer from discriminatory conditions of service; allowances for housing and children and tax rebates to which they as employees are entitled often accrue to their husbands. Similarly, women have little independent access to credit facilities; in most cases, they remain dependent on husbands, who are required to sign for loans. As a result, few women own their own homes.

Under the citizenship laws, a Zambian man who marries a non-Zambian woman can transfer "resident rights" to his wife, but a Zambian woman who marries a non-Zambian man has no right to have her husband reside in Zambia.

Customary law and practice also place women in subordinate status with respect to property, inheritance, and marriage, despite various constitutional and legislated provisions. In some areas, women are not allowed to hold land under customary tenure, and what they produce on land can be appropriated by the "rightful" holder, usually a male relative. Under traditional customs, all rights to inherit property rested with the deceased man's family. The Intestate Succession Act, passed in 1989, guarantees widows a 20-percent share and children a 50-percent share in the inheritance of a deceased man's property. Despite increasing efforts by nongovernmental organizations during 1993 to publicize the law, it remained generally ineffectual because of ignorance, apathy, fear, and lax enforcement by the police and the courts. According to the YWCA, however, there were indications that increasing numbers of widows in urban areas were aware of their rights under the law and sought assistance and protection from NGO's or legal authorities.

Violence against women remained a serious problem. Wife beating and rape were commonplace, although there were no statistics available to document the precise extent of these abuses. Domestic assault is a criminal offense, but in practice police are often reluctant to pursue reports of wife beating or other forms of abuse. The Government mounted a publicity campaign to discourage wife beating, but there was no information about the campaign's effectiveness. Authorities evinced serious concern in an apparent increase in rape, and offenders have been arrested, prosecuted, and sentenced to jail terms.

Children.—There was no pattern of discrimination or societal abuse against children, but scarce government resources and ineffective implementation of social programs adversely affected the welfare of children and adults alike.

People with Disabilities.—Persons with disabilities face significant societal discrimination in employment and education. The basic law covering the disabled is the Handicapped Persons Act (HPA). It established the Zambia Council for the Handicapped, a government organization, which provides rehabilitative and social service to the disabled. There are no legal provisions prohibiting discrimination or mandating accessibility for the disabled. In 1993 the Minister of Community Development and Social Services named a task force to study the problems of the disabled with a view to drafting a new law to replace the HPA and better safeguard the rights of the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution guarantees the right of citizens to form trade unions, and Zambia has a history of strong labor union organizations dating from the establishment of the copper mines in the 1930's. Approximately 60 percent of the 300,000 formal sector workers are unionized. The country's 19 large national unions are organized by industry or profession. All are affiliated with the Zambia Congress of Trade Unions (ZCTU). The ZCTU is democratically organized; it regularly conducts open elections to select its leadership. Like its constituent unions, it is independent of any political party and the Government. The ZCTU and other unions operated freely throughout the year and frequently criticized the MMD Government on such issues as economic policy, wages, and conditions of service. The ZCTU is a member of the International Confederation of Free Trade Unions.

On April 26, Parliament passed a new Industrial and Labor Relations Act (ILRA), which superseded the controversial Industrial Relations Act of 1991. With the broad backing of labor, business, and government leaders, the new Act reestablished the principle of "one industry, one union" that had been abolished under the 1991 ILRA. While acknowledging that the one industry, one union rule restricts the right of individuals to freely associate, union leaders successfully argued that a proliferation of unions would weaken organized labor. Under the 1993 ILRA, therefore, a new union may be registered only if the Government determines that it represents a specific trade, profession, or category of employees who are qualified to form a union. A group representing a trade, profession, or category of employees already represented by an existing trade union will not be registered. Under the 1991 Act, a number of new unions sought registration, including those purporting to represent bankers, miners, secondary school teachers, technical college staff, and civil servants. Depending on the Government's interpretation of the new law, some of these new unions may be recognized as legal entities. The 1993 ILRA also abolished the provision in the 1991 law disaffiliating unions from the ZCTU. The new law automatically reaffiliated the unions with the ZCTU but also allows unions to leave the ZCTU through a simple majority vote of their members.

All workers have the right to strike except those engaged in essential services, the Zambia Defense Force, judicial service, police force, prison service, and security intelligence service. Essential services are defined in the 1993 ILRA as power, medical, water, sewerage, firefighting, and certain mining occupations essential to safety. Strikes and work stoppages were commonplace throughout the year as workers' salaries and conditions of service were undercut by harsh economic conditions and, until the last half of the year, sharp increases in the cost of living. Strikes are permitted only after all other legal recourse has been exhausted, and in practice all work stoppages during the year were illegal. At various times from May through August, many teachers and civil servants went on strike to protest the slow pace of negotiations with the Government on a new contract. After a series of meetings between Government and union negotiators, the unions agreed in August to accept the Government's offer of a 50 percent salary increase. The ZCTU and individual unions may affiliate with a trade union or organization outside Zambia by a simple majority vote of the membership. Labor leaders travel without restriction to international conferences and to visit counterparts abroad.

b. *The Right to Organize and Bargain Collectively.*—The 1993 ILRA prohibits antiunion discrimination by employers against union members and organizers. An employee who believes he has been penalized for union activities may, after exhausting any existing administrative channels for relief, file a complaint with the Industrial Relations Court. This court has the power to order appropriate redress for the aggrieved worker. The complainant may appeal a judgment of the Industrial Relations Court to the Supreme Court. The Industrial Relations Court has the power to order employers to reinstate a worker fired for union activity.

Employers and unions in each industry negotiate collective bargaining agreements through joint councils in which there is no government involvement. Collective disputes are first referred to a conciliator or a board of conciliation. If conciliation fails to resolve the dispute the parties may refer the case to the Industrial Relations Court or, in the case of employees, vote to strike. In practice, the industry joint councils function effectively as collective bargaining mechanisms.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Slavery and involuntary servitude are prohibited by the Constitution. Forced labor is prohibited, except in the conduct of communal or civic obligations.

d. *Minimum Age for Employment of Children.*—By legislation, the minimum age for employment of children is 16. The Labor Commissioner effectively enforces this law in the industrial sector, where, because of adult unemployment, there are almost no jobs available to children under the age of 16. However, the law is not en-

forced for the vast majority of Zambians who work in the subsistence agricultural, domestic service, and informal sectors, where persons under age 16 are often employed. In urban areas children commonly engage in street trading.

e. *Acceptable Conditions of Work.*—In 1991 the Government established a minimum monthly wage rate for all employees, except professionals, plus housing and transportation allowances. As of December 1993, according to the Labor Commissioner, this rate was approximately $7.50 or 4,500 Zambian kwacha. However, each industry may through collective bargaining set its own minimum wage rates above the legal floor, and in practice most formal sector workers receive salaries considerably higher than the minimum wage. As of March 1993, for example, miners generally received a monthly salary of at least $50 (30,000 kwacha), and construction and engineering workers received between $20 and $75 (13,000 and 45,000 kwacha), depending on position and seniority. In nonunionized industries and trades, however, the minimum wage is applied. This would include such positions as delivery assistants, general workers, and office orderlies. The minimum wage is insufficient to provide an adequate standard of living, and most minimum wage earners must supplement their incomes through second jobs, subsistence farming, or reliance on the extended family.

The legal maximum workweek for nonunionized workers is 48 hours. Maximum limits for unionized workers vary. For example, the legal maximum for unionized guards is 72 hours per week. The minimum workweek for full-time employment is 40 hours and is, in practice, the normal workweek. Two days of annual leave per month of service are required by law.

Zambian law regulates minimum health and safety standards in any industrial undertaking. Enforcement of industrial safety in the mines is the responsibility of the Department of Mines. Factory safety is handled by the Inspector of Factories under the Minister of Labor, but staffing problems chronically limit enforcement effectiveness.

ZIMBABWE

Zimbabwe is governed by President Robert Mugabe and his Zimbabwe African National Union-Patriotic Front (ZANU-PF) which has dominated the legislative and executive branches of government since independence in 1980. The Constitution allows for multiple parties; in addition to ZANU-PF, there are several smaller parties. In 1993 they were deeply divided, poorly financed, and faced periodic intimidation by government security forces. The Forum Party was launched in March and quickly became the largest and best organized opposition party.

The Zimbabwe Republic Police (ZRP) is responsible for maintaining law and order. The size of the Police Internal Security and Intelligence (PISI) unit, a branch of the ZRP, was reduced in 1993. The Central Intelligence Organization (CIO) falls under the Ministry of Security. Since 1991 the CIO and PISI have not been permitted to arrest, detain, or interrogate suspects in internal security cases. In the past, the CIO was accused of human rights abuses, including the use of torture; however, there were no new reports of torture by the CIO or the ZRP in 1993. The Air Force and Zimbabwe National Army (ZNA) also have intelligence staff structures, which perform a variety of intelligence and security functions.

Zimbabwe's economy has strong agricultural and mining sectors and a diversified manufacturing base. The Government remained committed to the Economic Structural Adjustment Program (ESAP), despite severe hardships the Program caused average Zimbabweans. Although Zimbabwe began to recover from the effects of the devastating 1991–92 drought, which caused a decline of between 8 and 9 percent in the gross domestic product, the unemployment rate was almost 45 percent. Thousands remained chronically dependent on food support 1 year into a good post-drought agricultural season. Although the need for land reform is widely accepted, the 1992 Land Acquisition Act has been implemented along racial lines.

There were several positive developments in 1993; however, human rights abuses continued, notably deplorable prison conditions, police brutality, and some irregularities in local and by-elections. A white paper on the draft inheritance law, which will clarify (particularly women's) inheritance rights, was widely circulated and comment requested from a cross-section of Zimbabweans. Public education and vigorous prosecution reduced the incidence of such traditional practices as refusing to bury a woman's body until her lobola (bride price) is paid and forcing a widow to marry her brother-in-law. Supreme Court instructions directed magistrates to determine for the record that unrepresented defendents fully understand their rights and that mitigating circumstances are considered even if they are not part of the defense. In

August, the Minister of Justice announced the establishment of an Inter-Ministerial Committee on Human Rights. However, by year's end the Committee had not taken any concrete action. The Government has failed to investigate fully atrocities committed during the "1982–87 Matabeleland Dissident Crisis" or to prosecute fully those involved. In general, the Government was unable or unwilling to try, convict, and punish those responsible for human rights abuses. Prison conditions were deplorable. On occasion the Government acted to restrict freedom of assembly and association, and traditional, often illegal, discrimination against women continued. It used its majority in Parliament to weaken the Bill of Rights, the courts, and the authority of Parliament itself. The Government put checks on Zimbabwe's independent judiciary, and it passed a political parties financing law from which only the ruling party can benefit. There were incidents of intimidation and problems with the voters' rolls in local and by-elections.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no confirmed political killings or summary executions by government security forces in 1993. In 1990 a 15-year-old boy, Happy Dhlakama, died mysteriously in police custody. Following inquiries, in July 1993 the Attorney General opened an inquest into Dhlakama's death. An April inquest into the 1992 death of Forum for Democratic Reform Trust (FDRT) official Mthandazo Ndema Ngwenya ruled out foul play and concluded that the accident in which he died was caused by driver negligence. Although rumors still circulate that the Government was involved in the June 1992 fatal car crash of FDRT youth leader Chris Giwa, Zimbabwean human rights groups, except for the FDRT and the political party it spawned, were satisfied that the crash, like Ngwenya's, was an accident and that the investigation of the incident was properly handled.

A number of cases raised in the 1992 Human Rights Report were concluded: Flight Lieutenant Michael Banana, son of former President Canaan Banana, was convicted of wrongful death (manslaughter) in the shooting of Donald Kalinda and sentenced to an effective 18 months' imprisonment. In late 1993, he was out on bail pending appeal. Two CIO officers were convicted of attempted murder for the March 1990 shooting of candidate for Parliament Patrick Kombayi and sentenced to 7 years in jail. The judgment was highly critical of the CIO and ZRP, accusing them of biased reporting favoring ZANU-PF. The judgment suggested further investigations were required to determine if Vice President Simon Muzenda's bodyguards and driver should be tried for possible involvement in the shooting. Although the Catholic Commission for Justice and Peace (CCJP) came forward with new evidence indicating that Lieutenant Shepard Chisango's June 7, 1991 "fall" from a ZNA vehicle was not an accident, observers considered it unlikely that the Government would reopen the case it dismissed in 1992 for lack of evidence. The Chisango case likely dampens even further any tendency for military officers publicly to denounce corruption in the armed forces.

According to Minister of Home Affairs Dumiso Dubengwa, forensic scientists determined that human remains found during construction at CIO headquarters in 1992 were over 40 years old. However, human rights groups suspect that there may be a cover-up. While eyewitnesses report seeing "bodies," the Government first reported the discovery of "bones" and then a "bone."

A commission established in 1984 to investigate atrocities committed during the 1982–87 Matabeleland Crisis, the Simplicius Chihambakwe Commission, conducted interviews in Bulawayo for 2 days in mid–1993. According to human rights groups, the information collected in that brief time was so damning that the investigation was suspended. Chihambakwe's report was submitted to President Mugabe but has not been made public. Human rights groups are not optimistic that the investigation will be continued until after Zimbabwe's 1995 parliamentary elections. The Government has declared that victims of the Matabeleland Crisis can now be declared legally dead under the Missing Persons Act, but many victims' relatives are too frightened to come forward. In November the Organization of African Unity's Human Rights Committee reportedly pressed the Government to compensate the victims of the Matabeleland Crisis; Government officials replied that President Mugabe had already declared in October 1992 that no compensation would be paid because any atrocities committed were perpetrated during a "state of war."

b. *Disappearance.*—There were no disappearances in 1993. The man allegedly responsible for the 1990 disappearance of Rashiwe Guzha, her boyfriend and Deputy Director of the CIO Edson Shirihuru, died in July. It is, therefore, unlikely that the

case will be reopened despite calls from the CCJP and the Zimbabwe Human Rights Association (ZIMRIGHTS) for a new investigation.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—In a landmark decision, in June the Supreme Court commuted the death sentences of four death row inmates, ruling that the death sentence, though legally imposed, had been rendered unconstitutional (cruel and inhuman punishment) by the long delay between conviction and planned execution dates and the harsh, degrading conditions of confinement. The Government accepted the ruling and went on to commute the death sentences of 32 other long-time residents of death row. Within months, however, Constitutional Amendment 13, declaring, inter alia, that long delays in the carrying out of sentences do not constitute cruel and unusual punishment, was passed by Parliament.

There were no credible reports of torture in 1993. However, the family of Nhlanhla Dlodlo demanded an inquest into his death. The family alleges Dlodlo was beaten to death in police custody. The Government did not actively pursue allegations that torture was used in the past; no CIO or ZRP officials were prosecuted for such abuses in 1993.

Police brutality remained a problem. In several police shooting incidents in 1993, the police launched their own investigation, called on witnesses from the public to come forward, and charged officers involved with wrongful death (manslaughter). One was convicted of murder and sentenced to death in February, and several others remained in custody at year's end. In an effort to professionalize the police force, the ZRP extended its 6-month training course for recruits to 2 years. In 1993 the Legal Resources Foundation (LRF) worked on the design of a legal and human rights syllabus to be incorporated into the recruits' training curriculum. The LRF also conducted human rights training workshops for senior police officers and planned to conduct similar workshops for the police rank and file in 1994. In addition there were workshops for community relations officers on dealing with cases of rape and wife beating.

Overcrowding is a serious problem in Zimbabwean prisons. In September Minister of Justice, Legal, and Parliamentary Affairs Emmerson Mnangagwa confirmed that 223 prisoners died in the first 8 months of the year, primarily from outbreaks of cholera, diarrhea, and AIDS-related illnesses aggravated by squalid, overcrowded conditions. A CCJP report released in August revealed that 22,600 inmates were incarcerated in a prison system built to accommodate 16,000. The Government announced an amnesty for 6,000 prisoners in April to ease overcrowding, but by July the prison population had returned to its preamnesty levels. In some prisons, this meant that prisoners were allowed less than .65 square meters per person. Because the Mlondolozi Prison, which is supposed to accommodate mentally ill prisoners, was full, mentally disturbed prisoners were scattered throughout the regular prison system.

d. *Arbitrary Arrest, Detention, or Exile.*—The police must by law inform an arrested person of the charges against him before he is taken into custody. A person arrested on a criminal charge is supposed to have a preliminary hearing before a magistrate within 48 hours, but the law is often disregarded if a person is not legally represented. A 1992 amendment to the Criminal Procedures and Evidence Act substantially reduced the power of magistrates to grant bail without the consent of the Attorney General or his agents. Although the rule has been decried by legal practitioners and magistrates, in practice a circular issued by the Attorney General giving a general authority to grant bail has lessened the negative impact of the change. High court judges still grant bail independently.

The Government may still apply a wide range of legal powers under the Official Secrets Act or the Law and Order (Maintenance) Act (LOMA). Originally promulgated 30 years ago and widely used in the past to prosecute political opponents, the LOMA has extremely wide and vague sections on political and security crimes and gives extensive powers to the police, the Minister of Home Affairs, and the President. The Government has not invoked the LOMA frequently, fearing that its oppressive provisions might be declared unconstitutional. It was usually invoked to prevent gatherings or demonstrations rather than to arrest or prosecute individuals. Although Minister of Home Affairs Dumiso Dabengwa said in February that the LOMA would be repealed, in November he announced that it would not be repealed in 1993. He also cautioned that certain LOMA provisions might be part of new legislation to be introduced in Parliament. In June, six trade unionists who were arrested for taking part in a 1992 Zimbabwe Congress of Trade Unions (ZCTU) procession in defiance of a government ban, challenged the constitutionality of the LOMA in the Supreme Court, but the case was postponed indefinitely.

Long court delays and a critical shortage of magistrates and court interpreters result in detainees spending long periods in prison without trial. For example, in Sep-

tember, the Harare regional and provincial courts had backlogs of 1,400 and 1,900 cases respectively. Overall, 17 percent of Zimbabwean prisoners in late 1993 had not yet been tried or convicted. The CCJP report cited the case of Bulawayo Prison, where on the day the CCJP researcher visited, 317 of the prison's 758 inmates were unconvicted. An extreme example was the case of Daniel Malchabe whose murder trial began on July 24 after his being held in the remand center for 7 years. Officials blamed the delay on a general shortage of judicial officers that caused delay in completion of investigations.

There were no known political detainees being held at year's end.

Exile is not used as a means of political control.

e. *Denial of Fair Public Trial.*—Zimbabwe's legal system is based on a mixture of Roman-Dutch law, English common law, and customary law. Every defendant has the right to select a lawyer of his or her choosing. In criminal cases an indigent may apply to have the Government supply an attorney, while in capital cases the Government will provide an attorney for all defendants unable to afford one. Litigants in civil cases can request legal assistance from the LRF or from the Citizens Advice Bureau.

Nearly 92 percent of defendants in magistrates courts are unrepresented. Human rights groups have recently highlighted the problem of poor representation for indigent clients, particularly in capital cases. The Supreme Court has instructed magistrates to ensure for the record that unrepresented defendants fully understand their rights. In addition, the Supreme Court instructed magistrates to determine themselves if there are mitigating circumstances in criminal cases, whether or not the accused presents them as part of his defense. The right to appeal exists in all cases and is automatic in cases in which the death penalty is imposed. Trials are open to the public except in certain security cases.

The Customary Law and Local Courts Act of 1990 created a unitary court system, consisting of headmen's courts, chiefs' courts, magisterial courts, the High Court, and the Supreme Court. With the restructuring of the courts, customary law cases can be heard at all levels of the judiciary, including the Supreme Court. In March chiefs' and headmen's courts, which can hear limited categories of customary law cases in disputes not exceeding $100 and $200 respectively, were reactivated. These courts provide much greater access to the legal system to people in remote areas unfamiliar with the general law.

Training for magistrates and chiefs conducted by the Chief Magistrate and the Legal Resources Foundation was widely reported in the press and went a long way toward ending human rights violations acceptable under customary law. For example, press coverage of the vigorous prosecution of families who refuse to bury their daughters until the widower pays lobola (bride price) led to a reduction in the practice. During widely publicized training sessions for chiefs, the Chief Magistrate warned that the "ukungena," the custom of forcing a widow to marry her late husband's brother, was illegal. He also declared that the practice of paying compensation and slaughtering a cow to appease the spirits in cases of incest was no longer acceptable.

Although the judicial system lacks structures to guarantee its independence, such as life terms for judges, Zimbabwe's judiciary has a well-deserved reputation for independence. Judges are not fired or transferred for political reasons, and the Government generally abides by court decisions even when it is strongly opposed to the rulings. However, the Government has submitted constitutional amendments to undermine major Supreme Court rulings or anticipated rulings. For example, Amendment 11 changed the Constitution to allow corporal punishment of minors after the Supreme Court ruled that caning of minors constituted cruel and inhumane punishment, and asserted the constitutionality of hanging in anticipation of a CCJP test case challenging hanging as a method of execution. Amendment 12 declared that the courts did not have jurisdiction to determine questions of compensation for compulsory acquisition of land. Amendment 13, tabled just weeks after the Supreme Court ruled that long incarceration on death row constituted cruel and and inhumane punishment, declared that neither treatment of prisoners nor delays in carrying out their sentences entitle prisoners to a stay or remission of sentence. The Amendment will apply retroactively. It was the third amendment in a row drafted to undermine a Supreme Court ruling or anticipated ruling. In addition, President Mugabe invoked the Presidential Powers Act to overturn a High Court eviction order in a civil case. Legal practitioners feared the use of the Act in a civil case set a dangerous precedent. In July President Mugabe declared that if the courts sought to interfere with implementation of the Land Acquisition Act, the Government would ignore the ruling and "declare a unilateral declaration of independence" on the land.

There were no political prisoners at year's end. However, the CCJP remained concerned about 32 former PF-ZAPU guerrillas convicted of particularly serious crimes, such as murder, who were not beneficiaries of the 1990 general amnesty.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution formally protects citizens from arbitrary search or entry, and after the lifting of the state of emergency (SOE) in June 1990, these protections have been generally respected. It is widely known, however, that the Government monitors private correspondence and telephones, particularly international communications.

Although the need for land reform in Zimbabwe is almost universally accepted, implementation of the 1992 Land Acquisition Act denies farmers whose lands have been designated for acquisition adequate due process; they may only appeal the amount of compensation in administrative courts, not the decision to acquire their farms.

Commercial farmers are overwhelmingly white; as a result, the Act has been implemented de facto along racial lines. Designations of most black "emergent farmers" have been dropped, and President Mugabe referred to white farmers as "racist settlers." Questioned on implementatiom of the Act, he attacked representatives of concerned governments as "racial bigots from countries whose red Indians, Eskimos, and blacks are discriminated against." In some cases, land has been designated for acquisition to achieve political goals. The designation of former Member of Parliament (M.P.) Henry Ellsworth's farm is a particularly egregious example. His farm (and home) were designated shortly after press reports alleged that he required 24 women caught stealing firewood on his property to remove their clothes as punishment. Minister of Lands, Agriculture and Water Development Kumbirai Kangai publicly defended the decision to designate Ellsworth's farm by terming it "due punishment" and stating that it was the "quickest tool to achieve the desired result." The farms of Ndabaningi Sithole and James Chikerema, political opponents of the ruling party, were designated in April. However, a commission on land tenure was established in November, and the Government and commercial farmers began a constructive dialog on land issues.

The Government evicted over 2,500 squatter families in 1993, often without providing adequate alternative arrangements. In October the ZRP moved in force to evict the 4,000 residents of opposition ZANU-Ndonga leader Ndabaningi Sithole's Churu Farm. The Government made almost no provision for their alternative settlement. Senior Minister of Local Government, Rural and Urban Development Joseph Msika said Churu Farm residents should "go and join their homeless colleagues in the streets" and then apply to his Ministry for aid. With the assistance of Zimbabwean human rights groups, Churu Farm residents appealed against the Government's eviction order. The High Court ruled that the evictions were illegal because the Government had not given residents 90 days' notice. At year's end, the situation was a stand-off: Police remained encamped at the farm, and nearly 1,000 families were living in makeshift huts along the road, afraid to return to their homes.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of expression but allows for legislation to limit this freedom in the "interest of defense, public safety, public order, state economic interests, public morality, and public health." In practice, there are significant restrictions. At public events it is generally assumed that speakers are under surveillance and may be subject to follow-up questioning by the CIO if their remarks are judged too controversial.

Zimbabwe's major print media (seven English-language newspapers and one vernacular broadsheet) belong to the Mass Media Trust, a holding company heavily influenced by the Government and ruling party. In May the Government ruled out the possibility of privatizing the cash-strapped Zimbabwe Inter-Africa News Agency (Ziana Wire Service). The Government influences mainstream media through indirect ownership, editorial appointments, directives to editors, and removal of wayward editors. There is no opposition press per se, but a small independent press, consisting primarily of a daily, an economic weekly, two Sunday tabloids, and three monthly magazines, carefully monitors government policies and opens its pages to opposition critics. Other minor independent publications exist, with circulations under 3,000 and varying frequencies. Despite its harsh public attacks on many of these publications, the Government has taken no overt punitive measures against them, but there is a high degree of self-censorship aggravated by antidefamation laws which make no distinction between public and private persons.

Radio and television are entirely government owned and controlled. In May the Zimbabwe Broadcast Corporation (ZBC) refused to run paid Forum Party advertisements and announcements of meetings. When pressed for a written reason why the

advertisements could not be purchased, the ZBC reversed the decision. Opposition party rallies and press conferences receive only limited television or radio coverage. In July President Mugabe rejected the possibility of allowing an independent broadcasting station, stating "you don't know what propaganda they are going to broadcast."

Academic freedom remained curtailed by the University of Zimbabwe and the National University of Science and Technology Amendment Acts (1990) which greatly restrict the independence of these universities from government influence and extend the disciplinary powers of the university authorities against staff and students. However, in April the Supreme Court ruled that three University of Zimbabwe students expelled for their part in May 1992 student demonstrations should be reinstated. There were no major student demonstrations in 1993. Students at the National University of Science and Technology in Bulawayo protested the slow disbursement of government funds for campus expansion, but the demonstrations were poorly organized and supported.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution formally provides for the right of assembly and association for political and nonpolitical organizations, including a broad spectrum of economic, social, professional, and recreational activities. There are several active political parties and human rights organizations, as well as 35 trade unions. The formation of unions and political parties is not restricted. In law and in practice, however, serious obstacles prevent the full exercise of this right, particularly in the case of political associations. The broadest authority for restricting these freedoms is contained in the LOMA. Since the lifting of the SOE, the Government has relied on the LOMA to limit freedom of association or assembly, invoking the Act five times in the first 2 months of 1993. Organizations are generally free of governmental interference as long as their activities are viewed as nonpolitical.

c. *Freedom of Religion.*—Freedom of religion is respected in Zimbabwe.

There is no state religion. Denominations are permitted to worship openly, pursue social and charitable activities, and maintain ties with affiliates and coreligionists abroad.

Religious belief is neither a handicap nor an advantage in terms of professional or political advancement.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Travel at home and abroad is not generally subject to official restrictions, although in the past restrictions were occasionally applied to prevent anticipated criticism of the Government before foreign audiences. There were no reports of restrictions in 1993. Zimbabwean-born people do not have automatic right of return. Zimbabwean women may not confer citizenship or even apply for automatic residence registration for their spouses and children.

According to the United Nations High Commission for Refugees (UNHCR), in 1993 the registered refugee population was estimated at 140,000, mostly Mozambicans. The Government permitted UNHCR officials unrestricted access to Mozambican refugee camps. Another 100,000 Mozambicans, many of them migrant farmers, were self-settled in rural areas in the east. The Government announced in September that it intended to repatriate 70,000 Mozambican refugees, but only 9,300 had been repatriated by year's end. The refugees are being screened by the UNHCR. No instances of refoulement (summary repatriation to a country where a refugee claims to fear persecution) were reported in 1993.

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

Citizens have the legal right to change their government through democratic means, but the March 1990 presidential and parliamentary elections—with intimidation by the security forces, lopsided media coverage, inaccuracies in the voters' rolls, and irregularities in some constituencies—called into question their ability to exercise that right. The ruling party captured 117 of the 120 seats in those elections; as a result, there is still no effective parliamentary opposition.

President Mugabe and his Cabinet are the preeminent political figures, and the ruling party, ZANU-PF, is the dominant political organization in the country. Following the amendment of the Constitution in 1987 to create a strong executive presidency, Robert Mugabe, who previously served as Prime Minister, became in 1988 both the Head of State and the Head of Government. The Executive President was elected in 1990 to a term of 6 years. The President appoints both vice presidents and the rest of the Cabinet, who serve at his pleasure.

The Political Parties Funding Act inhibits the development of opposition parties by providing government funding only to those parties which have more than 15 parliamentary seats. No other party will be able to secure 15 seats before the 1995

national elections; opposition parties currently hold only 3 of the 150 seats in Zimbabwe's Parliament. The 1993–94 budget provides $4.6 million in public funding for ZANU-PF, up from $3.1 million in 1992–93.

The net result of several constitutional amendments was to concentrate power in the executive branch of government. As in many countries with a Westminster system, if an M.P. "crosses the floor," e.g., changes his party allegiance, or is declared by his party to have ceased to represent its interests in Parliament by being critical of its policies, or is expelled from that party (perhaps for activities totally unrelated to performance as a parliamentarian), such an M.P. immediately loses his seat and a by-election has to be held. This provision makes M.P.'s more submissive to the party line. However, a small group of backbenchers in the Parliament vigorously confronted the Government on a number of issues ranging from corruption to parastatal management and water projects in 1993.

Problems with the voter rolls and intimidation of voters and candidates marred parliamentary by-elections and district council elections in 1993. Credible reports held that CIO agents told voters in Matabeleland that the infamous "Fifth Brigade" (which left a trail of murder and torture there in the mid–1980's) would return if they did not vote for ZANU-PF. Rural dwellers reported that government agents told them they would not be eligible to receive drought relief if they supported the opposition. ZIMRIGHTS expressed concern over allegations of intimidation by security forces of an independent candidate in the Matobo by-election. The Ministry of Local Government, Rural and Urban Development stated it was investigating complaints that several rural district council elections were conducted improperly. However, no report had been issued by year's end.

Problems with the voter rolls meant that hundreds were turned away during the by-elections. The Registrar General of Voters' Office worked to update the voter rolls before the 1995 election; according to Ministry of Home Affairs officials, there were 1 million eligible voters whose names had not been added to the rolls, and as many as 30 percent of those on the current rolls were redundant. Members of Parliament and opposition party members complained that copies of the voter roll were not made available to them.

Opposition party members were subject to occasional CIO harassment. Several opposition party leaders lost, or were threatened with losing, their jobs. The discovery of a listening device at the Forum's national convention in March was widely reported in the press.

The Constitution provides for one person, one vote, and any one over the age of 18 is eligible to register to vote in general elections. The Government amalgamated rural and district councils in an attempt to end white farm owner domination of the councils in rural areas.

In metropolitan areas, save Bulawayo, in the wealthy suburbs only homeowners may vote, though in high density urban areas renters may vote in city council elections. Wealthy areas are accorded 1 council representative per 3,000 voters, while high density districts have 1 council person per 8,000 voters.

Women participate in politics without restriction. Eight female ministerial-level appointees served in 1993, but of the 150 M.P.'s, only 16 were women.

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

The Government permits private local human rights groups to operate in Zimbabwe. However, it monitors their activities, in particular those of the CCJP, which investigates complaints from private persons about human rights abuses and conveys its findings to the Government. Other groups which promote human rights include ZIMRIGHTS, the Southern African Human Rights Foundation (SAHRF), and the Harare-based Legal Resources Foundation which oversees the operation of the Bulawayo, Gweru, and Masvingo Legal Projects Centers with their libraries and information centers, legal aid clinics, and paralegal programs.

The International Committee of the Red Cross (ICRC) operates a regional office in Harare and cooperates with the UNHCR to assist Mozambican, South African, and other refugees.

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

Women.—Since independence the Government has enacted major laws aimed at enhancing women's rights and countering certain traditional practices, some of which are based on the view of women as dependents or minors. For example, the Legal Age of Majority Act and the Matrimonial Causes Act recognize the capacity of women to act independently of their husbands or fathers to own property. Judges on the High Courts have adjudicated cases upholding women's rights, including the

right to inherit property. The Government and women's rights groups circulated a white paper on a draft inheritance law, soliciting comments from a cross-section of Zimbabweans and holding meetings to inform (particularly rural) women about their rights. The right of a woman to procure or receive government-provided contraceptives without her husband's written permission was recently accepted.

Nevertheless, many women remain disadvantaged in Zimbabwean society. Ignorance of reforms, illiteracy, economic dependency, and prevailing social norms prevent rural women in particular from benefiting equally from these changes. Despite legal prohibitions, women are still vulnerable to entrenched customary practices which operate against their personal rights. Among these persistent practices are "kuzvarira," the practice of pledging a young woman to marriage with a partner not of her choosing; "ukungena," the custom of forcing a widow to marry her late husband's brother; "lobola," the customary obligation of a groom to pay a bride price to the parents of a would-be wife; and "ngozi," the customary practice of offering a young girl as compensatory payment in interfamily disputes.

As noted above, legal education and vigorous prosecution of offenders significantly reduced the practices of ukungena and refusing to bury a woman until lobola is paid.

A considerable expansion of the nation's educational system resulted in an increase in the absolute number of girls being educated but did not alter the pattern of male domination of the higher levels of education. Though legislation prohibits discrimination in employment on the basis of gender, women are concentrated in the lower echelons of the work force and in urban areas face harassment in the workplace. Fear of losing employment often prevents women from reporting sexual harassment at work.

Domestic violence against women, especially wife beating, is common and crosses all racial and economic lines in Zimbabwe. Consequently, several social welfare organizations, including the Harare-based Musasa Project, organized counseling and research programs aimed at stemming violence against women. Women's rights monitors have noted that every police station in Zimbabwe has handled at least one case of a woman killed by her husband. In 1992, 4,437 official complaints of wife battering were filed. The Government assigned to police precincts community relations liaison officers to counsel victims of battering and sexual assault. Press reports indicated, however, that community relations officers sometimes attempted to dissuade women from pressing charges against their husbands. The Women's Action Group urged police to improve their services by giving women who have been raped a full explanation of court procedures and possible defense attorney tactics before they appear in court.

Children.—The Government has a Ministry of Health and Child Welfare. The Children's Protection and Adoption Act, as well as the Guardianship of Minors Act, the Infant Act, and the Deceased Person's Maintenance Act, were all enacted to protect the legal rights of minor children. The criminal justice system has special provisions for dealing with juveniles. Although there is no compulsory age for education, primary school attendance increased by more than 400 percent since independence. However, with the reintroduction of school fees in urban schools and rural secondary schools, enrollment has declined. In 1993 the Government began to take steps to combat the increasingly serious "street kids" problem.

The most recent police figures show that, during 1992, 964 reports of rape were made to the police countrywide, the majority involving girls under 14.

According to press reports, the initiation rites still practiced by the small Remba ethnic group include infibulation, an extreme form of female genital mutilation.

National/Racial/Ethnic Minorities.—Government services are provided on a nondiscriminatory basis, and the Government has sought to expand and improve the previously "whites only" infrastructure in urban areas to provide health and social services to all citizens. In many rural areas, however, the neglect of the preindependence period continued to inhibit provision of minimal care. In social terms, Zimbabwe remains a racially stratified country despite legal prohibitions against official discrimination. Schools, churches, and clubs are all integrated. Social interaction among racial groups is limited but increasing.

People with Disabilities.—The Disabled Persons Act passed in April specifically prohibits discrimination against people with disabilities in employment, admission to public places, or provision of services. In practice, however, lack of resources for training and education severely hamper the ability of disabled people to compete for scarce jobs. Although the Act stipulates that access for disabled persons should be provided to government buildings after a request for access facilities has been made to the Disabled Persons Board and the Board has inspected the building and recommended adjustments for disabled access, few government buildings now provide access to the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—The Labor Relations Act (LRA) provides private sector workers freedom of association, the right to elect their own representatives, publish newsletters, and set programs and policies which reflect the political and economic interests of labor. Workers are free to form or join unions without prior authorization. The LRA allows for the existence of multiple unions per industry, provided that each is registered with the Ministry of Public Service, Labor, and Social Welfare (MPSLSW). While the Government may deregister individual unions, Zimbabwe's High Court has ruled that the LRA does not give the Minister the power to suspend or deregister the national umbrella labor confederation, the Zimbabwe Congress of Trade Unions (ZCTU). According to the LRA, any "interested person" may apply for the reconsideration of a trade union's registration. According to the Act, such an application may be lodged if a union "no longer represents the interest or area for which it was registered" or "has failed to perform any of its functions" in terms of the Act. After holding required hearings on the complaint, the registrar may vary, suspend, or rescind the union's registration.

Less than 20 percent of the salaried work force belongs to the 35 unions which form the ZCTU. Its officers are elected by the delegates of affiliated trade unions at congresses held every 5 years. While the ZCTU's formation was encouraged by the Government to be the labor arm of ZANU-PF, the Government no longer influences its actions. Few of its founding members are still active in the trade union movement, and the ZCTU and the Government have increasingly clashed on economic and political issues. Although the LRA allows for the formation of multiple national federations, none but the ZCTU exists. Some unions, however, choose not to affiliate with the ZCTU.

Public servants and their associations (the Public Service Association (PSA), the Zimbabwe Teachers Association, and the Zimbabwe Nurses Association) are not covered by the provisions of the LRA (according to section 3 of the Act) since their conditions of employment are provided for under the Constitution. They are thus constitutionally barred from forming unions, and their associations are likewise forbidden from affiliating with the ZCTU.

One year after the passage of the controversial Labor Relations Amendment Act (LRAA), the Government circulated copies of a new labor act drafted by the International Labor Organization (ILO). The draft is intended to streamline provisions of the Labor Relations Act while extending its coverage to the public sector.

The LRA specifies that workers may establish worker committees, which exist side by side with unions, in each plant. Worker committees must also be registered with the Ministry, which is free to refuse registration. Trade union officials and others hold that the existence of workers' committees, which were strengthened by the 1992 amendments, dilutes the unions' authority. Nonetheless, the ZCTU grew stronger in 1993, and the Government appeared less inclined to challenge it directly.

The International Confederation of Free Trade Unions (ICFTU) has criticized "Zimbabwean labor legislation" for giving "wide scope to the authorities to declare that a given enterprise or industry constitutes an essential service, and then impose a ban on it." Workers in sectors deemed "nonessential" have the right to strike provided the union advises the Government 2 weeks in advance of its intention to do so.

Only a handful of short-lived strikes took place during 1993. A dispute over working conditions and management at Dalny Mine in April resulted in the deaths of four persons after police fired on a crowd of protestors.

The ZCTU and its officials are free to associate with international labor organizations and do so actively. The ZCTU is affiliated with the ICFTU and the Southern African Trade Union Coordinating Council. The African American Labor Center (AALC) maintains a regional office based in Harare. The AALC's American representative was granted a 2-year temporary employment permit as he had requested.

b. *The Right to Organize and Bargain Collectively.*—The LRA provides workers with the right to organize. As originally enacted, the Act was silent on the right to bargain collectively. However, 1992 amendments permit worker committees to perform functions normally reserved for trade unions, e.g., negotiating collective agreements and codes of conduct. The worker committees, which are by law not organically part of the unions or the ZCTU, are empowered to negotiate with the management of a particular plant the conditions of labor in the workplace, except for wages.

The LRA prohibits antiunion discrimination by employers against union members. Complaints of such discrimination are referred to labor relations officers and may subsequently be adjudicated by the Labor Relations Tribunal. Such complaints are handled under the mechanism for resolving cases involving "unfair labor practices."

The determining authority may direct that workers fired due to antiunion discrimination be reinstated.

Wage negotiations take place on an industrywide basis between the relevant union and employer organization sitting in joint employment boards or councils. These bodies submit their agreements to the Registrar in the Ministry for approval and the Government retains the power to veto agreements it believes would harm the economy. As part of its economic recovery program, the Government announced in 1990 the commencement of free collective bargaining between workers and employers. In 1992 the Ministry endorsed the wage and salary recommendations of all 46 employment boards. However, as noted above, the role of the worker committees impinges on traditional trade union bargaining rights.

In 1993 public and private sector workers criticized Minister of Public Service John Nkomo for calling for wage restraint in his annual wage policy statement. Workers argued that the Minister's statement interfered with the collective bargaining process.

When no trade union represents a specific sector, representatives of the organized workers, i.e., the professional associations, meet with the employers' association under the mediation of labor officers from the Ministry. Public sector wages are determined by the Salary Service Department of the Ministry, subject to the approval of the Public Service Commission (PSC). Each year, representatives of the PSC (employers) and the PSA (employees) hold consultations on wages and benefits. These consultations result in a recommendation which is forwarded to the Minister of Public Service, Labor, and Social Welfare. The Minister is not required by law to accept the recommendation and, in fact, in both 1992 and 1993 granted wage increases significantly lower than the PSC/PSA recommendation.

So-called managerial employees are excluded from union membership and thus from the the collective bargaining process. The presence of the ZCTU or specific national unions in individual shop-floor negotiations is not mandated.

The Labor Relations Amendment Act streamlined the procedure for adjudicating disputes by abolishing the hearing officer level and the Labor Relations Board and strengthening the Labor Relations Tribunal (LRT). Now, labor relations officers hear a dispute; their judgment may be appealed to regional labor relations officers; then the LRT may hear the case; and ultimately it may be appealed to the Supreme Court. In 1993 the Government filled long vacant positions on the LRT, but the LRT boards were not fully staffed and faced a substantial backlog at year's end.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Compulsory labor is prohibited by law and is not practiced.

d. *Minimum Age for Employment of Children.*—Zimbabwean law affords little protection to working children. There is no specific legal prohibition of child labor; the LRA only states that contracts of employment shall not be enforceable against any person under the age of 16 years. The Government is working with the ILO on new child labor legislation. While child labor is most prevalent in the agricultural sector, an increasing number of children can be found working in the informal sector. In the manufacturing sector, minimum age regulations are generally enforced by the Ministry of Public Service, Labor, and Social Welfare.

e. *Acceptable Conditions of Work.*—The maximum legal workweek is 54 hours, and the law prescribes a minimum of one 24-hour rest period per week. Working conditions are regulated by the Government according to industry. The Constitution empowers the PSC to set conditions of employment in the public sector. Government regulations for each of the 22 industrial sectors specify minimum wages, hours, holidays, and required safety measures. In recent years, as part of its effort to opt out of the wage bargaining system, the Government mandated wage parameters and specified minimum wage increases only for domestics and gardeners. Due to an ineffective monitoring system, however, many such workers are remunerated below the minimum wage. The minimum wage for domestics and gardeners is the de facto minimum wage for Zimbabwe. As of November 15, it was set at $26 (Z$177) per month.

The employer usually provides housing and food to workers. On commercial farms, the employer may provide schooling for the workers' children. The minimum wage is not sufficient to sustain a decent standard of living, and the lowest paid workers received a 1993 wage increase which covered less than one-half of the 28-percent inflation rate. Minimum wage rates in those sectoral collective bargaining agreements for 1993 which had been concluded by mid-December range from $26 (Z$177) to $71 (Z$484) in the manufacturing sector. Labor relations officers from the Ministry are assigned to monitor developments in each plant to assure that government minimum wage policy and occupational health and safety regulations are observed.

Safety in the workplace is a major problem, due primarily to too few inspectors. Furthermore, many of the basic legal protections do not apply to the vast majority of the farm, mine, and domestic workers. Unions charge that there are no general standards for the work environment, such as threshold limits for manually lifted weights or conditions for pregnant workers. Health and safety standards are determined only on an industry-specific basis. Tho Government intervenes on a selected basis and sets standards by regulation in some industries. In theory workers have a legal right to remove themselves from dangerous work situations without jeopardy to continued employment.

LATIN AMERICA AND THE CARIBBEAN

ANTIGUA AND BARBUDA

Antigua and Barbuda, a small two-island state, is a parliamentary democracy and a member of the Commonwealth of Nations. It is governed by a Prime Minister, a Cabinet, and a bicameral Legislative Assembly. The Governor General, with largely ceremonial duties, is the titular Head of State and serves as the representative of the British monarch. The Constitution requires general elections at least every 5 years. Prime Minister V.C. Bird, Sr., and his Antigua Labour Party hold 15 of the 17 seats in the House of Representatives. The Governor General appoints the 17-member Senate with the advice of the Prime Minister and opposition leader.

Security forces consist of a police force and the Antigua and Barbuda Defense Force, a 90-person infantry unit. The police are organized, trained, and supervised according to British law enforcement practices. The security forces have a reputation for respecting individual rights in the performance of their duties.

Antigua and Barbuda has a mixed economy with a strong private sector. A slowdown in the important tourism industry was blamed for a decline in economic growth during 1993. The large and growing external debt, combined with the financial pressures of meeting payroll demands of an oversized public sector work force, also contributed to the economic slowdown.

The Constitution provides for political and civil rights, which are generally respected in practice. However, despite government promises in 1992 that opposition political leaders would have access to the government-controlled electronic media, news censorship continued. As a result, opposition parties or persons presenting opinions opposed to government policies were denied media access. Scattered incidents of violence marred campaign activities for general elections set for early 1994.

RESPECT FOR HUMAN RIGHTS

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

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

b. *Disappearance.*—There were no reports of disappearance or politically motivated abductions.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture and other cruel or inhuman treatment of prisoners or detainees, and these prohibitions are generally respected in practice. In 1990 Parliament amended the law to permit flogging as a penalty for rape. While there were no reported floggings of convicted rapists, several people were flogged for conviction on child molestation charges.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, which do not occur in practice. Criminal defendants have the right of judicial determination of the legality of their detention. Detainees must be brought before a court within 48 hours of arrest or detention. There were no reports of involuntary exile.

e. *Denial of Fair Public Trial.*—The judicial system is modeled on that of the United Kingdom and is part of the Eastern Caribbean legal system. Final appeal may be made to the Queen's Privy Council in the United Kingdom, which is invariably done in the case of death sentences. There are no military or political courts. Criminal defendants are assured a fair, open, and public trial. In capital cases only, the Government provides legal assistance at public expense to persons without the means to retain a private attorney.

There are no political prisoners in Antigua and Barbuda.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—There were no reports of arbitrary interference with privacy, family, home, or correspond-

ence in 1993. The police must obtain a warrant from an officer of the court before searching private premises.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech, the press, and other forms of communication. These provisions are generally respected. However, the Government dominates the electronic media, the only daily source of news, and effectively denies access to opposition parties. The Government owns one of the two radio stations and the single television station. A son of the Prime Minister owns the second radio station, while another son is the principal owner of the sole cable television company. The government-controlled media reported regularly on the Government's activities but rarely on those of the opposition political parties.

The political opposition publishes one weekly newspaper. Several private sector organizations, such as the Chamber of Commerce, publish newsletters with a variety of opinions.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly. Required permits for public meetings are issued by the police and are normally granted. On a few occasions, police permits for political rallies and marches have been delayed in an effort to defuse confrontational situations. On these occasions, the opposition parties accused the police of interference.

c. *Freedom of Religion.*—There is unrestricted exercise of religious freedom. The population is overwhelmingly Protestant, but adherents of other religious denominations practice their religion and proselytize openly without government interference. All groups are free to maintain links with coreligionists in other countries.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Neither law nor practice restricts the right of citizens to move about within the country, to travel abroad, or to emigrate.

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

Antigua and Barbuda has a multiparty political system accommodating a wide spectrum of political viewpoints. All citizens 18 years of age and older may register and vote by secret ballot. The Constitution requires general elections at least every 5 years. The Government is obligated by law to hold voter registration during a fixed period each year, and parties conduct their own registration drives free of government interference. The last general elections were held in March 1989 and were won by the Antigua Labour Party (ALP). With 15 of the 17 seats in the House of Representatives, the ALP retains the power that it has held since 1951, except for a period of opposition from 1971 to 1976. One seat is held by United Progressive Party (UPP) leader Baldwin Spencer. The remaining seat represents the Barbuda constituency and is held by a political independent who leads the Barbuda faction advocating secession from Antigua.

The opposition has charged that the ALP's longstanding monopoly on patronage and its influence over access to economic opportunities make it extremely difficult for opposition parties to attract membership and financial support. In 1992, however, public concern over corruption in government spawned the merger of three political opposition parties into the UPP. This led to massive new UPP voter registrants in 1993, but opposition leaders complained that the electoral rolls were inaccurate.

The ALP responded by electing the Prime Minister's son, Lester B. Bird, as it's new political leader to run as the ALP standard-bearer in the general elections scheduled for early 1994. Scattered incidents of violence marred the campaign by year's end.

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

While there are no governmental restrictions, no local human rights groups have formed to date. There were no requests for human rights investigations or inquiries during 1993.

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

The law prohibits discrimination based on race, sex, creed, language, or social status, and it is generally observed.

Women.—While the role of women in society is not legally restricted, tradition tends to limit women to home and family, particularly in rural areas, and to restrict their career options. To change these traditional roles, the Government began programs to provide enhanced educational opportunities for both sexes, as well as fam-

ily planning services. The Directorate of Women's Affairs (previously the Women's Desk) worked energetically, with some success, to help women advance in government and the professions, but progress was slower in the private sector. In 1993 the Directorate continued educational programs for women in such areas as health, crafts, and improving business skills.

Most violence against women probably goes unreported; however, knowledgeable sources believe that over 1,600 cases of physical and mental violence occur each year. Gauging the extent of the problem is difficult due to the reluctance of women in many cases to testify against their abusers. Police may be reluctant to interfere in cases of domestic violence, and some women have credibly charged that the courts are lenient in such cases.

Children.—The Government is a signatory of the U.N. Convention on the Rights of the Child and adheres to its principles. Approximately 17 percent of the national budget is allotted to children's human rights and welfare, including education.

People with Disabilities.—There are no specific laws mandating accessibility for the disabled, but there are constitutional provisions that prohibit discrimination against the physically disabled in employment and education. There is no evidence of widespread discrimination against physically disabled individuals.

Section 6. Worker Rights

a. *The Right of Association.*—Workers have the right to associate freely and to form labor unions, and those rights are respected in practice. Although fewer than 50 percent of workers belong to unions, the important hotel industry is heavily unionized. Unions are free to affiliate with international labor organizations and do so in practice.

Antigua and Barbuda has two major trade unions: the Antigua Trades and Labour Union (ATLU) and the Antigua Workers' Union (AWU). The ATLU is associated with the ruling ALP, while the larger and more active AWU is rather loosely allied with the opposition.

The right to strike is recognized by the Labour Code. This right may be limited in a given dispute by the Court of Industrial Relations. Once either party to the dispute requests the court to mediate, there can be no strike. Because of the delays associated with this process, in practice labor disputes are often resolved before a strike is called. There were no strikes in 1993.

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

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution forbids slavery or forced labor, and they do not exist in practice.

d. *Minimum Age for Employment of Children.*—The law provides a minimum working age of 13, which is respected in practice. Responsibility for enforcement rests with the Ministry of Labour, which is required by law to conduct periodic inspections of workplaces. While there have been no reports of minimum age employment violations, the political strength of the two major unions and the powerful influence that the Government has on the private sector, combine to make the Ministry of Labour very effective in enforcement in this area.

e. *Acceptable Conditions of Work.*—The law permits a maximum 48-hour, 6-day workweek, but in practice the standard workweek is 40 hours in 5 days. Workers are guaranteed a minimum of 3 weeks of annual leave and up to 13 weeks of maternity leave. Different minimum wages for different work categories were established by law in 1981. The lowest minimum wage category, domestic workers, is $0.46 (EC$1.25) per hour; the highest minimum wage category, for skilled labor, is $1.30 (EC$3.50) per hour. Most minimum wages would not provide a decent standard of living for workers and their families, but in practice the great majority of workers earn substantially more than the minimum wage. Increases in the minimum wage were recommended in 1989, but there was no action to implement the recommendation in 1993.

There are no occupational health and safety laws or regulations. The Labour Code provides for inspection and safety standards approval by the Labour Commissioner.

ARGENTINA

Argentina is a federal, constitutional democracy with about 33 million inhabitants. The President, Carlos Saul Menem of the Justicialist (Peronist) Party, was elected in 1989 through an electoral college for a single 6-year term. The Constitutionprovides for a bicameral legislature and an independent judiciary. The executive traditionally is the dominant branch at the federal level. Since the end of military rule in 1983, there have been two national presidential elections as well as numerous midterm elections for Congress and provincial governments, the most recent in October 1993. President Menem is not now eligible for reelection in 1995; however, efforts were being made to amend the Constitution to allow for a second consecutive term.

The President is the constitutional commander in chief, and a civilian Defense Minister oversees the armed forces. Responsibility for maintaining law and order is shared by the Federal Police, which report to the Interior Minister; the Border Police and the Coast Guard, which report to the Defense Minister; and the provincial police reporting to provincial governments. There were continued abuses of police authority in 1993, although fewer than in previous years.

Argentina has a mixed agricultural, industrial, and service economy that grew rapidly and experienced significant changes. An economic reform program is intended to convert a centrally controlled economy into one more responsive to market forces. The program reduced inflation dramatically by sharply increasing revenue collection, fixing the exchange rate, privatizing virtually all major state enterprises, and opening the economy to vigorous competition from imports. These changes forced the business community to increase productivity in order to stay competitive, often through significant investment in labor-saving technology.

The Constitution provides for a wide range of freedoms and guarantees. Nevertheless, institutional weaknesses, political partisanship, government failure to punish human rights violators, and the legacy of authoritarian rule resulted in failure to protect individual rights fully. This was particularly true in the case of extrajudicial killings, often committed with impunity, and instances of police brutality. There were also many threats and incidents of aggression against the media, as well as attempts to monitor ideological activities of students and others. Societal violence against women continued to be a problem, with little visible effort by the Government to combat it. The Government failed to comply with a law that calls for indemnification of those who suffered torture or detention during military rule.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Extrajudicial Killing.*—There were no credible reports of politically motivated killings carried out by government forces in 1993. Police were involved, however, in a number of extrajudicial killings, often with impunity.

In Cordoba, an internal investigation of the death in 1989 of a taxi driver revealed in February that two police officers who had tried to extort money from the driver had killed him. The two were arrested and remanded to a civilian court pending trial. An off-duty policeman working as a security guard at a discotheque killed a 14-year-old boy in Haedo, Buenos Aires province. In nearby Quilmes, two Bolivian boys were shot and killed by a policeman as they exited a church. Legal action was initiated against both policemen. The efficacy of legal actions of this nature varies widely, however, depending on the court within whose jurisdiction the case falls, the attitude of local authorities, and the efficacy of police internal review mechanisms.

The 1991 murder of Radical Party politician Regino Maders was still not resolved by the end of 1993, although ex-police sergeant Carlos Guidone was arrested in February on suspicion of involvement in the case. Maders was thought to have been killed because of his investigation into alleged corruption in the privatization of a provincial electric utility company. There were credible reports of attempts to intimidate witnesses in the case, and of political interference with the investigation.

b. *Disappearance.*—Unresolved disappearances that may have been attributable to the police took place in 1993. On August 17, Miguel Bru disappeared shortly after he filed a complaint for abuse of authority against the La Plata police for raiding his home without a search warrant. Bru's parents attempted unsuccessfully to register his disappearance, but the police refused to accept the report. It was finally accepted at the police station where Bru's father worked. A judicial inquiry has commenced.

In the 1992 disappearance of Pablo Guardati, who was reportedly abducted by four policemen in Mendoza and seen in police custody by a witness 73 days later, a body was positively identified as that of Guardati in June. The 4 policemen most

directly involved were detained for questioning; 10 officers involved in the coverup were reassigned, and 4 officers were charged with attempting to pay bribes for false testimony.

Hundreds of children whose biological parents disappeared during the 1976–83 military dictatorship were—either innocently or fraudulently—adopted by others. Largely as a result of pressure from the "Grandmothers of the Plaza de Mayo" group, a National Commission on the Right to Identity was created in the Interior Ministry in November 1992. According to this group, in 1993 there were still some 500 children whose true identity had not been established or restored. In the case of the Reggiardo-Tolosa twins, fraudulently adopted by police officer Samuel Miara and his wife after their biological parents were murdered, a federal court nullified the adoption; charged Miara with falsification of official documents; canceled their fraudulent birth certificates and other documents; and in May ordered that their true surname be restored. Miara is serving a sentence for fraud and the twins were temporarily housed in a foster home in anticipation of a custody award to their biological relatives.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture and the Criminal Code provides penalties for torture which are similar to those for homicide, from 8 to 15 years in prison. The level of reported incidents of police brutality, particularly directed against young men, declined somewhat from 1992. At the same time, disciplinary and legal action against police officers accused of beating and killing youths continued. In mid-July the Secretary for Security of Buenos Aires province announced broad new measures to control the police and improve their image. As a result, at least 1,000 provincial police were separated from the force.

In Rosario, Santa Fe province, two police officers were suspended from the force during the investigation of charges that they had tried to extort money from two youths, aged 19 and 15, and, failing in their objective, beat them and shot at them. In addition, an internal police investigation of the two officers' actions was pursued. At Villa Carlos Paz, near Cordoba, two police were arrested in March for torturing a suspect during interrogation, and a third officer was suspended for covering up the crime.

Prison conditions vary widely, but on the whole are acceptable. Many of the facilities are old, and some are dilapidated and crowded, but the primary complaints seemed to be the lack of fresh fruit and vegetables in some facilities. Conjugal visits are permitted in some prisons, depending upon the facilities available. Abuse of prisoners by guards is punished in at least some cases. In Santa Fe, in April, 12 guards were suspended and tried for abusing 4 prisoners.

d. *Arbitrary Arrest, Detention, or Exile.*—Although the Penal Code contains explicit protections for individual rights and places limits on the arrest and investigatory powers of the police and judiciary, the laws are often ignored and meaningful sanctions seldom applied against those who break them.

The Interior Ministry conducted courses for public officials designed to heighten awareness about human rights issues, and the Justice Ministry attempted to educate the public about the legal rights of detainees. The Government created an ombudsman to oversee the observance of individual rights in the prison system.

A December 1991 law provided compensation (in government bonds) for those who were illegally detained and held by the executive or the armed forces during the 1976–83 military dictatorship. The Interior Ministry has approved 4,000 of the 8,300 requests submitted for indemnity payments. The lengthy process produced many complaints from those people who believe themselves entitled to compensation. The Supreme Court is responsible for settling disputes over the amount of compensation.

e. *Denial of Fair Public Trial.*—The Constitution and Penal Code call for trials before panels of judges using written presentations and for appellate review of all judicial rulings. The system of oral public trials in penal cases, instituted in September 1992, functioned on a partial basis in 1993. Once fully implemented and funded, oral trials may significantly accelerate rulings in the judicial process. The right to bail is provided by law and recognized in practice.

While the judicial system is independent and impartial in theory, there were continued allegations that the executive branch exercised undue influence on the courts. Growing public awareness of the shortcomings of the system, which is slow and cumbersome, had an impact on official actions. The first oral tribunal in the federal capital freed a young man accused of robbery in June because he had not been notified by the prosecutor of his right to refuse to testify against himself. In one notorious case of a prisoner who was detained for 7 yearswithout ever having been convicted of a crime, the detainee was released in July.

The independence and indeed, the physical safety, of judges werealso affected by threats and attacks on their persons. There is credible reason to believe such attacks were sometimes perpetrated by the police or the military. A federal judge in La Plata who had been investigating the involvement of military personnel in a band of highwaymen was threatened and his daughter was almost kidnaped. Unknown persons sent the judge a series of photographs showing his mother, his daughter, and his house. The house of a judge in Lomas de Zamora (Buenos Aires province) was fired upon by unknown individuals in July, and provincial authorities acknowledged that virtually all of the federal judges working in the province have received threats at one time or another. Two judges, one in Parana (Entre Rios province) and one in Rosario, received threats related to trials of corrupt police officers and narcotics traffickers. The Government's response to these threats was to offer police protection while investigating the incidents.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Although prohibited by the Constitution from doing so, the Government sometimes intruded into the lives of private citizens. With the privatization and modernization of the telephone service, denunciations of telephone tapping diminished. However, reports continue of illegal monitoring by government agencies and private entities. The Government reserves the right to monitor telephones in special cases, with a court order. An October 1992 presidential decree assigned the State Intelligence Secretariat (SIDE) supervision of judicially ordered telephone taps, replacing an office that existed in the formerly state-owned telephone company. A federal judge questioned the decision to place this authority within the national executive.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—In its September 1992 presentation to the Inter-American Press Society meeting in Madrid, the National Editors and Publishers Association (ADEPA) characterized that year as the worst year for freedom of expression since the return of democracy in 1983. The problems that characterized 1992 continued in 1993. The most serious problem in the area of freedom of expression was the heightened level of threats and overt aggression against reporters, radio and television stations, media personalities, union leaders, and opposition politicians.

Two journalists were attacked physically, one on two occasions. Marcelo Bonelli, a reporter for Clarin and Radio Mitre who was investigating the activities of government drug "Czar" Alberto Lestelle, was assaulted by two men on his way to the radio station. Then Deputy Interior Minister Gerardo Conte Grand admitted that the attack was probably part of an "intimidation campaign," while President Menem condemned the attack, denied any official involvement, but improbably attributed the incident to those who wanted to make the Government look bad.

The second case involved journalist Hernan Lopez Echague of Buenos Aires daily Pagina 12. He was investigating reports that a gang of thugs operating out of Buenos Aires' central market was being used to mobilize support for Peronists and to intimidate opponents. Lopez Echague was first attacked by two men on August 25. On August 30, Interior Minister Carlos Ruckauf announced that two men had been arrested on suspicion of carrying out the attack. They were released 2 days later, however, after Lopez Echague was unable to make a positive identification. In statements to the press they accused the police of planting incriminating evidence on them at the time of their arrest.

Lopez Echague was attacked a second time on September 9 in a Buenos Aires suburb. Two men forced him into a car where, with the help of a third, they bludgeoned him unconscious. He was then driven several blocks and dumped. President Menem and government officials strongly condemned both attacks and attributed them to unspecified enemies of the Government who were attempting to undermine its support prior to the October elections. An alleged witness provided the license plate number of the vehicle used by the assailants. A search of provincial records revealed that a similar automobile was registered to the Buenos Aires provincial government, but records indicated that it had not been used the night of the attack. The credibility of the witness was questioned, and President Menem appointed a Special Prosecutor to investigate the case, but as of year's end the identity of Lopez Echague's assailants was unknown.

President Menem ordered the government television station to restore a political commentary program which had been canceled by station managers after it revealed unflattering aspects of the Government's purchase of a new presidential aircraft. A federal court absolved the producers of the satiric television program "Peor Es Nada" of libel charges brought by a military officer who alleged that he had been defamed by a comedy program about Argentine participation in the Persian Gulf war. In March, in a suit brought by the Government related to an investigation into

the adulteration of wine, a federal judge ruled that it is not unlawful for journalists to interview a fugitive from justice and that a journalist who refuses to reveal his sources is not guilty of concealment. Finally, in May the Senate repealed a statute penalizing offenses against the dignity of a public official.

The number of reported telephone threats increased during the June to October pre-electoral period. Journalists working for the newsmagazine Somos, for Buenos Aires daily La Nacion, for a television station in Quilmes, for the newspaper La Manana in Formosa province, for Radio Continental and the television station Telefe in Buenos Aires, for El Cronista in Buenos Aires, and for the daily La Capital in Rosario, all received telephone threats. A Molotov cocktail was thrown at an FM station in Buenos Aires, and a similar transmitter in Santiago del Estero province was deliberately burned. A journalist in Salta was arrested in April and a tape that she had made during an interview with a public official was confiscated by police. A print media journalist's car was firebombed in Buenos Aires in May, and a reporter for Clarin had his camera snatched from him and smashed by an unidentified person in June.

A government initiative in June was widely condemned as an effort to muzzle the independent press. An official communique announced the Government's intention to seek a new radio broadcasting law; to license new television stations; to enforce legal provisions regarding broadcast transmissions; to ensure equal access to newsprint; and to enforce antimonopoly laws. The communique asserted that the Government's objective was to prevent the kind of monopoly over information that characterized Argentina before the return to democracy in 1983.

The media reaction was immediate and negative. ADEPA and the Inter-American Press Society expressed concern. The day after the communique appeared, two of President Menem's ministers denied that the Government was seeking to control the media. Although the President reiterated his plans to send legislation to Congress that would impose limitations on radio broadcasting, no bill was sent by year's end.

Academic freedom was generally respected, but in June the press reported that the provincial police ordered the gathering of information on student political activities and ideologies. Evidence of similar attempts to gather information on student activities subsequently surfaced in several other locales of Buenos Aires province and in the provinces of Neuquen, Corrientes, Misiones, Cordoba, and Tucuman. Then Interior Minister Gustavo Beliz testified that the order to update intelligence files had been issued under his predecessor and was a "bureaucratic mistake."

b. *Freedom of Peaceful Assembly and Association.*—The Constitution and laws provide for the right of groups and political parties to assemble and demonstrate. Retirees, public school teachers, students, gay rights groups, farmers, political activists, and other organizations exercised this right, generally without interference. Nevertheless, local authorities sometimes interpreted these constitutional protections restrictively, as in the case of 25 members of a government workers union who were detained briefly in Jujuy province in September for demonstrating in demand of better wages.

c. *Freedom of Religion.*—The Constitution provides for the free exercise of religion but gives the Roman Catholic Church a privileged position in society. Only a Roman Catholic may be elected President, and many institutions are, in practice, closed to Jews. Missionaries are free to proselytize, provided they register with the Secretariat of Worship in the Foreign Ministry. The number of Protestant and evangelical groups has risen.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Documented international travel, internal travel, and emigration remained unrestricted.

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

For over a decade Argentina has held periodic, free elections to choose federal, provincial, and local officials. Universal, adult suffrage is obligatory in national elections. The Constitution and Civil Code provide for full participation in the national political process, regardless of sex, ethnic background, or national origin. Although President Menem was ineligible for reelection in 1995, efforts were being made to amend the Constitution to, among other changes, allow for a second consecutive term.

A 1991 law mandating that 30 percent of the candidates on party lists be women was in force for the October 1993 legislative elections. In late September, the Supreme Court ruled that a female candidate for the Chamber of Deputies for Entre Rios province should be ranked high enough on the Peronist party list of candidates to give her reasonable assurance, based on the number of deputies that the party

returned in the 1991 elections, that she would be elected. The October elections saw 26 women elected for the first time to the Chamber of Deputies. One female deputy was reelected, and seven female deputies continue to serve the balance of terms to which they were elected 2 years before.

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

Local human rights monitoring groups operate freely without government restriction or interference. The Ministry of the Interior has a Sub-Secretary for Human Rights. Among the measures designed to control police abuses and improve their image are special courses on human rights issues organized by the Ministry and the creation in early December of a national ombudsman or people's defender. There were no requests by international or nongovernmental organizations to investigate human rights abuses in 1993, but the Government has been cooperative in this regard.

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

The law prohibits discrimination on the basis of the above criteria. There is no evidence of a systematic effort to abridge these rights by the federal or local governments, or by private groups or individuals.

Women.—The Constitution provides for the equality of all citizens, provisions which are generally reflected in civil, penal, and labor law. Nonetheless, women encounter discrimination in the workplace, especially the growing number of urban women who also are heads of household. Women's groups charge that employed women are disproportionately found in the lower ranking positions in the lowest paid sectors of the formal economy and in unregulated and underpaid work in the informal economy. They also report increasing numbers of women seek employment in the informal economy owing to lack of training opportunities and scarcity of child care and other provisions to assist working women in the formal sector.

The Government created the National Women's Council in 1991 to develop and coordinate women's policies; it reports to the Presidency. The Council promotes equal opportunity for women and nondiscriminatory education, training, and orientation programs, as well as special programs for women at risk. The problems of spousal abuse and violence against women are drawing more public attention, but there are no government programs aimed at combating such abuse.

Children.—The Government is committed in principle to the protection of children and the defense of their human rights and welfare. Historically, Argentina has been a leader in Latin America in programs to provide public education, health protection, and recreational services for all children, regardless of class or economic status. Endemic economic problems over the past three decades, however, have made it difficult for the State and for society in general to attain these high standards.

Indigenous People.—The degree to which indigenous peoples participate in the political process, their exercise of civil rights, and the extent of their control over natural resources and land varies widely from one ethnic group to another, and from one region of the country to another. The indigenous population, estimated at 100,000, is concentrated at the northern and southern extremities of the country. The province with the highest concentration of indigenous peoples, Chaco, has about 30,000 native peoples divided into three nations. Like most of Argentina's indigenous peoples, their indices of undernourishment, illiteracy, tuberculosis and other diseases, and unemployment are higher than national averages.

In 1987 Congress passed a law designed to return Indian lands. It has yet to be implemented. In 1990 President Menem implemented a 1924 law granting some 150,000 hectares of land to one of the Chaco nations and budgeted the equivalent of $150,000 to undertake a survey and delimitation of individual plots. The survey, however, did not take place because competing national and provincial authorities could not agree who would carry it out and how it would be funded.

Religious Minorities.—There were fewer incidents of overt anti-Semitism in 1993 than in previous years. A Jewish cemetery in Formosa province was desecrated in late 1992, and in September 1993 the large cemetery at La Tablada, Buenos Aires province, was vandalized. The Government's 1992 decision to make public old files purportedly dealing with the immigration of an estimated 60,000 former Nazis to Argentina after World War II attracted attention again in 1993, when the local Jewish community and others criticized the Government's failure to follow through with access to significant records, including central bank archives that may contain evidence of large currency transfers in that era.

People with Disabilities.—Disabled persons' rights are protected by law, and some provisions have been made (i.e., curb ramps in some urban areas) to accomodate

persons with physical disabilities. A comprehensive federal law protects the rights of disabled persons and mandates special concessions in employment, but its observance is difficult to judge. The media generally highlight instances in which the rights of the disabled appear to be violated or ignored, such as in the case of a 19-year-old woman in Buenos Aires with Down's syndrome who was banned from voting in the October elections. Such reports were infrequent.

Section 6. Worker Rights

a. *The Right of Association.*—With the exception of military personnel, all workers are free to form unions. The labor movement is organized in a large, national labor central, the General Labor Confederation (CGT), and represents about one-third of the work force. Each province has a local CGT, and some large national unions (e.g., commercial workers, automobile workers, metallurgical workers, light and power workers) are significant economic and political powers. Some factions of the CGT were quite hostile to the Menem Government's proposed reform of laws governing labor, social security, and social welfare because they were perceived as a threat to the traditional economic and political power of Peronist labor.

In response, and with an eye to the October elections, the Government downplayed these initiatives, thus helping to solidify Menem's support among traditionally Peronist organized labor. On the other hand, the International Labor Organization's (ILO) Committee of Experts concluded that the text of a draft amendment prepared by the Government did not go far enough in removing excessive conditions set out in Act No. 23551 for granting trade union status, noting that a trade union at the enterprise level could only be granted status when another union did not already exist within the same unit or area of activity.

Unions have the right to strike, subject to compulsory conciliation and arbitration by the Labor Ministry. Union members and leaders who participate in strikes and other activities are protected by law. Several unions, especially education workers, exercised that right in 1993 without government interference. Argentine unions are free to associate internationally, and some leaders play active roles in regional and international labor organizations.

b. *The Right to Organize and Bargain Collectively.*—These rights are protected by federal law throughout the country; complementary provincial labor laws often go beyond these rights. Antilabor practices are prohibited. Labor and management are legally bound by collective bargaining agreements which, in theory, set basic wage levels and working conditions on an industry wide basis. In practice, particularly in the last 5 years, these agreements have tended to be less global in their scope, with the current trend in both practice and theory moving toward company- and in some cases region-specific agreements. The Federal Government's role in this process is limited to ratifying these contracts to give them legal status. The ILO's Committee on Freedom of Association, however, asked the Government to remove limitations on collective bargaining, imposed in 1991 as a stabilization measure, which exclude wage indexation agreements and require that wage increases be based on productivity gains. The labor reform bill introduced in Congress in 1993 would give management more flexibility to hire and fire, more control over hours and vacations, and would further reduce the Government's role in labor-management relations.

In December the Supreme Court upheld the executive branch's annulment of 65 labor contracts affecting 15 unions in the port and maritime sector. The Court's decision had its origins in a decree issued in mid–1992 which struck down all labor contracts affecting maritime and port activities as part of the administration's projected reform of that sector. Previous to the Supreme Court's decision, a Labor Court had asserted that the decree was unconstitutional. The affected unions have filed a complaint with the ILO.

Workers may not be fired for participating in legal union activities and those who prove they have been discriminated against have the right to be reinstated.

There are no officially designated export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is illegal and is not known to be practiced.

d. *Minimum Age for Employment of Children.*—Employment of children under 14 years of age, except within the family, is illegal. Minors aged 14 to 18 may work in restricted types of employment with regard to hours and safety and health conditions, although exceptions are allowed in cases of extreme necessity. A recent increase in the level of unemployment encouraged some families to send their children out to seek work, often resulting in the illegal employment of minors, mostly in the informal sector and on farms. Federal and provincial labor authorities were not well equipped to cope with this situation due to budgetary and personnel limitations.

e. *Acceptable Conditions of Work.*—The national minimum wage is $200 (200 pesos) a month.

Federal labor laws contain elaborate, albeit somewhat inflexible, provisions for guaranteeing acceptable conditions of work, especially with regard to hours, rest periods, safety and health, and job security. The maximum workday is 8 hours, and the maximum workweek is 48 hours. Premiums are paid for work beyond those limits, which is frequently the case, as employers seek greater productivity without having to acquire legal obligations to new workers under the present system.

Federally legislated occupational and health standards are comprehensive but the Federal Government and many provincial governments lack the resources and training to enforce them, despite union vigilance against violations. Workers have the right to remove themselves from dangerous or unhealthful work situations, after having gone through a claim procedure, without jeopardy to continued employment. Nevertheless, workerswho leave the workplace before it has been proven unsafe run the risk of being fired; in such cases, the worker has a right to judicial appeal. According to Labor Ministry authorities, this appeal process can take up to 5 years. Worker lawsuits provoked by on-the-job injury or job-related disability remain a major industry, and a very large number of retirees are on disability, both legitimate and questionable. Much of the work force, including children, is employed in small owner-operated enterprises, making it difficult to enforce workers' rights as well as health and safety standards.

THE BAHAMAS

The Bahamas is a constitutional, parliamentary democracy and a member of the Commonwealth of Nations. Queen Elizabeth II is the nominal Head of State and is represented in The Bahamas by an appointed Governor General. The Government is headed by an elected Prime Minister and Parliament. Since 1992 the Government has been controlled by the Free National Movement (FNM) of Prime Minister Hubert A. Ingraham. The opposition Progressive Liberal Party is led by Sir Lynden O. Pindling, who was Prime Minister from independence in 1973 until 1992.

The police and a small defense force are answerable to civilian authority and generally respect laws protecting human rights. However, there were continuing credible reports that police occasionally abuse suspects during interrogations. Many of the allegations involved members of the Criminal Investigations Department (CID), which is also the body charged with investigating such cases. CID issued no public reports of such investigations during 1993.

The economy depends primarily on tourism, which accounts for more than half of the gross domestic product. Financial services, particularly offshore banking and trust management, are also important foreign currency earners. While some Bahamians enjoy relatively high average income levels, overall unemployment is estimated to exceed 20 percent, and there is considerable underemployment and some poverty.

Bahamians enjoy a wide range of democratic freedoms and human rights. As in past years, the principal human rights problems were police abuse of detainees, harsh and overcrowded conditions at the only prison, abuses against Haitians caused by local antagonism toward the Haitian migrant community, violence against women, and the slow pace of justice. The Government established a coroner's court in 1993 to conduct independent investigations in cases where criminal suspects die while in police custody and for other deaths in unusual circumstances. Only one prosecution on the basis of alleged police abuse commenced during 1993, that of three police officers charged with a beating death in 1989.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of killings for political motives by the Government or domestic political groups. Three police officers from the island of Eleuthera were placed on trial on charges of manslaughter arising from the 1989 beating death of a criminal suspect at the time of arrest. At year's end, this trial had not been completed. The Government established a coroner's court in 1993 to investigate deaths of suspects in police custody and accidental deaths involving unusual circumstances. There were no such deaths reported in 1993. Most Bahamian police still do not carry firearms, although several were shot during attempted arrests in 1993.

b. *Disappearance.*—There were no reports of abductions, secret arrests, or clandestine detention by police or other official security forces.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture and other cruel and degrading treatment or pun-

ishment, but Bahamian human rights monitors expressed concern over a pattern of police abuse against criminal suspects. The police Criminal Investigation Department is charged with investigating allegations of abuse and disciplining those officers determined to be guilty. Many of the charges of abuse, however, involved CID officers themselves who allegedly beat criminal suspects, occasionally with instruments such as baseball bats, during interrogations in an effort to extract confessions. In one incident being investigated by the Grand Bahama Human Rights Organization, a criminal suspect in Freeport claimed to have been cut with garden shears during an interrogation. Charges by a Jamaican attorney that he had been beaten by Bahamian immigration officers at Nassau International Airport in December led to an official protest by the Jamaican Government.

Although Bahamian police claimed to be investigating many of these incidents, no reports of such investigations were published during 1993, nor were any police officers tried or disciplined for such abuse. In at least one incident, an alleged victim of such abuse reported being harassed after release from custody by the officer he accused.

Conditions at Fox Hill, The Bahamas' only prison, remain harsh and overcrowded. The men's facility, originally built in 1953 to house about 500 inmates, holds over 1,800 prisoners. Up to four male prisoners may be housed in 6- by 8-foot cells designed to hold no more than two. Most prisoners lack beds and many sleep on concrete floors. The cells have no running water, and drinking water is often not supplied unless the prisoner has paid a trusty. Sanitation facilities usually consist of a plastic bucket in each cell. A public investigation in June into the 1988 death of a Fox Hill prisoner highlighted the problem of poorly controlled violence among prison inmates. Prisoners allege that requests for medical attention are sometimes denied. Prison authorities often decline to forward prisoners' letters, including letters to the courts by prisoners defending themselves.

The Grand Bahama Human Rights Association conducted a limited inspection of conditions at Fox Hill in May. On two separate occasions, diplomats and Bahamian journalists were allowed to make comprehensive, unsupervised visits. The journalists' subsequent articles, accompanied by photographs of prison conditions, received wide coverage in the local press, and the Ingraham administration appointed a new superintendent and senior deputy superintendent at Fox Hill. In September the Government transferred oversight of the prison from the Ministry of Justice to the Ministry of Public Safety and Transport. Improvements in prison conditions, however, still await the availability of adequate government funding.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention. Authorities conduct arrests openly and, when required, obtain judicially issued warrants. Felony cases, including those of suspected narcotics or firearms possession, however, do not require warrants where probable cause exists. Suspects under arrest appear before a magistrate within 48 hours (or by the next business day for cases arising on weekends and holidays) to hear the charges against them. At this point they generally gain access to an attorney of their choice. The Government respects the right to a judicial determination of the legality of arrests, but Bahamian law allows no compensation for false arrest. It is possible to sue police authorities for malicious arrest but the standard of proof is high and there are no recent reports of successful suits on this ground.

A system of bail exists, albeit mostly for Bahamian suspects, as foreign offenders are generally considered to be likely to flee if granted bail. Judges sometimes authorize cash bail for foreigners arrested on minor charges, but generally prefer to levy fines in exchange for guilty pleas. The Government is obligated to provide legal representation only to destitute suspects in cases involving capital crimes. Illegal migrants, mostly Haitians, have the right to retain legal representation, although not at government expense, but are generally held at Fox Hill prison pending deportation unless they can arrange private means for their repatriation. As a result, illegal migrants may be held at Fox Hill for weeks or months while awaiting repatriation.

e. *Denial of Fair Public Trial.*—The justice system in The Bahamas derives from English common law. The judiciary is independent, appointed by the executive branch on the advice of the Judicial and Legal Services Commission, and conducts fair and public trials. Defendants enjoy the presumption of innocence and the right to appeal. However, the overburdened judicial system must handle a rapidly increasing caseload, most of it related to narcotics, which often results in excessive pretrial detention and prison overcrowding; it can often take as long as 2 years from time of arrest to eventual conviction or acquittal.

In 1993 the Government constructed new magistrates' courts on New Providence Island and announced plans to appoint additional magistrates to help reduce the case backlog. The Government and the Grand Bahama Port Authority also con-

structed a building to house four magistrates courts and a Supreme Court in Freeport, the latter to be the first court at that level to be located outside Nassau. Public and private sector attorneys participated in a study of the judicial system, which developed recommendations for improving court efficiency. The Ministry of Justice and the College of The Bahamas began planning for a 1994 course to train additional court reporters, the short supply of whom has contributed to the case backlog.

There are no political prisoners in The Bahamas.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits arbitrary entry, search, or seizure. A court order is usually required for the entry into or search of a private residence, but a police inspector or more senior police official may authorize the search of a residence without a court order where probable cause of a weapons violation exists. Such an official may also authorize the search of a person (which extends to the vehicle in which the person is traveling) without a court order should probable cause exist for drug possession. Aside from restrictions on prison mail, the Government neither censors mail nor restricts receipt of foreign correspondence or publications.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for the right of free expression and that right is respected in practice. The political opposition freely and frequently criticizes the Government. Three daily and three weekly newspapers, all privately owned, express a variety of views on issues of public interest, including varying degrees of criticism of the Government and its policies. Foreign newspapers and magazines are readily available.

Reporters occasionally self-censor stories about government fraud, corruption, and moral turpitude due to the threat of libel suits under laws unchanged since the nineteenth century. In March an election court consisting of two Supreme Court justices issued a "contempt of court" verdict against the publishers of two newspapers for printing a letter to the editor highly critical of the election court's reversal of the result of a close House of Assembly race in the 1992 general elections. The justices assessed $1,000 fines against both publishers.

In August the Government issued radio broadcasting licenses to two private companies, one associated with the afternoon daily The Tribune and the other with the weekly Bahama Journal and a trucking company, thereby ending the state monopoly on radio broadcasting since independence. Opposition politicians claimed that the companies receiving broadcasting licenses were sympathetic to the ruling FNM; the Government, while indicating it might issue additional licenses for local broadcasting, claimed it needed to limit the number of private nationwide radio stations in order to maintain the economic viability of the state-run network. Florida radio stations are easily received in most of The Bahamas, but a Bahamian law forbids the use of foreign radio or television to broadcast Bahamian election advertisements.

The sole television broadcaster in The Bahamas, the state-owned station ZNS, presents a variety of views, although opposition politicians claim with some justification that their views do not receive as extensive coverage as those of the Government. Prior to the 1992 election, however, the then-ruling PLP also received far more television coverage than did its critics. The Government announced that by August 1994 it would issue a permit for a private company to provide cable television service in Nassau; such service is already available in Freeport.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the rights to free assembly and association. These rights are respected in practice. Private associations are permitted, but groups must obtain permits to hold public demonstrations. Such permits are freely granted.

c. *Freedom of Religion.*—Freedom of religion is guaranteed by the Constitution and respected in practice; no restrictions are placed on any religious denomination.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Bahamians and residents of The Bahamas enjoy free movement within the country, and Bahamians face no impediments to foreign travel or emigration. The Government liberally grants passports to its citizens.

Although Cuban asylum seekers are officially regarded as illegal immigrants and are occasionally held in prison or at other official facilities until a third country arranges to admit them, the Government in most instances works with private groups to arrange temporary housing. Opposition politicians charged that the Government's willingness to make such arrangements for Cubans whose intended third-country destination was the United States constituted discrimination against Haitian migrants. The Bahamas is reluctant to accept Cuban migrants for long periods of time, however. On several occasions, Bahamian authorities have initially declared their inability, due to shortage of operational craft, to assist Cuban rafters stranded on isolated small islands in The Bahamas.

The presence of an estimated 30,000 to 40,000 Haitian migrants in The Bahamas remained a volatile social, economic, and political issue. According to United Nations High Commissioner for Refugees (UNHCR) officials, who interview the refugees to determine their status, relatively few qualified as legitimate refugees. In January the Government repatriated 339 Haitians under the auspices of the UNHCR. In May authorities conducted raids on Abaco and Eleuthera Islands, rounding up over 400 Haitians. Church and human rights officials criticized the Government for conducting some of the raids at night, for refusing to allow some Haitians to collect their belongings, and for causing the separation of many Haitian children from their parents. These officials further criticized the Government for conducting the raids without having prepared adequate housing for the captured illegal immigrants. Several hundred detainees were housed on an emergency basis by the Roman Catholic Church in an abandoned convent in Nassau after they were originally sent to a government building with no sleeping or sanitary facilities.

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

The Bahamas is a constitutional, parliamentary democracy with a multiparty political system, governed by an elected Prime Minister and Parliament. The political process is open to all elements of society, and citizens 18 years of age and older are eligible to register and vote. In the 1992 elections, slightly over 92 percent of registered voters cast valid ballots. Registration is on a nonparty basis. The two principal political parties are the ruling Free National Movement (FNM) and the opposition Progressive Liberal Party (PLP). The PLP led the country for 6 years of internal self-government from 1967 to 1973, and held power under Prime Minister Sir Lynden O. Pindling from independence in 1973 to 1992.

Since the 1992 general elections, the FNM under Prime Minister Hubert A. Ingraham has held 32 of 49 seats in the House of Assembly, while the PLP holds 17. In May The Bahamas Court of Appeals overturned an earlier Supreme Court ruling that would have permitted a parliamentarian defeated for reelection in 1992 to appeal his loss via the election court. The decision left the composition of Parliament unchanged. The Cabinet has 3 female members, and 4 women were elected in 1992 to the 49-member House of Assembly. One of the four was a parliamentarian later elected Deputy Speaker of the House. Under the Constitution, the next general elections must be held before August 1997.

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

Four local human rights groups operate in The Bahamas: the Grand Bahama Human Rights Organization, the New Providence Human Rights Organization, the Abaco Human Rights Organization, and the National Association for the Protection of Human Rights.

These organizations operate freely and report without government restriction on alleged human rights violations. No international human rights organization sought to visit The Bahamas to investigate human rights conditions during 1993.

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

The Constitution provides for individual rights and freedoms regardless of race, place of origin, political opinion, creed, or sex, and this policy is generally respected in practice.

Women.—The Constitution differentiates between the sexes in that it does not provide Bahamian women the ability to bestow citizenship upon their foreign-born spouses. Additionally, nationality laws confer citizenship more easily on the children of Bahamian men than on those of Bahamian women in marriages involving two nationalities. The FNM pledged in its party platform to "accord non-Bahamian spouses of Bahamian women the same privileges as those afforded the spouses of Bahamian men," but as of year's end had not introduced legislation to carry this out.

Women participate fully in Bahamian society and are well represented in the business and professional sectors, as well as in the judiciary and in government. Women's rights activists, however, claim that the scarcity of public and private child care facilities, particularly important in a society with a high proportion of single mothers, discourages many women from entering the work force,

Domestic violence against women continued to be a problem, with independent women's support groups reporting that many women sought shelter at the private, but government-supported, Women's Crisis Center in Nassau. Women may have their cases heard in a closed domestic court and may seek a restraining order against an abusive spouse. In the case of an abusive male companion, however,

women can only obtain a magistrate's order for their protection, which carries less legal force than a restraining order. Women's rights groups speak freely on ways to improve the condition of women and children, including safeguarding their physical safety. In September the Ministry of Justice cosponsored with private women's groups a conference aimed at devising a national policy statement on women's rights. The conference concluded that an important first step would be the development of better statistics documenting the status of women in Bahamian society.

Children.—Since independence, both major political parties have been committed to defending the rights of Bahamian children and improving child welfare and education. In 1993, at a time of fiscal austerity, the Government placed priority on maintaining adequate expenditures in these areas. One of the few areas to receive a modest increase in government expenditure was youth and education, with particular emphasis on efforts to improve physical conditions in the nation's schools. According to the Women's Crisis Center, however, child abuse and neglect continued to be serious problems. In 1992 the Center reported 206 cases of sexual abuse of minors, and the frequency of such reports increased during 1993. Women's and children's rights monitors said that far more cases of abuse were not being reported, although a public education campaign mounted in 1992–93 by the Women's Crisis Center resulted in increased calls to the Center's telephone "hot line."

National/Racial/Ethnic Minorities.—Approximately 85 percent of the Bahamian population is primarily of African descent, with the rest mostly of either European or mixed descent. Since independence, both black and white Bahamians have been well represented in Government, the civil service, and private business. Although opposition politicians occasionally charge that the business community continues to be dominated by white Bahamians, the number and size of black Bahamian-owned businesses continue to grow steadily and they probably constitute a majority of business activity. Black and white Bahamian business leaders no longer appear to regard themselves as representing separate interest groups. On several occasions in November and December, former Prime Minister and opposition leader Pindling called on Bahamians to boycott white-owned businesses, claiming that black businessmen were still at a competitive disadvantage. Pindling's comments drew wide criticism, and no boycott or change in business patterns developed.

Many Haitians in the Bahamas are illegal immigrants and face economic and social deprivation. Although they provide a ready supply of cheap labor and fill jobs which most Bahamians shun, illegal immigrants are subject to detention and deportation at any time. Children born in The Bahamas to illegal immigrants, if not registered by the country of their parents, are considered stateless until they become eligible to apply for citizenship at the age of 18. Although they are eligible nevertheless for free public education, there were reports of some children of Haitian illegal immigrants being denied entry to public schools in islands other than New Providence because of limited school facilities. There is no instruction in Creole or in English as a second language in the Bahamian school system. Many Bahamians, including some government officials, view the growing Haitian population as unwelcome guests who are a drain on the economy and who deserve no constitutional rights.

To work legally, foreigners, including Haitians and a growing number of Jamaicans, must obtain work permits through their employers. Even longtime residents of the Bahamas must renew these permits annually, at a cost of at least several hundred dollars per year, and can have renewal applications arbitrarily denied. If employment is terminated for any reason, the work permit becomes invalid and the foreigner loses his or her legal status. Work permits granted to Haitians and Jamaicans do not normally include permission for a spouse to remain legally in The Bahamas. Some Bahamians have expressed concern that this system tends to lead to economic exploitation of foreign labor by unscrupulous employers.

People with Disabilities.—The Ministry of National Insurance and Social Development began work in June to formulate for the first time a national policy regarding the disabled, with a target of mid–1994 for the announcement of the new policy. Although the 1973 National Building Code mandates certain accommodations for the physically disabled in new public buildings, this part of the code is rarely enforced. Assistance for the disabled is provided by several government ministries and private organizations. Approximately 150 children are enrolled in the public Stapledon School for the Mentally Retarded. The Special Services Division of the Ministry of Education provides speech therapy classes and the recently constructed Thelma Gibson primary school includes facilities which can accommodate physically disabled children while keeping them in a mainstream educational institution. The State Home for Orphaned and Abandoned Children includes a residence for physically disabled children.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution specifically grants labor unions the rights of free assembly and association. Workers may form or join unions without prior authorization, except for members of the police force, defense force, fire brigade, and prison guards, all of whom are forbidden to organize by statutes authorized by the Constitution. This right is exercised extensively, particularlyin the hotel industry, where approximately 80 percent of the employees are unionized.

The two major labor organizations in The Bahamas, the 8,000-member Bahamas Hotel Catering and Allied Workers Union and the 12,000-member Trade Union Congress (TUC), function independently of government or political party control. All Bahamian labor unions are guaranteed the right to maintain affiliations with international trade union organizations. The TUC, which groups 10 of the country's 44 registered unions, is a member of the International Confederation of Free Trade Unions and the Caribbean Congress of Labor.

The right to strike is limited under the Industrial Relations Act, which requires that union members must vote to strike and that the motion must be passed by a simple majority before a strike can commence. The Ministry of Labor oversees the vote. The Ministry may also refer a dispute involving employees of an "essential service" to the Industrial Relations Board for settlement if the Ministry determines public interest requires such action. The Industrial Relations Act also states that a strike which has an object "other than or in addition to the furtherance of a trade dispute within the trade or industry in which the strikers are engaged" or "is designed or calculated to coerce the Government either directly or by inflicting hardship upon the community" is illegal.

The Public Service Workers Union and the Taxi Union held peaceful leadership elections during 1993. Internal bickering among leaders of the Bahamas Hotel Catering and Allied Workers Union lessened the union's effectiveness as a collective bargaining agent for hotel workers in a sector already beset by high unemployment and underemployment. Doctors at the public Princess Margaret Hospital occasionally threatened to strike over salaries and working conditions.

b. *The Right to Organize and Bargain Collectively.*—Workers are free to organize, and collective bargaining is extensive for the 30,000 workers (25 percent of the work force) who are unionized. Collective bargaining is protected by law and freely practiced, and the Ministry of Labor is responsible for mediating disputes. Wages are set in negotiations between unions and employers without government involvement.

Both the Constitution and the Industrial Relations Act prohibit antiunion discrimination by employers. The Industrial Relations Act requires employers to recognize trade unions. The Industrial Relations Board within the Ministry of Labor mediates and conciliates disputes between individual employees or unions and their employers. Mechanisms exist to resolve complaints: filing a trade union dispute with the Ministry of Labor, or bringing a civil suit against the employer in a court of law. The Industrial Relations Act requires the reinstatement of workers fired for union activities. Employers may dismiss workers in accordance with applicable contracts, which generally require some severance pay. The Government seeks to enforce labor laws and regulations uniformly throughoutthe country; however, inspections occur infrequently.

Two small, but not particularly active, free trade zones exist in The Bahamas. Labor law and practice in these zones do not differ from those in the rest of the country.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, and such labor does not exist in practice.

d. *Minimum Age for Employment of Children.*—Bahamian laws prohibit the employment of children under the age of 14 for industrial work, work during school hours, or work at night. There is no legal minimum age for employment in other concerns, however, and some children are employed part-time in grocery stores and gasoline stations.

e. *Acceptable Conditions of Work.*—The Fair Labor Standards Act limits the regular workweek to 48 hours and provides for at least one 24-hour rest period. The Act requires overtime payment (time and a half) for hours in excess of the standard. The Act permits the creation of a Wages Council to recommend the establishment of a minimum wage; to date, no such council has been established. The Ministry of Labor, which is responsible for enforcing labor laws, has a team of several inspectors who make on-site visits to enforce occupational health and safety standards and investigate employee concerns and complaints. The Ministry normally announces these inspection visits ahead of time. Employers generally cooperate with inspections in implementing safety standards. The Bahamian economy is service oriented, especially in tourism and offshore banking, and therefore does not have significant industrial and occupational health hazards. The national insurance program pro-

vides for compensation for work-related injuries. The Fair Labor Standards Act requires an employer to find suitable alternative employment for an employee who is injured on the job but is still able to work. While there is no legislated right for workers to remove themselves from dangerous workplace situations without jeopardy to their continued employment, there have no recently reported instances of such retribution.

BARBADOS

Barbados, a member of the Commonwealth of Nations, is a constitutional democracy with a multiparty, parliamentary form of government. The Queen is Head of State; she is represented by an appointed Governor General. The Prime Minister is the Head of Government and governs with an appointed Cabinet. National elections, which were last held in January 1991, were contested by two major political parties, an offshoot of the government party, and several independent candidates. Prime Minister Erskine Sandiford, leader of the Democratic Labour Party (DLP), was reelected at that time for a maximum 5-year term.

The Royal Barbados Police Force is charged with maintaining public order. The small volunteer Barbados Defense Force, responsible for national security, can be employed to maintain public order in times of crisis, emergency, or other specific need. The Defense Force assisted the police by patrolling certain tourist areas in response to a major increase of crime. On the whole, the police respected constitutional and legal guarantees of human rights, but there were incidents of police use of excessive force.

The country's economy is based on agriculture, tourism, light manufacturing, and services, which makes it vulnerable to external economic developments. Per capita gross domestic product exceeds $5,000 per year. An International Monetary Fund 18-month stabilization program ended in May. It included layoffs of public sector employees, an 8-percent public sector wage cut, divestment of various state-owned enterprises, tax increases, and other means of increasing revenue and easing serious balance of payments difficulties. The reductions in government social spending affected thousands of Barbadians, but political tension and social unrest decreased in 1993 from the levels witnessed in 1992.

Barbados has a long record of generally respecting human rights, and there was no significant change in that record during 1993. Nonetheless, reports of human rights abuse included excessive use of force by police and a significant level of societal violence against women and children.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Political killings are nonexistent in Barbados.

The only allegations of extrajudicial killings involved the case of three young men—Ezra White, Ronald Codrington, and Devere Headley—who died as a a result of a June shootout with police. An official police investigation was conducted, and initial reports suggested that the police responded appropriately. The men were reported to be well-known criminalsinvolved in a number of assaults with guns and they apparently initiated the exchange of fire which led to their deaths.

In the case of Ryan Jordan, a 17-year-old who died in police custody in April 1992, Amnesty International called on Barbadian officials to initiate an impartial investigation and prosecute those responsible. The coroner's inquest in the case has not been completed. Local human rights monitors believe that, although Jordan may have suffered injuries not caused by the police, the police may have beat him as well, contributing to his death.

b. *Disappearance.*—There were no reports of disappearance.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution specifically prohibits torture and cruel, inhuman, or degrading treatment or punishment. However, the local press reported that a very high percentage of convictions are based on confessions in Barbados. There continued to be credible reports that brutality by law enforcement officials during detention is sometimes used to extract confessions.

After several publicized reports of police extracting forced confessions and beating suspects in 1992, the Commissioner of Police condemned "the use of unauthorized force" by police officers. He initiated new procedures which provide that suspects and other persons held by the police can be questioned only at a police station, except when expressly permitted by a senior divisional officer. An officer must visit

a detainee at least once every 3 hours to inquire about the detainee's condition. After 24 hours, a written report must be submitted to the Deputy Commissioner. All movements of the detainee between stations must be approved and recorded.

Barbados is in the forefront of an initiative to standardize police procedures throughout the English-speaking Caribbean region. However, contrary to the unarmed tradition of the police force—in response to the shooting death of a policeman and the rise in gun- and drug-related crime—special units and some foot patrols were issued firearms in 1993.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and imprisonment and requires detainees to be brought before a court of law within 72 hours of arrest. These provisions are generally respected in practice. New rules of guidance set out in mid-1992 by the Police Commissioner specify methods of detention, means of reporting such, and disclosure of the condition of the detainee to senior police officers. Criminal defendants have the right to counsel, and attorneys have ready access to their clients.

Exile is not used as a punishment or means of political control.

e. *Denial of Fair Public Trial.*—The Constitution provides that persons charged with criminal offenses be given a fair, public hearing within a reasonable time by an independent and impartial court. The judicial system provides for rights of due process at each level. Defendants are presumed innocent until proven guilty. The Government provides free legal aid to the indigent. The judiciary acts independently and is free of intervention from other branches of government. Criticizing the Government is not a political offense, and there are no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Government does not routinely interfere in the private lives of its citizens. The Constitution prohibits arbitrary entry, search, or seizure, and the law requires warrants to be issued before privately owned property may be entered and searched. Nonetheless, there continued to be credible reports that, in response to increased drug-related crime, the police resorted to searches of homes in certain neighborhoods in Barbados, sometimes without a warrant. The Government neither censors mail nor restricts the receipt of foreign correspondence or publications.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and press, and these rights are respected in practice. There are five radio stations, two of which are owned by the Government. Caribbean Broadcasting Corporation (CBC) television service (the only television source, excluding direct satellite reception) is government-owned. Though CBC is a state enterprise, views opposing government policies are regularly reported. Oppositionpolitical figures occasionally claim their positions are given little attention. This allegation has been made over the years regardless of which party controls the Government. There are two independent daily newspapers, both of which present opposition political views. The Government regularly comes under attack in the newspapers and on daily call-in radio programs. Although critics allege that the Government sometimesuses its influence to discourage media from reporting on sensitive issues, the press remained vigorously critical of Government on a broad span of issues.

Barbados is the site of the Cave Hill campus of the University of the West Indies; academicians across the political spectrum express their views freely.

b. *Freedom of Peaceful Assembly and Association.*—The Government observes the constitutional guarantees of peaceful assembly and private association. Permits required for public demonstrations continue to be routinely granted. Political parties, trade unions, and private organizations function and hold meetings and rallies without hindrance.

c. *Freedom of Religion.*—There is full freedom of religion. While the Anglican and Methodist faiths have traditionally predominated, there are numerous other active religious denominations and organizations throughout the country, including Muslims and Rastafarians. Foreign missionaries of various faiths proselytize freely.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens and legal residents move freely within Barbados and leave and enter the country without restriction.

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

Citizens have this right in law and exercise it in practice. Political parties freely compete in fair elections by secret ballot at least every 5 years. There are no impediments to participation in the political process, and all Barbadians over age 18 may vote. The present Democratic Labour Party (DLP) Government, in power since 1986, won the January 1991 parliamentary elections with a majority of 18 out of the 28

seats. (One DLP member resigned from the party in 1993 and remained in Parliament as an independent.) The main opposition party, the Barbados Labour Party (BLP), won 10 seats. A Cabinet of ministers appointed by the Prime Minister exercises executive power, balanced by a bicameral Parliament and the judiciary system. Women are well represented at all but the uppermost levels of government and politics.

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

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

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

The Constitution provides for equal treatment under the law, regardless of race, religion, or sex.

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

However, women's rights groups continued to single out violence against women and children as a significant social problem in Barbados. They reported that the incidence of sexual assaults, domestic violence, incest, and rape among family members increased, despite the fact that there is still some reluctance on the part of victims to report such incidents. There are public and private counseling services for domestic violence, rape, suicide, and child abuse.

The 1992 Domestic Violence Law specifies the appropriate police response to domestic violence, intended to protect all members of the family, including men and children, and applies to commonlaw relationships as well as married people. Criminal penaltiesfor violent crimes are the same, regardless of the sex of the offender or the victim. In cases of domestic violence, courts typically issue restraining orders if requested by the victim, the breach of which is punishable by a jail sentence. The courts heard a number of cases of domestic violence against women involving assault or wounding. Human rights monitors criticized the inconsistency in sentencing for rape, incest, and statutory rape, which is often left to the discretion of the judge. The lack of sentencing guidelines resulted in longer sentences being handed down for persons accused of petty theft than for incest; and lesser sentences for incest than for rape or sexual assault of nonfamily members.

Children.—The Government is committed to children's human rights and welfare. The Child Care Board is the key agency responsible for monitoring and responding to the critical welfare needs, interests, and rights of children. Recent incidents of statutory rape and child abuse have received greater press attention and more serious government denunciations than were typical in the 1980's. As noted above, local women's groups say that violence against children remains a serious problem.

People with Disabilities.—There is neither local legislation nor regulations within the Labor Code which prohibit discrimination against the physically disabled in employment, education, or the provision of other state services. The Handicapped Section of the Labour Department, which is concerned with finding jobs for the disabled, unsuccessfully advocated the introduction of such legislation in the 1980's. Similarly, there is no legislation mandating provision of handicapped access to public thoroughfares or public or private buildings. However, there are interest groups that have lobbied for this type of legislation from time to time, but so far without success.

Section 6. Worker Rights

a. *The Right of Association.*—Workers have the right to form and belong to trade unions and to strike, and they freely exercise these rights. There are two major unions and several smaller ones, representing various sectors of labor. The civil service union, the National Union of Public Workers (NUPW), is completely independent of any political party or the Government. The largest union, the Barbados Workers' Union (BWU), was historically closely associated with the governing Democratic Labour Party. However, in February Leroy Trotman, BWU General Secretary and president of the Caribbean Congress of Labor, resigned from the DLP while remaining in Parliament as an independent representative. Trotman resigned because of a perceived conflict between his role as union leader and his role as parliamentarian. The latter required him to support the Government's economic stabilization and austerity measures which were viewed as setting back union achievements and

harming workers. Nevertheless, Trotman's deputy in the BWU remained a government backbencher in Parliament.

Trade unionists' personal and property rights are given full protection under law. Strikes are prohibited only in the water and electric utilities and among the security forces; all other private and public sector employees are permitted to strike.

There was less industrial action in 1993 than 1992, despite severe cutbacks in personnel in the private sector. In the public sector, wage cuts, layoffs, and efforts to privatize state-run enterprises continued. In the summer, public, private, and union sector leaders signed a tripartite wage policy accord that called for a 2-year wage freeze. Any increases in wages will be tied to productivity increases by particular workers or by particular enterprises. Some critics argued that the wage policy undermined the right of unions to bargain collectively because it forestalled any new companywide or industrywide negotiations for wage and benefit increases.

Trade unions are free to form federations and are in fact affiliated with a variety of regional and international labor organizations. The main regional labor organization, the Caribbean Congress of Labor, has its headquarters in Bridgetown and conducts many of its seminars and other programs in Barbados.

b. *The Right to Organize and Bargain Collectively.*—The right to organize and to bargain collectively is provided by law and respected in practice. In 1992 over 25 percent of the working population was organized, but a major loss of jobs in the economy has resulted in a reduction in union membership. The BWU reported that it alone lost about 2,000 members in 1993 in the transport, private, and public sectors as a result of economic conditions. Normally, wages and working conditions are negotiated through the collective bargaining process, but this was influenced by the tripartite wage accord described above.

Employers have no legal obligation to recognize unions under the Trade Union Act of 1964, but most do so when a majority of their employees signify a desire to be represented by a registered union. While there is no specific law prohibiting antiunion discrimination, the courts provide a method of redressfor employees alleging unfair dismissal. The courts commonly award monetary compensation but rarely order reemployment.

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

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited by the Constitution and does not exist.

d. *Minimum Age for Employment of Children.*—The legal minimum working age of 16 is generally observed. Minimum age limitations are reinforced by compulsory primary and secondary education policies, which require school attendance until age 16. Occasionally, especially among migrant worker families, children assist in agricultural production during peak season. The Labour Department has a small cadre of labor inspectors who conduct spot investigations of enterprises and check records to verify compliance with the law. These inspectors are authorized to take legal action against an employer who is found to have underage workers.

e. *Acceptable Conditions of Work.*—Minimum wages for specified categories of workers are administratively established and enforced by law. Only two categories of workers have a formally regulated minimum wage— household domestics and shop assistants (entry level commercial workers). Household domestics receive a minimum wage of about $32.50 (bds $65.00) per week. There are two age-related minimum wage categories for shop assistants. The adult minimum wage for shop assistants is $1.87 (bds $3.75) per hour; the juvenile minimum wage for shop assistants is $1.62 (bds $3.25) per hour. Agricultural workers (i.e., sugar plantation workers) receive a minimum wage as a matter of practice, but such compensation is not found in legislation.

The minimum wage for shop assistants is marginally sufficient to meet minimum living standards; most employees earn more. In 1992 an International Labor Organization (ILO) Committee of Experts (COE) cited Barbados for not adhering to the ILO convention on equal remuneration in its wage differentials in the sugar industry. The COE admonished the Government to ensure the application of the principle of equal remuneration for work of equal value to male and female workers in the sugar industry or to provide further information on job descriptions which might justify such wage distinction. This case was not resolved at year's end.

The standard legal workweek is 40 hours in 5 days, and the law requires overtime payment for hours worked in excess of that. Barbados accepts ILO conventions, standards, and other sectoral conventions regarding maximum hours of work. However, there is no general legislation that covers all occupations. Workers are guaranteed a minimum of 3 weeks' annual leave. All workers are covered by unemployment benefits legislation, and by national insurance (social security). A comprehen-

sive government-sponsored health program offers subsidized treatment and medication.

Under the Factories Act of 1983, which sets out the officially recognized occupational safety and health standards, the Department of Labour enforces health and safety standards and follows up to ensure that problems cited are corrected by management. Workers have a limited right to remove themselves from dangerous or hazardous job situations without jeopardizing their continued employment. The Factories Act requires that in certain sectors firms employing more than 50 workers set up a safety committee. This committee can challenge the decisions of management concerning the occupational safety and health environment. Recently, however, trade unions called on the Government to increase the number of factory inspectors in order to enforce existing and proposed safety and health legislation more effectively, and to follow up to ensure that problems cited are corrected by management. Government-operatedcorporations in particular were accused of doing a "poor job" in health and safety; the Government promised to undertake inspections of government-run corporations and manufacturing plants as a priority.

BELIZE

Belize is a parliamentary democracy with a Constitution enacted in 1981 upon independence from the United Kingdom. It is governed by a Prime Minister, a Cabinet of Ministers, and a Legislative Assembly. A Governor General represents Queen Elizabeth II in the largely ceremonial role of Head of State. Both local and national elections are scheduled on a constitutionally prescribed basis.

The Belize Defence Force (BDF) consists of regular and reserve infantry and small air and maritime wings. The 750-member Police Department is responsible for law enforcement and maintenance of order. It is responsible to and controlled by civilian authorities.

Belize is a developing nation with an economy dependent primarily on agriculture. The Government favors free enterprise and actively encourages investment, both foreign and domestic. In 1992 the gross domestic product (GDP) grew by 5.3 percent in real terms, and the per capita GDP was $2,170.

Constitutional protections for the fundamental rights and freedoms of the individual, including women and all ethnic groups, are upheld by the judiciary. An active press and increasingly independent radio and television stations buttress the people's civil and political rights. However, there were a number of credible reports of police abuse and mistreatment, and at least one allegation of police killing an unarmed suspect during the year. The Government promised to investigatecomplaints and punish those officers guilty of wrongdoing. However, none were charged or punished for human rights abuses in 1993. Domestic violence against women is a chronic problem; in addition, there continued to be credible reports of employer mistreatment of immigrant workers in the banana industry.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of politically motivated killings. There were several allegations of misuse of lethal force by police officers in 1993, constituting extrajudicial killings. In each of three such cases reported and investigated during the year in which excessive force was alleged to have been used in the course of hot pursuit or arrest of criminal suspects, the Director of Public Prosecutions determined that there was insufficient evidence to prosecute. However, charges were filed against a police officer following a 1991 incident in which a prisoner was killed in police custody when the officer apparently tried to break up a fight between prisoners. That case had ended in a hung jury in early 1993; the prosecutor filed charges again and a new trial is pending.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture or other cruel, inhuman, or degrading treatment or punishment are expressly forbidden by the Constitution. Nonetheless, there are occasional credible reports of mistreatment and abuse by police. Such allegations are investigated by the Police Department, the Police Complaints Board, and on occasion, by special independent commissions appointed by the Prime Minister. No police or prison officer was charged with or convicted of such an offense in 1993.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest or detention, and these provisions are respected in practice. A detainee must be informed of the cause of detention within 48 hours of arrest and must be brought

before a court within 72 hours. In practice, detainees are normally informed immediately of the charges against them. Bail is granted in all but the most serious cases. However, many detainees cannot make bail, and backlogs in the judicial system often cause considerable delays and postponements of hearings, resulting in overcrowded prisons and prolonged incarceration without trial.

Exile is forbidden by the Constitution and does not occur.

e. *Denial of Fair Public Trial.*—Persons accused of civil or criminal offenses have constitutional rights to presumption of innocence, protection against self-incrimination, defense by counsel, public trial, and appeal. Trial by jury is mandatory in capital cases. Those convicted by either a magistrate's court or the Supreme Court may appeal to the Court of Appeal. In some cases, including those resulting in a capital sentence, the convicted party may make a final appeal to the Privy Council in the United Kingdom.

These constitutional guarantees are respected in practice, although the judiciary's independence from the executive branch has been questioned by observers who note that judges must negotiate renewal of their employment contracts with the Government and may thus be vulnerable to political interference. The Supreme Court and magistrate courts suffer backlogs aggravated by the inability to maintain a full complement of judges.

There are no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Constitutional provisions for the protection of personal property, privacy of home and person, and recognition of human dignity are generally honored by the Government. Police are required to obtain judicial warrants before searching private property except when they have a reasonable suspicion that a crime is being committed and do not have time to obtain a warrant. This requirement is obeyed in practice. Customs officers do not require a warrant to search private property.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and the press are protected under the Constitution and by local custom. In practice, all viewpoints are publicly presented without government interference. Five privately owned weekly newspapers, two of them fiercely partisan, engage in lively debate of the issues. The oppositionpress is a frequent critic of government officials and policies. All newspapers are subject to the constraints of libel laws.

Belize's first privately owned commercial radio station began broadcasts in 1990. Since then, broadcast media have become considerably more open. The popular radio call-in programs are lively and feature open criticism of and comment on government and political matters. Continuing indirect government influence over the autonomous Broadcasting Corporation of Belize, a formergovernment monopoly which depends on government financial support, sometimes affects its editorial decisions regarding news and feature reporting.

Fifteen privately owned television broadcasting stations, including several cable networks, operate in Belize. The Government's Belize Information Service and the independent Channel 5 television station produce local news and feature programs. Broadcasting is regulated by the Belize Broadcasting Authority (BBA), which asserts its right to preview certain broadcasts, such as those with political content, and to delete any defamatory or personally libelous material from the political broadcasts of both parties before these are aired. As far as is known, the BBA did not exercise this authority during 1993.

Academic freedom is provided for by law and respected in practice.

b. *Freedom of Peaceful Assembly and Association*

Freedom of assembly is constitutionally assured and honored in practice. Political parties and other groups with political objectives freely hold rallies and mass meetings. The organizers of public meetings must obtain a permit 36 hours in advance of the meetings; such permits are not denied for political reasons. Under the Constitution, Belizeans are free to form and join associations of their choice, both political and nonpolitical.

c. *Freedom of Religion.*—There is no state religion. All groups may worship as they choose, and all groups and churches may establish places of worship, train clergy, and maintain contact with coreligionists abroad. There is an active missionary presence. In church publications and from the pulpit, church leaders comment on government and political policies as these affect the social welfare of the country.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no restrictions on freedom of movement within the country. Foreign travel, emigration, and repatriation are unrestricted.

As many as 40,000 Central Americans from neighboring countries have taken up residence in Belize since 1980, many of them entering illegally and living in Belize

without documentation. The Government conferred refugee status on many of the new arrivals and provided them with assistance. However, the sheer number of refugees and other immigrants strained government social services, while the highly visible presence of recent immigrants in the labor force and the marketplace has provoked widespread resentment among native-born Belizeans.

The Human Rights Commission of Belize (HRCB) and others complained that immigration and law enforcement authorities abused suspected illegal immigrants and on occasion deported persons who in fact were legal residents or bona fide refugees. In response to complaints, the Government promised to investigate all charges of unfair treatment, discourtesy, or abuse. The Government claims that no specific evidence of these allegations has been presented.

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

Belize is a functioning democracy governed by a Legislative Assembly, with executive direction from a Cabinet of Ministers headed by Prime Minister George Price. National elections must be held at least once every 5 years. Municipal and town board officials are elected in local contests at 3-year intervals.

All elections are by secret ballot, and suffrage is universal for Belizean citizens 18 years and older. National political parties include the People's United Party (PUP), the United Democratic Party (UDP), and the National Alliance for Belizean Rights (NABR). The nation's ethnic diversity is reflected in each party's membership. The Government changed hands (for the third time since independence in 1981) when a coalition of the UDP and NABR won 16 of 29 seats in the House of Representatives in the general elections of June 30.

Allegations that large numbers of Central American immigrants were illegally naturalized in order to pad voter rolls before the June general elections were investigated by an independent consortium of nongovernmental organizations (NGO's). The consortium discovered a pattern of irregularities which lent credence to the charges, and the new Government promised to study and act on the group's recommendations to prevent such abuses from occurring in the future.

Women hold a number of appointive offices—the Governor General and three of nine Senators are women—but women in elective office are rare. No laws or practices impede participation of women in politics. One of four women who contested June's general election was elected to the House of Representatives.

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

Local and international human rights groups operate freely, and the Government cooperates with independent investigations of human rights conditions in Belize.

The HRCB, a nongovernmental organization that is affiliated with regional human rights organizations, was active in 1993 on a range of issues, including refugee and agricultural workers' rights, cases of alleged police abuse, and cases of alleged illegal deportations of Central American nationals. The HRCB publicizes and urges police and other government bodies to act upon complaints which the HRCB receives. It lacks the resources to conduct independent investigations, but it does participate in joint projects such as the NGO consortium investigation discussed above.

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

Belize is a multiracial, multiethnic country, and the Government actively promotes tolerance and cross-cultural understanding. Discrimination on ethnic or religious grounds is illegal and is not common, although ethnic tension, particularly resentment of Central American immigrants, continued to be a problem.

Women.—Despite constitutional provisions for equality, Belizean women face social and economic prejudices. For example, women can find it more difficult than men to obtain business and agricultural financing and other resources. Most employed women are concentrated in female-dominated occupations with traditionally low status and wages. A Women's Bureau in the Ministry of Labor and Social Services is charged with developing programs to improve the status of women. A number of officially registered women's groups work closely with various government ministries in promoting social awareness programs. Women have access to education and are active in all spheres of national life, but relatively few are found in top managerial positions. While the law mandates that women receive equal pay for equal work, women wage earners often earn less than men in similar jobs. Women are not impeded from owning or managing land or other real property.

Domestic violence against women is a chronic problem. Women Against Violence (WAV), an NGO with branches throughout the country, runs a shelter for battered

women and a hotline for rape victims. WAV and other women's organizations successfully lobbied the Government to secure passage of a domestic violence law in November 1992.

Children.—In 1990 Belize became the fifth nation worldwide to ratify the U.N. Convention on the Rights of the Child. With support from the United Nations Children's Fund, the Government and various NGO's are currently studying legislative changes which will be required to bring national law into conformity with the Convention. Several NGO's are active in the field of child welfare and the prevention of child abuse. The Government has sponsored a series of public service television announcements to sensitize the public to the issue of child abuse.

People with Disabilities.—Assistance to physically disabled persons is provided by the Government's Disability Services Unit as well as by a number of NGO's such as the Belize Association of and for Persons with Disabilities and the Belize Center for the Visually Impaired. Disabled children have access to government special education facilities. Belizean law does not specifically prohibit job discrimination against disabled persons. The provision of accessibility for disabled persons is not mandated legislativelyor otherwise.

Section 6. Worker Rights

a. *The Right of Association.*—By statute and in practice, workers are free to establish and join trade unions. Thirteen independent unions, with an estimated 9.8 percent of the labor force, represent a cross-section of white-collar, blue-collar, and professional workers, including most civil service employees. Several of the unions, however, are moribund and inactive. Unions are recognized by the Ministry of Labor after they file with the Office of Registry. Members are empowered to draft the bylaws and constitutions of their unions, and they are free to elect officers from among the membership at large. Unions which choose not to hold elections may act as representatives for their membership, but the National Trade Union Congress (NTUC) of Belize permits only unions which hold free and annual elections of officers to join its ranks. By both law and precedent, unions are effectively protected against dissolution or suspension by administrative authority.

Although no unions are officially affiliated with political parties, several are sympathetic to one or the other of the two main parties. Unions freely exercise the right to form federations and confederations and affiliate with international organizations. Unions are legally permitted to strike, but unions representing essential services may strike only after giving 21 days' notice to the Ministry concerned. A wildcat strike by nonunion women textile workers occurred in 1993 following the failure of the employer to meet his payroll. The Government suspended the offending company's development concession in October and the company's management promised to pay the workers' back wages as soon as possible.

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

The Constitution prohibits antiunion discrimination both before and after the union is registered. Theoretically, unions may freely organize. In practice, however, employers are not legally required to recognize a union as a bargaining agent, and some employers have been known to block union organization by terminating the employment of key union sympathizers, usually on grounds purportedly unrelated to union activities. Effective redress is extremely difficult in such situations. Technically, a worker may file a complaint with the Labor Department, but it has been virtually impossible to prove that a termination was due to union activity.

Belize's two export processing zones (EPZ's) are not exempt from the Labor Code. There are no unions in the EPZ's, however, reflecting the general weakness of organized labor in the country, as noted above.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is forbidden by the Constitution and is not known to occur.

d. *Minimum Age for Employment of Children.*—The minimum age of employment is 14 years, or 17 years for employment near hazardous machinery. Inspectors from the Ministries of Labor and Education enforce this regulation, although in recent years school truancy officers, who have historically borne the brunt of the enforcement burden, have been less active. Children between the ages of 5 and 14 are required to attend school. In practice, there are many truants and dropouts.

e. *Acceptable Conditions of Work.*—The minimum wage is $1.12 (B$2.25) per hour, except in export industries where it is $1.00 (B$2.00) per hour. For domestic workers and shop assistants in stores where liquor is not consumed the rate is $0.87 (B$1.75) per hour. Workers paid on a piecework basis are not covered by the minimum wage law. The Ministry of Labor is charged with enforcing the legal minimum wage, which is generally respected in practice. The minimum wage as a sole source of income is inadequate to provide a decent standard of living for a worker and family. Most salaried workers receive more than the minimum wage.

No worker is obliged to work more than 6 days or 45 hours per week. Payment for overtime work is obligatory, as is an annual paid vacation of 2 weeks. A patchwork of health and safety regulations covers numerous industries, and these regulations are enforced in varying degrees by the Ministries of Labor and Public Health. Enforcement is not universal countrywide, and in 1993 the limited inspection and investigative resources were committed principally to urban and more accessible rural areas where labor, health, and safety complaints had been registered.

The exploitation of undocumented foreign workers, particularly young service workers and workers in the banana industry, continues to be a major concern of the HRCB and other concerned citizens. Undocumented immigrants working in the Stann Creek area banana industry have complained of poor working and living conditions and routine nonpayment of wages. In 1992 a government labor inspector was assigned to the area to help resolve wage disputes and promote improved conditions, but after more than a year, little progress was made.

BOLIVIA

Bolivia is a multiparty democracy with an elected president and bicameral legislature. National and municipal elections held in 1993 were considered among the most honest and open in Bolivia's history. Gonzalo Sanchez de Lozada and Victor Hugo Cardenas were sworn in as President and Vice President in a peaceful transition August 6. The executive, legislative, and judicial powers are separate.

The police and the armed forces are responsible to and controlled by the civilian Government, but there were incidents of human rights abuses by security forces in 1993.

Bolivia, although rich in minerals and hydrocarbons (petroleum and natural gas), has a per capita gross domestic product of only $920. About 55 per cent of its inhabitants live below the poverty line. The Government emphasized debt reduction, export development, foreign investment, privatization, and a freer banking system to strengthen the economic base and accelerate development. The informal economy, including the smuggling of contraband across the country's extensive and porous borders, has been tolerated by the Government because it provides primary or secondary employment to many Bolivians and reduces the need to deal with the social and political ramifications of large numbers of unemployed. The economy was expected to grow about 4 percent in 1993.

Human rights abuses in 1993 included instances of mistreatment of detainees and prisoners (generally with impunity or leniency for the perpetrators), substandard prison conditions, an overburdened and often corrupt judicial system, prolonged incarceration of pretrial detainees, discrimination against women and indigenous people, and poor working conditions in many mines. Bolivia is waging an extensive counternarcotics effort against well-entrenched and violent foreign and domestic drug traffickers. Government efforts to stem the flow of narcotics resulted in some police abuses, including robberies and narcotics-related corruption.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no known political killings in 1993, but the police were responsible for at least one extrajudicial killing. In this instance, police beat to death a minor in Oruro; the officers involved were convicted of misconduct.

Former dictator General Luis Garcia Meza's 7-year trial in absentia for human rights abuses, including extrajudicial killings, disappearances, and other crimes, ended when the Supreme Court sentenced him in April to 30 years in prison, the maximum sentence under Bolivian law. Also sentenced were approximately 50 codefendants, including former Interior Secretary Luis Arce Gomez and members of paramilitary groups active in 1980–81. Garcia Meza remains a fugitive; the new Government promised to make his apprehension a priority.

b. *Disappearance.*—There were no known politically motivated disappearances during 1993.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture. Still, there were occasional reports that police officers and prison personnel treated in a cruel and degrading manner detainees and prisoners, including minors. In more serious cases, including those involving minors, security personnel were rarely tried and punished for such acts. The previously mentioned beating death is a case in point. The La Paz police mistreatment of another minor resulted in severe injuries to his hands. The police involved were tried and punished for misconduct. A former president of the Congressional Human Rights Committee alleged that one detainee, who denounced mistreatment, faced retribution; the detainee was subsequently sentenced to over 10 years in prison on false charges.

In Yacuiba, a policeman raped a minor while she was illegally detained. Charges were brought against the policeman; an internal police investigation found him guilty. He was dismissed and can be tried in a civilian court. However, police Colonel Luis Mealla Echazu, who attempted to cover up the crime, received only a reduction of his seniority by 1 year, a measure insufficient to convince most Bolivian observers that justice had been done.

Conditions in Bolivian jails are substandard, except for some drug traffickers and terrorists, who pay for and receive special treatment. Poorer Bolivians endure overcrowding, malnutrition, unsanitary conditions, and drug and alcohol abuse in their cell blocks. Most prisoners must pay for their cells. A prisoner who cannot pay the minimal amount necessary to secure the smallest cell must become, as a practical matter, indentured to a prisoner who owns a cell. In the poorest parts of the San Pedro prison in La Paz, prisoners are housed in cells (3 by 4 by 6 feet) with no ventilation, lighting, or beds (gunny sacks are used as substitutes).

The food budget amounts to $0.25 a day per prisoner. Malnutrition is commonplace, and prisoners must supplement their diet any way they can: if their families do not regularly bring food, they may work in the prison factory or sell drugs, alcohol, or other contraband. By law, children up to 6 years old may live in prison if the incarcerated parent so desires. Government authorities have sought to get children out of the prisons, but many are still there because they have nowhere else to go.

There are several prison deaths every year related to malnutrition and poor medical care. In May all 1,400 inmates at San Pedro prison in La Paz staged a hunger strike to protest prison conditions, the lack of day passes, and the delay in bringing cases to trial.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution requires a court order for an arrest except in cases where the suspect is apprehended in the commission of a crime; detainees are supposed to be charged or released within 24 hours. Many detainees remain incarcerated for months, or even years, before coming to trial because of the inefficient and corrupt judicial system. The Constitution also provides for a judicial determination of the legality of detention, and prisoners are usually released if a judge rules that they have been detained illegally. After the initial detention, prisoners may consult a lawyer of their choice. Provisions for bail exist, except in certain narcotics cases, and bail is generally granted.

Exile is not used as a punishment.

e. *Denial of Fair Public Trial.*—The constitutional right to a fair public trial is adhered to in most respects. Delays commonly result in protracted judicial procedures lasting 3 to 4 years without sentencing; 78 percent of the prison population was unsentenced in 1993. Investigation, trial, and appeal procedures are so protracted that many prisoners eventually serve more time than the maximum sentence for the crime for which they were charged. At no level of the judicial system do judges abide by timetables prescribed by the omnibus counternarcotics Law 1008, which does not allow bail or provisional liberty for those held on narcotics charges and which requires a three-stage appeal process for all cases, even where a defendant is found not guilty in the first instance. Consequently, many narcotics defendants, like other criminal defendants in Bolivia, are detained for long periods, sometimes years, before their cases are finally resolved. Illiterate defendants may, at times, be made to sign or apply their thumb print to declarations incriminating themselves without completely understanding what they are doing.

Defendants have the right to an attorney, to confront witnesses, to present evidence, and to appeal a judicial decision, and these rights generally are respected in practice. The law provides for a court-appointed defense attorney at public expense when necessary, but because of shortages of funds and qualified personnel, many prisoners do not receive this benefit. Further, even when a lawyer donates his or

her services, every step of the Bolivian legal procedure carries a fee. Thus, many indigent prisoners are tried and sentenced with no counsel present.

Corruption and intimidation in the judicial system remain serious problems. Judges and prosecutors are poorly paid, making them susceptible to bribery. Bribing judges, including those on the Supreme Court, is common practice. Business leaders, politicians, and lawyers admit privately that special payments to Supreme Court justices and other judges are regularly required and solicited to resolve cases. In October Supreme Court president Edgar Oblitas and Justice Ernesto Poppe were accused of seeking to extort a bribe to decide the extradition case of an American citizen. At year's end, their impeachment case was before the Congress. Many of those forced to pay bribes were reluctant to testify about judicial corruption for fear of retribution by the judiciary.

Corruption is also common in the national police. In April a major scandal broke over "ghost" officers on the payroll. Six police officials were suspended for their involvement in the scandal, and the chief of personnel was fired and arrested.

Narcotics traffickers often bribe judicial and other officials to release suspected traffickers and their property and to purge incriminating files. In August two narcotics traffickers facing extradition to the United States apparently successfully bribed prosecutors to release them from jail.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The sanctity of the home and the privacy of citizens' lives are protected by the Constitution. However, there were credible allegations that the rural counternarcotics police (UMOPAR) engaged in robberies of peasants, rough treatment of suspects, and a showed a general lack of professionalism in the Chapare region where most of Bolivia's illegal coca is grown. In response, UMOPAR has increased the human rights component of its training.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—No legal or institutional barriers to freedom of speech and press exist in Bolivia. State-owned and private radio and television stations operate. All newspapers are privately owned and are free to express political positions without government interference.

During 1993 there were three attacks on major media figures. In one incident, the home of a prominent television commentator and news director was firebombed, with limited damage and no injuries. In the second, a bomb was discovered at the gate of the home of a television station owner. In the third incident, an investigative journalist who had reported on government corruption received threatening phone calls, and a small explosive device was discovered at the gate of his home. As of the end of the year, no one had been arrested in these cases.

The Government respects academic freedom. Public universities enjoy autonomous status by law; that status is respected.

b. *Freedom of Peaceful Assembly and Association.*—The rights of peaceful assembly and association are provided for by the Constitution and are respected in practice. La Paz and other cities witnessed great numbers of demonstrations and rallies carried out by a wide variety of labor, political, and student organizations.

c. *Freedom of Religion.*—Roman Catholicism predominates, and the Constitution recognizes it as the official religion. Catholic bishops and other Church officials receive salaries from the State, and the Government has designated the Catholic Church as the coordinator of all official public religious ceremonies. Citizens are free to practice the religion of their choice, and an estimated 400 religious groups, mostly Protestant, are active.

However, there were some efforts to impede the activities of non-Catholics. Two public hospitals in La Paz posted signs prohibiting the entrance of representatives of evangelical groups, religious propaganda, or proselytizing, or any activity by a "nontraditional" (i.e., non-Catholic) religious group, including donating food to patients. The director of one hospital claimed he was under pressure from a Catholic priest to post the prohibitions.

In the Santa Cruz town of Cotoca, municipal authorities passed an ordinance prohibiting the establishment of any non-Catholic church and "regulating" the activities of the non-Catholic groups that already exist in the town. In June the Education Ministry passed a resolution doubling the time students in both private and public schools must spend in Catholic education classes.

Missionary groups—usually evangelical Christians—are required to register with the Foreign Ministry as nongovernmental organizations (NGO's). There is no indication that missionary groups have been treated differently from other NGO's, and no registrations have been disapproved.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no restrictions on travel within Bolivia or abroad. The Gov-

ernment does not impede emigration and guarantees departing citizens the right to return.

Citizenship is not revoked for political reasons.

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

Bolivia is a multiparty democracy with an elected president and an independent, bicameral legislature. Opposition groups ranging from the far left to the right function freely. National elections are held every 5 years The June national election was free and fair, resulting in a peaceful, constitutional change of government. There were allegations of electoral fraud, particularly the misuse by the former governing party of the registration process to register its supporters disproportionately. Most electoral problems were related, however, to administrative error. Municipal elections,held in December, were open and orderly. There were no reportedelectoral irregularities.

Suffrage is universal and obligatory. There are no legal impediments to women or members of indigenous groups voting, holding public office, or rising to leadership in the Government. Because of societal traditions, the number of women who have attained prominent positions in politics remains small.

For the first time in Bolivia's history, an indigenous vice president was elected in 1993. Though indigenous groups still have little representation in the Government, the election of Aymara Victor Hugo Cardenas symbolizes the growing political power of indigenous groups and their determination that their needs not be ignored.

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

The Government is sensitive to the opinions of domestic and international human rights organizations and is willing to discuss human rights concerns with them. Both chambers of Congress have committees responsible for monitoring the observance of human rights. The Catholic Church, the Bolivian Permanent Human Rights Assembly (APDHB), labor organizations, and the press aggressively monitor respect for human rights.

International groups also observe human rights in Bolivia and visit the country without hindrance.

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

Women.—The Constitution guarantees equal protection to all citizens regardless of gender. However, Bolivian women generally do not enjoy a social status equal to that of men. Many rural and urban poor women are unaware of their legal rights. Traditionalprejudices, social conditions, and limited political influence remain major obstacles to advancement for women. Women in most cases earn less than men for similar work. It is not uncommon for young girls to be forced by their families to leave school in order to work at home or in the economy. Though there are no legal impediments to attaining jobs, women are generally accepted only in traditional jobs in the marketplace and as domestic workers. Few professional positions are filled by women.

Many women and women's rights groups made credible charges that violence against women is a serious problem. Preliminary results of the National Statistical Institute (INE) study on violence against women registered formal complaints by 8,500 women in Bolivia's four largest cities from July 1992 to June 1993. Of these complaints, 74 percent were reports of domestic violence (physical, emotional, and sexual) and 26 percent described violence suffered in work, public, and social situations (psychological abuse, exploitation, kidnaping, physical violence, and sexual abuse). The study concentrated only on those crimes specifically related to gender. The researchers concluded that violence against women is seriously underreported.

Women victims of violence report that police are generally unsympathetic and do not have the training to deal with crimes such as rape and domestic violence. Women are often reluctant to bring charges and thus abuses are underreported. Some legal counseling is available for female victims of violence through private organizations. The San Gabriel Foundation dealt with 337 cases of domestic abuse in the first half of 1993. The predecessor to the newly created National Organization for Women, Children, and the Family gave legal advice in over 800 cases of domestic violence in 1992.

Children.—In 1993 the Government created an agency under the Presidency, the National Organization for Women, Children and the Family, to help improve the welfare of children. However, the lack of adequate resources and pervasive poverty limit its ability to carry out its program.

Although the Government is implementing a new law for the protection of minors, children work in the underground economy.

Children also help in family stores and work as domestic servants. Statistics published by the Ministry of Planning's education reform team note that in rural areas, only 0.7 percent of girls and 1.4 percent of boys finish high school. In urban areas, 26 percent of girls and 31 percent of boys graduate from high school.

Indigenous People.—Discrimination against and abuses of people of indigenous background continues. The Aymara- and Quechua-speaking Indian majority of the population generally remain at the lower end of the country's socioeconomic scale and are disadvantaged in terms of health, life expectancy, education, income, literacy, and employment. Lack of education, negligible advances in farming and mining methods, the inability to speak Spanish, and societal biases combine to keep indigenous groups in poverty.

The civil and political rights of indigenous peoples are protected by the Government. Most demonstrations consist almost entirely of members of indigenous groups, and several "indigenous" political parties have sprung up in the past few years. National indigenous organizations, including the Single Labor Confederation of Bolivian Campesino Workers, the Indigenous Confederation of the East, Chaco, and the Amazon, and others, have proposed legislation on indigenous rights and negotiated with the Government on many issues. The 1953 agrarian reform satisfied the demands for land of most Aymara and Quechua people in the highlands and valleys. By presidential decree, Bolivia created 10 autonomous indigenous territories (all in tropical areas) with special provisions for land use.

The law prohibits discrimination against indigenous people in employment. However, they are frequently paid less than the minimum wage for work performed. Indigenous construction workers, for example, are often fired before they complete 3 months' service, thus relieving the employer from the legal obligation to give severance pay and other benefits. The workers will then be rehired by the same employer, with the same process being repeated every 3 months. They are also frequently abused on the job. For example, a 12-year-old indigenous domestic servant was beaten to death by her employer in the Tarija department. A criminal case was opened against the employer. The new Government, with the involvement of its indigenous Vice President, has promised to undertake measures to remedy the social problems of poorer sectors of society.

People with Disabilities.—There is no legislation specifically directed at problems of people with disabilities, though legislation on other topics includes provisions for the disabled. For example, the 1992 electoral law required special voting arrangements for blind people. The law prohibits economic discrimination against the disabled. However, the Government has not provided services and infrastructure to accommodate their needs. Societal attitudes keep most disabled Bolivians at home from an early age with the result that they are rarely integrated into society through education and employment.

Section 6. Worker Rights

a. *The Right of Association.*—Bolivian workers may establish and join organizations of their own choosing. The Labor Code requires previous authorization for the establishment of a trade union, restricts more than one union from establishing itself at a given enterprise, and allows the Government to dissolve trade unions by administrative act. However, the Government does not enforce these provisions of the law and has used none of these powers in recent history.

Stemming from its key role during the 1952 revolution, the Bolivian Labor Federation (COB) has purported to represent the entire work force, and successive governments have treated it as such, although a number of workers are members of non-COB affiliated unions. Approximately one-half of workers in the formal economy belong to labor unions. In addition, some members of the informal economy, such as unlicensed street vendors, participate in labor organizations. Workers in the private sector possess and frequently exercise the right to strike. By statute, solidarity strikes are illegal, but the Government does not prosecute those responsible for such strikes nor impose other penalties.

In 1992 as a result of pressure from the COB, the Labor Ministryrescinded the "trade union leave" of two union leaders because of their ties to the American Institute for Free Labor Development. The case was resolved in February when the labor court ordered the employer to reinstate the employees, and the employer complied with the order. In June government representatives informed the International Labor Organization's (ILO) conference committee that workers could declare general strikes and sympathy strikes, that many of Bolivia's legal restrictions criticized by the ILO's Committee of Experts were obsolete and not applied in practice, and that

these defects would be resolved in a new general labor law. However, the new draft labor law, addressing ILO concerns, remains under review by the new Government.

The only significant strikes in 1993 centered on the Government's annual negotiations (in March) with the COB regarding salaries and benefits for government employees. When the COB failed to accept the Government's "final" proposal, the Government decreed the offer would take effect immediately. The COB responded with a series of work stoppages and marches, culminating in sometimes violent confrontations with police, especially in some of the secondary cities. After a show of force, the Government returned to the bargaining table and made concessions to miners and teachers that were sufficient to obtain the COB's acceptance of the overall package.

After the new Government took office in August, a general strike (political in nature) called by the COB was declared illegal, and the Government stated its intent to withhold pay from government employees who participated in the strike. In the past, the Government had not withheld pay, even when it declared strikes illegal. Subsequent negotiations apparently resulted in pay being restored to at least some of the striking government employees.

Bolivian unions are not fully independent of the Government and political parties. Union officials are members of political parties which provide them a subsidy. They are also paid by their employers (in most cases a government agency or a state-owned company) while working for the union. All unions are underfinanced and depend on outside support from political parties and foreign nongovernmental organizations. The political parties all have labor committees that attempt, with some success, to influence union activity, leading to barely concealed political party battles within the ranks of labor unions. Labor laws place no restrictions on a union's right to join international labor organizations. In 1988 the COB became an affiliate of the then Soviet-dominated World Federation of Trade Unions.

b. *The Right to Organize and Bargain Collectively.*—Bolivian workers have the legal right to organize and bargain collectively. The Labor Code, however, denies civil servants the right to organize and prohibits strikes in all public services, including banks and public markets. Nevertheless, these provisions are ignored by both the Government and employees; virtually all government workers are unionized and conduct strikes on occasion. In practice, collective bargaining, defined as voluntary direct negotiations between unions and employers without the participation of the Government, is extremely limited. Consultations between government representatives and labor leaders are common but do not result in collective bargaining agreements. In state industries, the union issues a list of demands, and the Government concedes some points. Private sector employers normally use public sector settlements as guidelines for their own adjustments, and some private sector employers offer workers more generous settlments than what the Government grants. The Government generally does not intervene in private sector labor-management relations.

The law prohibits discrimination by employers against union members and organizers. Complaints are referred to the National Labor Court, which often takes a year or more to rule on a question. Labor activists say that the problem is often moot by the time the court rules.

There are seven special commercial or industrial duty-free zones in Bolivia. Labor law and practice are the same in these zones as in the rest of the country.

c. *Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, and the Government complied with and enforced the law. No cases of forced or compulsory labor were reported in 1993.

d. *Minimum Age for Employment of Children.*—The law prohibits the employment of persons under 18 years of age in dangerous, unhealthy, or immoral work. Bolivia's Labor Code is ambiguous on the conditions of employment for minors aged 14 through 17, and it permits apprenticeship for children aged 12 through 14. This practice has been repeatedly criticized by ILO committees; the Government has responded that it would present legislation reforming this and other provisionsof the Labor Code. The responsibility for enforcing child labor provisions resides in the Labor Ministry. Existing legal provisions concerning employment of children are enforced only in larger state and private enterprises; young children can be found on urban streets hawking goods, shining shoes, and helpingtransport operators, and in rural settings, including mining cooperatives, working alongside their parents from an early age.

Children are not usually employed in factories or businesses. Where employed, such as assisting transport operators, minors usually work the same hours as adults. Bolivia has compulsory education through the elementary level. In practice, most urban children complete elementary education, while very few rural children do. Less than 30 percent of Bolivian children advance beyond elementary school.

e. *Acceptable Conditions of Work.*—The Government, both by statute and presidential decree, has established a minimum wage (approximately $38 per month) and a system of bonuses and fringe benefits. A worker earning only the minimum wage would not be able to sustain a decent standard of living, let alone support a family. Workers in most occupations earn more than the minimum wage. Although the minimum wage is well below the prevailing wage in most occupations, it is significant because certain fringe benefits are pegged to it. Approximately 20 percent of the urban work force—street vendors, shoe polishers, and lottery ticket sellers, for example—are not covered by the minimum wage. In addition, the minimum wage does not apply to rural subsistence farmers, who comprise 30 percent of the working population.

In urban areas, only half the labor force enjoys an 8-hour workday and a workweek of 5 or 5½ days. As with many other labor laws, the maximum workweek of 44 hours is not enforced. Responsibility for the protection of workers' health and safety lies with the Labor Ministry's Bureau of Occupational Safety. Labor laws that provide for the protection of workers' health and safety are not adequately enforced. Although the state-owned mining corporation COMIBOL has a special office charged with mine safety, the mines, often old and operated with antiquated equipment, are dangerous and unhealthy. In a tradition dating back to the Spanish conquest, many employers, particularly in the mining sector, promote the chewing of coca leaf as a substitute for food, water, and appropriate rest periods for laborers. The active promotion of coca chewing by some employers and politicians, by the Bolivian Labor Federation, and by persons having a personal financial interest in the manufacture and sale of cocaine contributes to conditions of work in many mines that fall far below generally accepted international labor and human rights standards.

BRAZIL

Brazil, with a population of over 150 million, is a constitutional federal republic comprised of 26 states and the federal district. In an April 1993 plebiscite, Brazilian voters endorsed the presidential system and rejected a proposal to adopt a parliamentary form of government. Elections have been free and fair since the transition from military to civilian government was completed during the 1980's. The previous president, Fernando Collor, was impeached and removed from office by Congress in 1992 on charges of corruption, 3 years after his election. His Vice President, Itamar Franco, is serving out the last 2 years of Collor's term. The next elections, to be held in late 1994, will choose a president, two-thirds of the Senate, 503 federal deputies, 27 governors, and members of state legislatures.

Security forces in Brazil fall under federal or state control. The state police, the focus of many human rights complaints, are divided into two forces: the civil police, with a largely investigative role, and the uniformed, so-called military police (actually civilians employed by state governments), who are responsible for maintaining public order. Crimes committed on duty by military police come under the jurisdiction of special military police courts, set up by the states, not by the armed forces. Legislation is now before the Senate to change the jurisdiction to civilian courts when military policemen are charged with murder and other capital crimes. Brazil's federal police is a small, specialized force dealing with violations of federal law, tax evasion, narcotics, and transboundary issues. The police, particularly those under state control, were responsible for numerous human rights abuses, including extrajudicial killings and serious physical abuse of detainees. These abuses are seldom punished.

Brazil's economy was plagued by one of the highest inflation rates in the world, with an annual rate of over 2,400 percent. Government plans to cut spending and borrowing and to increase tax collections had made little impact by the end of 1993. Large disparities in income distribution characterize Brazilian society, with the poorest 20 percent of the population sharing only 2 percent of the national income. The richest 20 percent have 26 times the income of the bottom fifth, and an estimated 32 million Brazilians every day received a less than adequate diet.

Extrajudicial killings continue to be the principal human rights problem in Brazil. Killings of criminal suspects and minors by vigilante groups, often including members of police forces, usually go unpunished. There is also widespread violence against women and the poor, who are predominantly from racial minorities or of mixed race. In rural areas, landowners and their agents frequently resorted to threats and violence, including killings, against activists. A confrontation between invading gold miners and Yanomami Indians, along the Venezuelan-Brazilian border, resulted in 16 deaths. Charges of genocide have been brought against 23 min-

ers. Only 2 were taken into custody; they were released on December 29 when their trial was delayed owing to difficulty in locating witnesses.

A special investigating committee of the Congress estimated that as many as 500,000 minors work as prostitutes. Some 16,000 rural workers were rescued from forced labor without pay, but the Labor Ministry says it cannot investigate all reports of forced labor due to lack of resources. Cases of egregious human rights violations were generally not effectively investigated or prosecuted, and a widespread climate of impunity remains the greatest obstacle to improving human rights in Brazil. In two notorious Rio de Janeiro cases in 1993, however, police accused of participating in killings are under arrest, awaiting trial. This represents progress, but the key will be whether the investigations result in credible prosecutions with appropriate punishment of the perpetrators.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Extrajudicial killings remained an extremely serious human rights problem in Brazil in 1993. At least several hundred Brazilians die annually as a result of extrajudicial killings committed by various elements, including police, vigilante groups, landowners and their agents, and invaders of indigenous territories. In urban areas, police and vigilante groups, often composed of members of the police force, were responsible for numerous killings of criminal suspects, street children, and slum dwellers. Domestic and international attention paid to some of these killings provoked a public reaction which led to the arrest of several police officers and others suspected of involvement in the killings. However, in most killings of criminal suspects, street children, rural labor leaders, and indigenous peoples, those responsible are not brought to trial or convicted.

Obstruction of justice by local elites and widespread public apathy contributes to Brazil's climate of impunity. Rural landowners intimidate local populations and law enforcement authorities in order to impede investigations into killings of rural laborers and landless people's advocates. The high crime rate, the failure to apprehend most criminals, the slowness and alleged corruption of the criminal justice system, and the legal requirement to release those charged pending trial contribute to public acquiescence in police brutality and killings of criminal suspects. Investigations into these incidents are hampered because witnesses hesitate to cooperate with authorities for fear of retribution or because they and the general public often sympathize with the actions of the vigilantes.

In Rio de Janeiro, 31 military policemen were accused of murdering 21 residents in the Vigario Geral slum on August 31, in revenge for the earlier killing of 4 policemen in the neighborhood. All but three of those indicted in the Vigario Geral killings are in custody. One of the accused, a former police officer, is serving as a member of the Rio de Janeiro state legislature and can be arrested only if the legislature revokes his parliamentary immunity. Five military policemen were indicted for killing eight street children in Rio's Candelaria Square on July 23. Police statistics released after the Candelaria killings showed 328 minors had been killed between January and June in Rio alone.

In recent years, human rights groups credibly claimed that police in Brazil's largest city, Sao Paulo, appear to follow a policy of killing criminal suspects rather than arresting them. Police killed 1,470 individuals in "confrontations" in 1992, compared with 585 deaths in police actions in 1990. The number of killings dropped sharply following the firing of the state Secretary of Security for his role in the 1992 Carandiru Prison massacre and the negative publicity it generated. This strongly suggested that police killings are controllable; and the number of such killings dropped to 409 in 1993.

Broad press coverage, both domestic and international, generated by the Candelaria and Vigario Geral killings brought swift investigations and identification of the accused murderers in those cases. However, in most similar killings, no one is charged, and the police fail to carry out effective investigations. The victims in Candelaria and similar cases are poor and mostly black. Human rights organizations credibly charge that most are killed by extermination squads, who employ current or former police officers.

Investigation of charges of police abuse is often slow and uncertain, with many witnesses afraid to testify against police for fear of retaliation. For example, Edmeia da Silva Euzebio was shot and killed on January 15, 8 days after testifying against police accused in the disappearance her son and nine other youths in 1990. The accused murderer of Da Silva was acquitted for lack of evidence. It has been estimated that less than 20 percent of the cases against the police brought to trial in police

courts ever result in conviction. (Police courts are special courts with jurisdiction over the state police; see Section 1.e.)

Human rights groups credibly claimed the police used unnecessarylethal force in storming the Carandiru Prison in 1992. The police involved in the incident are being tried in police court. Only 57 of the 120 accused had been questioned as of the end of 1993. There are only four police court judges to handle 14,000 cases pending against police in Sao Paulo. Given this backlog, state legislators estimate that it may be 10 years before verdicts are reached in the Carandiru case.

There continue to be reports of murders of homosexuals. Sao Paulo newspapers reported that 3 transvestites were murdered on March 14; other reports claimed 17 transvestites were killed in the first three months of 1993. One military policeman was charged in the March 14 killings and was awaiting trial at year's end. Homosexual rights groups claim, however, that the vast majority of perpetrators of crimes against homosexuals go unpunished.

Police violence also occurred in rural areas. In the northeastern state of Alagoas, police were suspected in 80 percent of the 600 murders committed during 1992. The public demanded federal action after three particularly egregious police crimes: the military police killing of the civil police chief; the assassination of a small town mayor by police working for his rivals; and the murder and dismemberment of a crusading city councilman, also known to be homosexual.

Most rural killings involved land disputes. The pastoral land commission of the Catholic Church reported that 46 persons were murdered in 1993 as a result of land disputes, compared to 35 in 1992. The increase in killings was accompanied by families being forced off farms by threats, violent intimidation, and physical expulsion. The body of the vice president of the rural workers' union of Araguaina was found floating in a river a week after he disappeared in March. Two landowners were killed in ambushes in September near Rio Maria, leading to abusive police tactics against squatters and secret arrests without cause, according to the local priest, Father Ricardo Rezende. On September 19, a band of men using military-like uniforms wiped out a squatter settlement near Tucuman, killing at least four persons, with three others reported missing.

In the state of Para, where more rural workers and their leaders have been killed than in any other state, only one gunman was convicted of murder in 1993, and no landowner has ever been convicted for paying for the killings. The 1990 case of the murder of rural workers' union leaders Jose and Paulo Canuto was still pending in the courts; the investigative stage in the case of their father, Joao Canuto, who was murdered in 1986, has finally been concluded. The case of the landowner accused of hiring a gunman in 1991 to kill Expedito Ribeiro de Souza, head of Rio Maria's rural union, remained unresolved at year's end after a June 30 trial was postponed.

In a rare case where a landowner was convicted and jailed for murder, Darli Alves and his son Darci, the killers of rubber-tapper leader Chico Mendes, escaped from the Acre state prison February 15. Human rights groups charge the escape was aided by state authorities. A federal manhunt failed to find them, and they remained at large. On March 23, the Supreme Court upheld the conviction of Darli Alves, which had been overturned by a state appeals court.

Another environmental activist and union organizer, Paulo Vinha, was shot in the state of Espirito Santo on April 28 while investigating a sand mining operation inside an ecological reserve. Two brothers who own the mining company were arrested on charges of murdering Vinha.

b. *Disappearance.*—There were no reports of politically motivated abductions. The disappearance of street children or persons believed to be criminals is often attributed to police or vigilante groups.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture is prohibited by the Constitution, which contains severe legal penalties for torture or acquiescence in torture. Although an Americas Watch report found that the use of torture had declined among Rio de Janeiro and Sao Paulo police, there continued to be frequent credible reports that police beat and torture criminal suspects to extract information, confessions, or money. In the state of Ceara, a bar association team in a surprise visit to a local police station found Antonio Braga bound with instruments of torture around him. He said he had confessed to stealing a television set only after beatings, shock, and near asphyxiation. Ceara's governor fired the Secretary of Public Security, and ordered the suspension, pending an investigation, of a police official and four officers found torturing the suspected thief. The police Inspector General in charge of investigating the torture allegations resigned 3 months later after receiving death threats. A spokeman for the Ceara bar association reported that 17 other cases of torture had been documented through testimony and physical exams.

Brazil's overcrowded prisons held 126,152 inmates in space designed for 51,368. A May declaration signed by 39 human rights organizations stated that "abuses, both physical and psychological, and corruption represent the routine reality of the Brazilian prison system." A federal investigation into charges of abuse in Recife's prisons found that prisoners reported electric shocks, near drownings, beatings, withholding of food, and extended solitary confinement. The inspector found prisoners held beyond their sentences, untreated AIDS and tuberculosis, and guards selling their uniforms to prisoners planning to escape. A followup visit by a federal commission was canceled, and human rights monitors have been denied access to the Recife prison since this inspection.

Conditions in juvenile detention centers continue in violation of Brazil's statutes regarding juvenile offenders, due to overcrowding and lack of resources. Sao Paulo's main juvenile facility, where rioting broke out twice in 1992, was the scene of another riot in March 1993. Human rights organizations said at least 75 of the 117 inmates in the wing where the revolt took place were beaten by authorities.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution limits arrests to those caught in the act of committing a crime or those arrested by order of a judicial authority. The constitutional provision for a judicial determination of the legality of detention is usually respected, although some convicted inmates are held beyond their sentences due to poor record keeping. The law permits provisional detention for up to 5 days under specified conditions during a police investigation. This period may be extended by judicial order. Illegal and incommunicado detention without a judicial order, particularly of street youths and children, remained a problem. A juvenile court judge in Porto Alegre complained that pretrial detention of minors often exceeded the legal limit. A legislative report in Rio Grande do Sul also criticized a judge who ordered an AIDS patient confined to a mental asylum without any legal foundation.

e. *Denial of Fair Public Trial.*—The judiciary is an independent branch of government. The judicial system, with the Federal Supreme Court at its apex, includes courts of first instance and appeals courts. States organize their own judicial systems but must adhere to the basic principles in the Federal Constitution. Brazil also has a system of specialized courts dealing with police, labor, electoral, juvenile, and family matters. Special police courts have jurisdiction over state police; the record of these courts shows a clear reluctance to punish colleagues for human rights abuses. This has created a climate of impunity that encourages further abuses. Police courts do not have jurisdiction over civilians. Elected officials are immune from arrest and trial until the end of their term in office unless impeached; thus the impunity of the governor of Paraiba, Ronaldo Cunha Lima, who shot his precedessor and political rival at point blank range in a restaurant November 5 and continues to govern. His party controls the state legislature and refuses to impeach him.

The right to a fair public trial, as provided for by law, is generally respected in practice, although local judges often demonstrated bias in favor of landowners in cases related to squatters' claims and to the murder of rural activists. The accused in the shooting case of Mariano Domingo Freire, the leader of the Small Farmers' Association in Pernambuco, is still at large because the court in the accused's hometown failed to respond to another court's request that he be turned over for trial.

Defendants are entitled to counsel and must be made fully aware of the charges against them. In cases in which a defendant cannot afford an attorney, one must be provided at public expense; private attorneys are appointed to represent poor defendants when public defenders are unavailable. Defendants and their attorneys have the right to be informed of the evidence on which charges are based. Only cases of willful crimes against life are tried by jury; all others are tried by a judge.

The judicial system is highly inefficient; many cases continue for years. The need for court reform is widely recognized in the legal and judicial community. In Pernambuco state, 16 judges were under investigation for corruption, and 3 were suspended. Charges against the judges included partiality, nepotism, and extortion. In one case, a military police court judge was charged with deliberately misfiling and thus stopping 1,450 cases against police officers. The Inspector General and human rights lawyers have received death threats as a result of their investigations of the Pernambuco courts. On the other hand, a single judge in Rio de Janeiro, Denise Frossard, was hailed by the press and the public for daring to convict 14 notorious racketeers who control the lucrative numbers games in that city. The racketeers were well known, but had operated with impunity until Judge Frossard sentenced them to 6 years' imprisonment. Appeals were pending at year's end; Judge Frossard's life has been threatened.

The high level of crime and the perceived failure of the judicial system to deal with criminals contributed to public tolerance of most police killings and vigilante killings of suspected criminals by irate citizens. Cases were reported in all regions

of the country. In Recife, a mob of 100 beat 3 men to death after the men killed a retired nurse. Police have not located any witnesses to testify against anyone in the mob. In Rio de Janeiro, three men were beaten, doused with gasoline, and burned to death after being mistaken for thieves. Drug gangs are known to maintain their own system of order in Rio's slums; in the Borel slum in December 1992, drug lords rounded up and shot through the hand 17 youths who had been mugging the gang's customers, scaring away business. The youths who sought medical treatment were afraid to talk about who wounded them, and the slum residents expressed satisfaction at the gang's action.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for freedom from arbitrary intrusion into the home. There were no reports of illegal entry for political reasons, but illegal entry into homes without a warrant occurred in searches for criminal suspects. A report by the state legislature of Rio Grande do Sul found that searches without warrants, theft of property, and threats against the victims were often a police practice. A bar association leader in Rio de Janeiro said police routinely enter slum dwellings on the grounds that such structures do not meet the legal definition of domiciles. Wiretaps are unconstitutional except when authorized by a judicial authority for purposes of criminal investigation and prosecution. The inviolability of private correspondence is respected.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The right to free speech and to a free press as provided by the Constitution is widely exercised, although government officials are sometimes successful in imposing restraints (see below). The 1988 Constitution abolished all forms of censorship. Foreign publications are widely distributed in Brazil; prior review of films, plays, and radio and television programming is practiced only to determine a suitable viewing age. The press and broadcast media routinely discuss controversial social and political issues and engage in investigative reporting. Most radio and television stations are privately owned; the Government, through Congress, controls licensing authority. Newspapers, which are privately owned, vigorously report and comment on government performance.

Government officials frequently use libel regulations and other laws to respond to critics in the press. In a small town in the state of Santa Catarina, a newspaper publisher was jailed for 3 weeks by a judge on charges of "offending public morals" because his paper criticized local officials. A local judge in the state of Tocantins attempted to censor newspapers and television by prohibiting news of misuse of funds by an ex-governor. By bringing libel charges, former President Collor kept off the air a television drama series based on the events leading up to his impeachment.

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

c. *Freedom of Religion.*—There is no favored or state religion. The majority of Brazilians belong to the Roman Catholic church, but Protestant churches have been expanding, and spiritism is widely practiced. All faiths are free to establish places of worship, train clergy, and proselytize, although the Government controls entry into Indian lands.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no restrictions on movement within Brazil, except for the protected Indian areas, nor are there any restrictions on emigration or return. Some towns in the south, however, were reported to be trying to block the entry of poor migrants from the north. Brazil admits few immigrants, does not formally accept refugees for resettlement, and is selective in granting asylum.

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

The Constitution provides for the right of citizens to change their government through free elections. Executive and legislative offices throughout the country at local, state, and national levels are filled through democratic direct elections among candidates representing many political parties. Voting is secret and mandatory for all literate Brazilian citizens aged 18 to 70, except military conscripts who may not vote. It is voluntary for minors aged 16 to 18, for the illiterate, and for those aged 70 and over.

Women have full political rights under the Constitution, and they are becoming active in politics and government, but few are in leadership positions. Only 5 percent of the seats in the Federal Congress are held by women. Indians were given

the franchise under the 1988 Constitution, but they are essentially marginalized from the political process.

A plebiscite on whether to change from the presidential form of government to a parliamentary system, with the possibility of a constitutional monarchy, was held in April 1993. A majority of those voting chose to keep the presidential system; 25 percent favored a parliamentary system; and only 10 percent, a monarchy. Over 40 percent of the electorate, however, declined to make a choice either by casting null or blank votes or by staying away from the polls.

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

Brazilian nongovernmental organizations (NGO's) actively investigate allegations of human rights violations and often initiate legal proceedings. Several international NGO's either maintain offices in Brazil or visit periodically.

The Foreign Ministry barred two diplomats from visiting the Yanomami reserve after a massacre (see section 5). By subsequently requiring diplomats to obtain prior permission for visits to Indian reserves through the Foreign Ministry, the Federal Government has significantly increased the possibility of delayed or restricted access. The Foreign Ministry accepts human rights questions from international groups and transmits human rights inquiries to relevant federal and local authorities.

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

Discrimination on the basis of sex, race, religion, and nationality is unconstitutional but continued to be a problem.

Women.—The Constitution prohibits discrimination based on sex in employment or salaries and provides for 120 days of paid maternity leave. The provision against wage discrimination is rarely enforced, however, and, as a reaction against the maternity leave law, some employers seek sterilization certificates from prospective employees or try to fire or avoid hiring women of childbearing age.

There is a high incidence of physical abuse against women, and 125 cities have established special police offices to deal with crimes against women. A special study by an international human rights group found that over 70 percent of all reported cases of violence against women take place in the home. A Sao Paulo state study concluded that more than 50 percent of rapes are committed by a family member and that investigation and prosecution are rare.

In the city of Porto Alegre, police registered 1,500 domestic violence complaints per month, but were not aware of any convictions of husbands for wife beating. Women's rights leaders explain that police prefer to mediate family disputes rather than bring charges, and that women are too often dependent upon men for their livelihood to consider demanding punishment. Although the archaic concept of "defense of honor" as a justification for wife murder was struck down by the Supreme Court in 1991, courts are still reluctant to prosecute and convict men who attack their wives. In one case, a woman from the state of Rondonia was badly burned by a jealous boyfriend; her attacker was acquitted by a state court, even though he had been charged with the lesser charge of committing bodily harm rather than attempted murder.

Children.—Many children suffer physical abuse and deprivation. Of 60 million children and adolescents, an estimated 53 percent are part of families whose per capita income is under half the monthly minimum wage. Consequently many children under 18 are found working on the streets of cities or in the fields beside their parents (see Section 6.d.). There are no reliable figures on the number of street children, some of whom are homeless but most of whom return home at night with whatever money they can contribute to the family. Although Brazil has relatively advanced laws to protect children and adolescents, and federal, state, and local councils have been formed to address their problems, the reality for children is still grim. In addition to the killings of street children (see Section 1.a), an estimated 500,000 minors—some only 9 years of age—are involved in prostitution, according to a Congressional investigation. Although prostitution is widely tolerated, two police raids were organized against houses of prostitution in gold mining camps, where young girls were held forcibly. In November police freed 92 adolescent girls and 30 girls, aged from 8 to 12, from three dozen mining camps in Rondonia state. Ten brothel owners were arrested. Illegal abortions are common in Brazil, and one-fifth of the deaths of adolescent girls are attributed to botched abortions.

Indigenous People.—Brazil's approximately 250,000 Indians, who speak 170 different languages, have a constitutional right to their traditional lands. In practice, however, many indigenous peoples have only a very limited ability to participate in

decisions affecting their lands, cultures, traditions, and the allocation of natural resources. The Federal Government was charged with demarcating 519 indigenous areas within 5 years after the 1988 Constitution was enacted. However, legal demarcation and issuance of titles for only half those areas were accomplished by the October 1993 deadline. Congress has not yet passed laws to implement constitutional provisions with respect to Indian rights, and indigenous groups are marginalized from the political process.

The Constitution gives Indians the exclusive use of the soil, rivers, and lakes located on their lands, while the Federal Government holds the authority to develop mineral resources found under Indian lands, as long as the Indians receive a share of the proceeds. Legal regulations for development have not been enacted, but illegal mining and timber cutting are a constant problem on Indian lands. In one small victory for Indian rights, a federal judge ordered a timber merchant to compensate the Nhambiquara Indians for wood valued at $40,000 which had been taken from an Indian reserve in the state of Mato Grosso. This sum is dwarfed by the amount of money being taken from economic exploitation of these lands by nonindigenous people.

Brazilian gold miners, working illegally on Yanomami Indian lands, killed 16 Indians—including women and children—from the Haximu village on the Brazil-Venezuela border and burned down their village in August 1993. Brazil and Venezuela launched investigations into the massacre, arrested 2 miners, and issued warrants for 21 more. The two taken into custody were released on December 29 when their trial was delayed owing to difficulty in locating witnesses. There have been no convictions, however, in any previous case involving the murder of Indians. Federal police investigations into the killings of 10 other Yanomami since 1987 yielded no results. Ten years after the murder of Guarani leader Marcal Tupa-y, who had represented Brazil's indigenous people in a 1980 meeting with Pope John Paul II, the two accused landowners were acquitted by a jury in Mato Grosso do Sul on March 29, 1993. Two years after two Atikum Indian leaders were gunned down in the state of Pernambuco, their killers are still at large despite warrants for the arrest of four suspects.

The Catholic Church's Indigenist Council reported in mid-December that 42 Brazilian Indians had been murdered so far in 1993. Twenty-four Indians were murdered in 1992. Other problems are the high number of suicides among Indians and deaths from diseases such as malaria, measles, and cholera, introduced into Indian areas by outsiders. The Federal Government failed to provide enough funding for adequate health care for Indians.

National/Racial/Ethnic Minorities.—Although racial discrimination has been illegal since 1951, darker-skinned Brazilians frequently encounter de facto discrimination. Most black Brazilians are found among the poorest sectors of society. Even though nearly half of Brazil's population has some African ancestry, very few senior officials in government or the armed forces are black. There are few blacks in senior private sector management positions. Black consciousness organizations challenge the view that Brazil is a racial democracy with equal treatment regardless of skin color. Racial discrimination becomes most evident when blacks seek employment, housing, or educational opportunities. Blacks are more likely to be stopped by police and to bear the brunt of police brutality. Data on the murders of street children in major cities show that the victims are disproportionately black.

In March the state of Sao Paulo created a commission on racism and a special police office to handle racially motivated crimes, in response to violent, racist attacks by "skinhead" gangs. The first complaints to the antiracist police office, however, involved racial slurs made by police and employers. In the state of Espirito Santo in June, charges of racism were brought against a businesswoman and her son who told a young black woman she had no right to use the front elevator in their luxury apartment building. The case gained unusual prominence because the young woman was the daughter of the state's governor, and it illustrates a curious ambivalence about race in Brazilian society in which many blacks suffer indignities while a few exceptions are elected to high office.

People with Disabilities.—The 1988 Constitution contains several provisions for the disabled, guaranteeing a minimum salary, educational opportunities, and access to public buildings as well as public transportation. As is the case with many other provisions of the Constitution, no legislation has been enacted to implement these objectives.

Section 6. Worker Rights

a. *The Right of Association.*—The Labor Code has long provided for union representation of all Brazilian workers (excepting military, military police, and firemen), but imposed a hierarchical, unitary system, funded by a mandatory "union

tax" on workers and employers. Under a restriction known as "unicidade" (one per city), the Code prohibits multiple unions of the same professional category in a given geographical area. It also stipulates that no union's geographic base can be smaller than a municipality. Workers in a union whose numbers increased (as when an industry grew) could petition the State to split a preexisting union into two or more unions. The 1988 Constitution frees workers to organize new unions out of old ones without prior authorization from the Government but retains other provisions of the old Code. The retention of unicidade and of the union tax continues to draw criticism both from elements of Brazil's labor movement and from the International Confederation of Free Trade Unions (ICFTU).

In practice, however, unicidade has proven less restrictive in recent years, as more liberal interpretations of its restrictions permitted new unions to form and—in many cases—to compete with unions and federations that had already enjoyed official recognition. The sole bureaucratic requirement for new unions is to register with the Ministry of Labor which, by judicial decision, is bound to receive and record their registration. The primary source of continuing restriction is the system of labor courts, which retain the right to review the registration of new unions and to adjudicate conflicts over their formation. Otherwise, unions are independent of the Government and of political parties.

Approximately 20 to 30 percent of the Brazilian workforce is organized, with just over half of this number affiliated with an independent labor central. (Mandatory labor organization under the 1943 Labor Code encompassed a larger percentage of the workforce, but many workers are believed to have minimal if any contact with these unions.) Attacks on rural labor organizers continued (see Section 1.a.). The Constitution provides for the right to strike (excepting, again, military, police, and firemen, but including other civil servants). Enabling legislation passed in 1989 stipulates that essential services remain in operation during a strike and that workers notify employers at least 48 hours before beginning a walkout.

The Constitution prohibits government interference in labor unions but provides that "abuse" of the right to strike (such as not maintaining essential services, or failure to end a strike after a labor court decision) is punishable by law. Federal and civil police, federal customs inspectors, port crane operators, public and private bus drivers and fare collectors, train and ferry operators, public and private teachers, and federal and state government employees went on strike in 1993. Formerly, the courts ruled virtually automatically that strikes were abusive; over the last several years, however, the courts have applied the law with more discretion. The 1989 strike law prohibits firings or the hiring of substitute workers during a strike, with certain exceptions and provided the strike is not ruled abusive. Nonetheless, some strikers were fired, with relief available only through a usually lengthy court process. The president and a number of directors of the National Aeronautical Workers' Union were fired by Varig and Vasp airlines after a February 1988 strike. Some were subsequently rehired, but the then president and five directors have remained without work, and their labor court cases are still pending.

Although Brazilian laws make no provision for a central labor organization, three major groups have emerged: the Sole Workers Central (CUT), the General Workers Confederation (CGT), and Force Sindical. Although the centrals do not have legal standing to represent professional categories of workers, all three centrals can effectively acquire such standing by affiliating existing statewide federations or nationwide confederations, or by forming new federations and confederations, challenging the old structure. However, the status of the federations and confederations created since 1991 remains in doubt as a result of a challenge in the labor courts by the old organizations.

Unions and centrals are free to affiliate internationally. CUT, Force Sindical, and CGT are affiliated with the ICFTU. A small splinter organization, the General Workers Central, affiliated with the formerly Soviet-controlled World Federation of Trade Unions in March 1993.

b. *The Right to Organize and Bargain Collectively.*—The right to organize is provided for by the Constitution. With some government assistance, businesses and unions are working to expand and improve mechanisms of collective bargaining. Nevertheless, under current Brazilian law, the scope of issues susceptible to collective bargaining is narrow. Further, the labor court system exercises normative powers with regard to the settlement of labor disputes, thereby discouraging direct negotiation. Existing law charges these same courts, as well as the Labor Ministry, with mediation responsibility in the preliminary stages of dispute settlement. Wages are set by free negotiation in many cases, and in others by labor court decision. Beginning in 1990, the Federal Government attempted to control salary increases in order to limit inflation, but the attempts appeared to have little effect on wage settlements in the private sector.

The Constitution incorporates a provision from the Labor Code which prohibits the dismissal of employees who are candidates for or holders of union leadership positions. Nonetheless, dismissals take place, with those dismissed required to resort to a usually lengthy court process for relief. For example, in the case of 12 directors of the Metalworkers' Union of Limeira (Sao Paulo state) removed from their jobs by employers in 1989, judicial actions were still under way against the companies. In general, enforcement of laws protecting union members from discrimination lacks effectiveness. Union officials estimate that some 5 percent of such cases reaching the labor court system are resolved within days through a preliminary judicial order. The other 95 percent generally take 5 to 10 years (and sometimes more) to resolve.

Labor law applies uniformly throughout Brazil, including the free trade zones. However, the unions in the Manaus free trade zone, like rural unions and many unions in smaller cities, are relatively weaker vis-a-vis industry as compared to unions in the major industrial cities in the southeast.

c. *Prohibition of Forced or Compulsory Labor.*—Although the Constitution prohibits forced labor, there were repeated credible citations of cases of forced labor in Brazil. The Federal Government asserted it was taking steps to halt the practice and prosecute perpetrators but admitted that existing enforcement resources are inadequate. Reports of forced labor and debt bondage were common in rural areas in particular. In 1993 the Catholic Church's Pastoral Land Commission denounced a notable increase from 1991 to 1992 of persons confined to farms and forced to work without pay (from 4,883 persons to 16,442 persons), and projected a continuation of the problem into 1994. Of these persons, 8,000 were forced to work in a single charcoal production operation in Mato Grosso do Sul.

During 1993 cases of forced labor also were reported in the following states: Bahia, Maranhao, Minas Gerais, Mato Grosso, Para, Parana, Rio de Janeiro, Rio Grande do Sul, Santa Catarina, and Sao Paulo. Forced labor was reportedly involved in another case in charcoal for use in producing exported steel and (along with child labor—see below) in production of sugar for export. A provision in the 1993 Agricultural Reform Law provides for the confiscation of property in cases of slave labor, but this law is unlikely to have significant impact without extensive enforcement.

State and federal authorities often did not investigate reports of compulsory labor, claiming lack of resources. Local police admitted that overseers or owners of many farms withheld pay from migrant laborers, using force to retain and intimidate them. Jurisdiction for such violations falls to the Ministry of Labor, which has allocated insufficient resources for enforcement. In 1993 the International Labor Organization (ILO), while appreciating "the cooperative attitude now shown by the Government," noted continuing reports of "very serious violations of basic provisions" of ILO Convention No. 29 on forced labor. The ILO recommended that the Government strengthen its system of labor inspection, particularly in rural areas. The ILO cited reports of a decrease in the number of labor inspections, and that successive changes in the Ministry of Labor had resulted in the discontinuation of programs, including the rural labor inspection program.

d. *Minimum Age for Employment of Children.*—The minimum working age under the Constitution is 14, except for apprentices. Legal restrictions intended to protect working minors under age 18 are often not enforced, however, and the problem is widespread. Judges can authorize employment for children under 14 when they feel it appropriate. (The ILO noted in 1992 that the Constitutional provision for apprenticeships under age 14 is not in accordance with ILO Convention No. 5 on minimum age in industry.) By law, the permission of the parents or guardians is required for minors to work, and provision must be made for them to attend school through the primary grades. All minors are barred from night work and from work that constitutes a physical strain. Minors are also prohibited from employment in unhealthful, dangerous, or morally harmful conditions.

Despite these legal restrictions, however, official figures state that nearly 3 million children, 10 to 14 years of age (or 4.6 percent of the work force), were employed. Of these, 46.4 percent worked 8 hours or more per day, while 96.3 percent of this group received not more than the minimum salary. The ILO has received reports alleging that millions of children are subjected to forced labor.

In late 1992, the ILO began the "IPEC" project to move children out of the Brazilian workforce. A draft report prepared under this project in 1993 indicated that some 40 percent of the employees of independent shoe manufacturers in Franca (Sao Paulo state) were children under 14, employed in violation of the law. The approximately 1,000 independent contractors employ up to 20 percent of the 35,000 workers in the Franca shoe industry. Among this 20 percent, researchers found some 2,000 children under 14 years of age. Most are exposed at work to poisonous and addictive fumes from shoe glue. From January 1992 through January 1993, a further 397

children from 13 to 14 years of age were authorized by courts to work in Franca shoe factories. According to figures cited in the report, 45 percent of Franca's 1992 cottage industry shoe production was exported to the United States and elsewhere. A June 1993 agreement by manufacturers to eliminate these child workers did not prove effective.

A 3-year study of sugar cane production in Pernambuco state found that 30 percent of the work force was made up of children and adolescents from 7 to 17 years of age, many cutting cane with machetes. About 10 percent of the sugar is exported.

Specific reports of minors working illegally were also noted from Rio de Janeiro and Sao Paulo (street vendors), Rio de Janeiro (nightclubs), Bahia and Sao Paulo (sugar cane harvesting), and Rio Grande do Sul (tree resin extraction and logging). Although defenders of the current situation asserted that economic conditions often compel children to contribute income to their families, research undertaken for the ILO indicated that the subminimum wages of such children have little if any effect on their economic condition. Further, the employment largely or completely eliminates any chance for education and for subsequent economic improvement.

Enforcement of child labor laws is severely limited because the Ministry of Labor, the responsible agency, deploys too few inspectors and is influenced by a widely held view that it is better for minors to work than to be involved in street crime.

e. *Acceptable Conditions of Work.*—As of July 1993, the national minimum wage was adjusted every month. Based on exchange rates at the end of month, when most workers are paid, the minimum wage was $63.66 in November 1993, and $58.46 in December. The Interunion Department for Socioeconomic Studies and Statistics estimated that the minimum wage is less than one-fifth of the minimum necessary (based on a standard set by the 1988 Constitution) to support a family of four. The most recently available national survey (for 1990) showed that 35 percent of economically active individuals, including minors from 10 to 14 years of age, earned no more than the minimum wage. Many workers, particularly outside the regulated economy and in the northeast, reportedly earned less than the minimum wage.

The 1988 Constitution limits the workweek to 44 hours and specifies a weekly rest period, "preferably on Sundays." This rest period is for 24 consecutive hours. The Constitution expanded pay and fringe benefits and established new protections for agricutural and domestic workers; however, not all of its provisions have been enforced.

Many Brazilian workers suffer from unsafe working conditions. Occupational health and safety standards are set by the Fundacentro, which is under the Ministry of Labor. Enforcement of these standards is inconsistent because the Ministry deploys insufficient resources for adequate inspection and enforcement.

There were also credible allegations of corruption within the enforcement system. If a worker has a problem in the workplace and has trouble getting relief directly from his employer, he or his union can file a claim with the regional labor court, although in practice this is frequently a cumbersome, protracted process.

Brazilian law requires the establishment in work places of Internal Commissions for Accident Prevention. Employee members of these commissions are protected under law from being fired for commission activities. Such firings, however, do occur, and legal recourse usually requires years for resolution. Incomplete figures for workplace accidents and fatalities in 1992 (authorities estimate they have 92 percent of the data) showed 512,292 reported accidents, of which 3,390 were fatal and 16,706 caused permanent disabilities. These data undoubtedly understate the problem, because they only measure about one-half the workers in a work force of approximately 64.5 million.

CHILE

Chilean democracy follows a Constitution written under the former military government and approved by referendum in 1980, which places limits on popular rule. Chile held its second presidential and parliamentary elections under this Constitution on December 11, and Eduardo Frei will assume the presidency on March 11, 1994. Congress approved an amendment to the Constitution to limit presidential terms to 6 years— the period he is expected to serve. The Congress is comprised of 120 Deputies and 18 Senators elected in December 1993, 20 Senators elected in 1989, and 8 Senators appointed in 1990. While the governing coalition again won a majority in the Chamber of Deputies, the eight senators appointed in 1990 by the former military government for 8-year terms continue to deprive the Government of a majority in the Senate. The constitutionally independent judicial branch remained largely dominated by appointees of the former military regime.

The Constitution requires the armed forces to be subordinate to the President, with the Minister of Defense, a civilian appointed by the President, responsible for oversight of the military. In practice the armed forces remain largely autonomous institutions, and the civilian Government lacks independent authority to remove their commanders. The army deployed a small number of troops around its headquarters in Santiago on May 28, and its officers appeared in combat dress for several days to express displeasure with civilian authorities over several issues, including judicial processing of past human rights violations. General Pinochet, the 78-year-old leader and only member of the 1973 military junta still on active duty, remains as Commander in Chief of the army, a position he may by law hold until March 1998.

The Carabineros, Chile's uniformed national police, have primary responsibility for public order and safety, crime control, and border security. The Investigations Police are responsible for controlling and investigating serious crime. Both police organizations, although formally under the administrative jurisdiction of the Ministry of Defense, fall under the operational control of the Ministry of Interior. Elements of the police forces were again responsible for human rights abuses. The Government asked for independent judicial investigations when police were accused of human rights violations, including the use of excessive force to control violent demonstrations and of torture to extract confessions.

Chile's free market economy enjoyed its tenth consecutive year of expansion in 1993. Economic growth, though slowed by lower world prices for Chile's principal exports, was estimated at over 5 percent. Unemployment remained less than 5 percent, near 20-year lows, while inflation was 12 percent, slightly less than the rate in 1992. Copper remains Chile's most important source of foreign exchange, followed by fresh fruit and fish meal.

Four years after the transition to democracy, the principal human rights issues still involved redress for human rights abuses that occurred during the former military government's rule. Efforts to redress the abuses were shaped by often conflicting requirements for justice and national reconciliation. The Supreme Court has been reluctant to confront the military over human rights, and one justice was impeached by Congress and removed from office for "gross neglect of duties" for his handling of a human rights case. Another Supreme Court justice sentenced commanders of the former National Intelligence Directorate (DINA) as intellectual authors of the 1976 assassination in Washington, DC, of Orlando Letelier and Ronni Moffitt. Disputes continue over the interpretation of the 1978 amnesty law and prosecution of military personnel and their collaborators for abuses not covered by the amnesty. Other human rights abuses include torture and excessive use of force by the police, arbitrary arrests, instances of prior restraint of the press, discrimination against ethnic minorities and indigenous people, and violence against women and children.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—The Government was not responsible for political killings in 1993. In an important step toward ending the impunity of military officers involved in the Letelier case, Adolfo Banados, a Supreme Court justice appointed by the current Aylwin Government, sentenced retired General Manuel Contreras and Colonel Pedro Espinoza to 7- and 6-year prison terms, respectively, as intellectual authors of the 1976 murder in Washington, DC, of former Chilean Foreign Minister Orlando Letelier and his American assistant Ronni Moffitt. The Supreme Court is expected to rule early in 1994 on appeals of the sentences by all parties. This is the only case involving the now dissolved DINA—the Pinochet-era secret police—that the 1978 amnesty law specifically excluded.

Chilean police were responsible for some extrajudicial killings. In January Juan Acevedo, a 23-year-old forestry professional died in the southern port city of Constitucion after interrogation by the Investigations Police. A local judge found evidence of torture, and the Supreme Court appointed a special judge to continue the investigation. In February Luis Alberto Caniulaf died after being arrested by Carabineros for rape. The investigating judge ordered the arrest of three civilians and four Carabineros who were family members of the victim. The Carabineros were subsequently discharged from the police force. Both cases remained active in the courts at the end of the year.

Police were also responsible for two deaths when demonstrations in Santiago sponsored by leftist and human rights groups on September 11, the 20th anniversary of the 1973 coup, turned violent. Demonstrators threw rocks at police, erected barricades, overturned cars, and set fires. When police responded, a 66-year-old gov-

ernment worker died when he was run over by a police vehicle carrying a water cannon, and Jose Araya Ortiz, an 18-year-old member of the Communist Youth, died of gunshot wounds probably the result of Carabinere fire. At the Government's request, the Supreme Court appointed Appeals Court Judge Humberto Espejo to investigate the incidents, but at year's end his report had not been made public.

Two terrorist groups, the dissident wing of the Manuel RodriguezPatriotic Front (FPMR/D) and the Lautaro Youth Movement, were responsible for most political violence. Police made important arrests among the top leaders of these organizations in 1993, but terrorists continued to conduct violent, well-armed operations. Chilean terrorists killed one policeman and one maintenance worker, and according to press reports six terrorists died in confrontations with the police through December 1. On March 25, the Investigations Police captured Lautaro's number two leader, Delfin Diaz, who reportedly masterminded a 1992 attack on the police. On August 5, Investigations Police captured Mauricio Hernandez Norambuena, number two leader of the FPMR/D, who was accused of participating in the April 1991 murder of Senator Jaime Guzman and three attacks on American government representatives in Chile.

The former military government enacted an amnesty law in 1978, the prime beneficiaries of which were those responsible for human rights abuses committed during the first 5 years of the military government's rule. The Aylwin administration interpreted the amnesty law to mean that the courts should first determine the authors of human rights abuses before applying the amnesty. Legal reforms in 1991 remanded most human rights cases from military to civilian jurisdiction. However, when the investigation showed that a crime was committed on a military base or military personnel were accused of the crime, military tribunals reclaimed jurisdiction, and the military courts applied the amnesty law to close the cases without determining the facts or criminal responsibility. These decisions led critics to charge that Chile's Supreme Court impeded justice for victims of human rights abuses committed by the military forces.

For example, the extradition of Osvaldo Romo Mena, who fled to Brazil in 1975, was sought by Appeals Court Judge Gloria Olivares to testify about the 1974 disappearance of Movement of the Revolutionary Left (MIR) leader Alfonso Chanfreau, in whose apprehension Romo allegedly participated. The Brazilian Government expelled Romo to Chile in November 1992, but before he could testify, a chamber of the Supreme Court, with Justice Hernan Cereceda presiding, granted the military courts jurisdiction over the investigation. The military court closed the case (and later reopened it to apply the amnesty). In response, the Chamber of Deputies voted along strict party lines to impeach the three Supreme Court justices and the Auditor General of the army who voted to transfer the Chanfreau case to military tribunals. The Deputies found that they had committed a "gross neglect of duties" for having applied procedural technicalities in the Chanfreau case and ignoring constitutional reforms intended to give the tenets of the American Convention on Human Rights precedence over domestic law. The opposition-controlled Senate was expected to reject the charges, but on January 25 three opposition National Renewal Senators joined the governing coalition to vote on one count to remove Cereceda, the second-ranking member of the Supreme Court, from office.

Criticism of the Supreme Court's handling of human rights issues continued. The Court failed to reverse a military appeals court ruling against a serious injury finding by a lower court in the case involving Carmen Gloria Quintana, who was seriously burned in a confrontation with a military patrol in 1986, and Rodrigo Rojas, who died of burns. This case was the first in which a military court had ruled in favor of human rights victims, and human rights groups pointed to considerable evidence demonstrating the responsibility of military personnel in the crime.

The Supreme Court also unanimously rejected a request from the Chamber of Deputies to assist the Argentine judge investigating the 1976 murder of former Army Commander General Carlos Prats and initially, by a narrow majority, refused the Foreign Ministry's request that it appoint a member of the Supreme Court to investigate the 1976 death of Carmelo Soria, a Spanish citizen employed by the United Nations. Soria's death in 1976 was attributed to a traffic accident, but Michael Townley, a key witness in the Letelier case, admitted that Soria had been tortured and killed at Townley's home. In 1991 the Foreign Ministry requested that the case be reopened, and the Supreme Court appointed Appeals Court Judge Violeta Guzman to investigate. She found evidence that two active duty colonels and four other former army officials who worked in the DINA had participated in Soria's murder. When she called them to testify as possible suspects, the military courts requested jurisdiction over the investigation, and on November 18 the third chamber of the Supreme Court granted jurisdiction to military courts.

The Spanish Government informed Chile that the case had affected relations between the two countries, and recalled its ambassador in December. The Foreign

Ministry asked the courts to use procedures envisioned in the 1991 judicial reforms to have a Supreme Court justice investigate the crime. On December 2, by a narrow majority, the Supreme Court rejected the Government's request on the basis that relations with Spain would not be affected. The case led some on the left to explore the possibility of impeaching some or all of the Supreme Court justices who voted against the Government's request. The Government submitted more evidence of the damage the case had caused its relations with Spain, and the Supreme Court reversed its decision, voting 10 to 2 to appoint 1 of its members to investigate the case. Since the 1978 amnesty would apply to the case, it is unlikely that those responsible for the Soria murder will be convicted or punished.

Special Judge Milton Juica on September 28 formally accused five former Carabineros and a civilian, Miguel Estay Reyno, of the 1985 throat slashing of three Communist Party leaders. Twelve other former Carabineros from the disbanded Directorate of Intelligence (Dicomcar) were accused of being accessories in the murder. The Supreme Court dropped charges against former junta member and Carabinero Commander General Mendoza, saying he was not involved in the crime.

Little progress was made on resolving the 1982 murder of Tucapel Jimenez. A chief suspect in the case, a former military officer, was in jail in Argentina pending extradition. Retired army Major Alvaro Corbalan, the commander of an intelligence unit accused of murdering a carpenter to cover up the Jimenez murder, was under house arrest on a military base, and another accomplice was still in jail. Corbalan is the only former military officer under detention in Chile.

The National Reparation and Conciliation Corporation began operating in 1992 to compensate families of human rights victims. On September 30, 1993, it was paying pensions to 4,600 family members of victims who died of human rights violations committed before 1990. The Chilean State has paid $26.5 million to the victims' families, including college tuition for offspring up to the age of 35 who wish to study. Wives, children, and parents of victims are eligible for pensions, and the amount for each family member is more than double that paid under the old social security system. The Corporation also continued the work of the Rettig Commission, investigating reports of human rights abuses where victims died. The President, Alejandro Gonzalez, expects the Corporation to reach conclusions on deaths or disappearances of the more than 3,200 victims by the time it finishes its work in 1994.

b. *Disappearance.*—The Government was not responsible for disappearances during 1993. Disappearance cases from before 1978 cannot be closed and the alleged perpetrator amnestied until a court determines that the victim is dead. Since the bodies of many of the disappeared have never been found, the cases were an ongoing irritant in civil-military (particularly civil-army) relations because judicial processes against officers—who would inevitably be covered by the amnesty—were both disruptive to army operations and embarrassing to the institution. An Aylwin administration proposal to permit confidential testimony in order to close the cases expeditiously was not pursued owing to the concern of some members of the governing coalition that it would result in impunity for human rights violators. It did not guarantee that civilian courts would undertake the investigations nor that the military would cooperate.

In 1993 a court convicted five FPMR/D militants of the September 1991 kidnaping of Cristian Edwards, son of the owner of Santiago's prestigious El Mercurio newspaper. An FPMR leader captured in August is believed to be the intellectual author of the kidnaping, but police were not able to find any trace of the million-dollar ransom the family paid.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the "use of illegal pressure" is forbidden, there continued to be mistreatment and torture by some Carabinero and Investigations Police units in 1993. The Defense Committee of the Peoples' Rights (CODEPU) had received 17 reports of torture or cruel treatment by Carabineros and 6 by the Investigations Police through November 15, and filed 25 complaints with the courts. The abuses were mostly associated with interrogations, and included sleep, food, and water deprivation, threats, beatings, and forced standing for long periods of time. Allegations of the use of electrical shock were rare.

The Government, which includes many human rights leaders and victims in important positions, asked for independent judicial investigations of credible complaints. Investigations of torture seldom resulted in arrests, in part because members of the judiciary, many of them appointed by the military regime, are reluctant to pursue the issue vigorously.

In one highly publicized case, a Brazilian woman, Tania Maria Cordeiro, was arrested and allegedly tortured after her boarder was detained for possession of arms used by members of the Lautaro Youth Movement in bank robberies. The Brazilian consul tried for months to call the Government's attention to the case before her

lawyer, a respected human rights defender, publicized the case in August. Soon thereafter, the Supreme Court designated Appeals Court Judge Alejandro Solis to investigate the complaint. In November he charged eight policemen with administrative violations for psychological pressure to extract a confession and for illegal detention of Cordeiro and her 13-year-old daughter, but he did not find proof of torture.

Chilean prisons are strapped for funds and antiquated, but conditions are not life threatening. Food is provided to meet minimal nutritional needs, and prisoners may supplement their diet by buying food. Those with sufficient funds can rent space in a better wing of the prison. Although prison guards have been accused by some human rights groups of using excessive force to stop attempted prison breaks, the guards generally act professionally and do not mistreat prisoners. The Government permits monitoring of prison conditions, and the Minister of Justice who supervises the guards visits prisoners to hear their complaints. The International Committee of the Red Cross, which formerly visited political prisoners, closed its office in Chile because it felt there was no longer a need for a full-time presence.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution allows civilian and military courts to order detention for up to 5 days without arraignment and extend the detention for up to 10 days for suspected terrorist acts. By law, detainees are to be provided 30 minutes of immediate and daily access to a lawyer (although not in private) and to a doctor to verify their physical condition. The law does not permit a judge to deny such access. With few exceptions, this practice appeared to be observed by police authorities. It is quite common for the police to make "arrests for suspicion," particularly of youth in high-crime areas late at night. The Chilean Human Rights Commission reported that many of those detained were never charged and were released after a few days.

There were no cases of forced exile in 1993, but some Chileans convicted of politically motivated crimes during the military regime agreed to go abroad as a condition of their release from jail.

e. *Denial of Fair Public Trial.*—Although the Constitution calls for a judicial system independent of the other branches of government, the judiciary, and particularly the Supreme Court, is dominated by appointees of the former military regime. Their rulings are often partial to the military and the police. Ten of the 17 Supreme Court judges were appointed by General Pinochet, 7 of them after he lost the 1988 plebiscite. The court system is widely criticized for being antiquated and inefficient. Trial is not by jury. Reliance is on the written record rather than oral testimony, and the judge renders a verdict after directing the investigation. The investigative phase is considered secret, with limited access for the accused or his attorney to evidence or testimony which has been accumulated by the judge. There is a well-developed, multistage appeal process leading ultimately to the Supreme Court. This lengthy process results in very slow final decisions; it is not uncommon for cases to linger in the court system for several years. In 1993, for example, the Supreme Court ruled in favor of heirs of the plaintiff in a case involving a 1967 land confiscation.

Under the military government, a broad interpretation of state security laws greatly expanded the jurisdiction of military courts over the prosecution of proscribed political activities.A 1991 legal reform package (the "cumplido" laws) limited the jurisdiction of military tribunals and transferred most cases to the civilian courts. The Auditor General of the army may sit as a visiting justice in Supreme Court chambers that hear cases involving army officials.

The court is often partial in decisions involving military personnel (see Section 1.a.). For example, on May 28, after a delay of more than a year, the Supreme Court upheld a lower court's order to detain active duty army Lieutenant Colonel Fernando Laureani, who had been a DINA squad leader when two MIR members disappeared in 1974. Laureani failed to appear in court and spent several months as a fugitive. In July as President Aylwin was proposing a change in judicial procedures, the fourth chamber of the Supreme Court voted unanimously to grant a military court jurisdiction, confirming the precedent that the military will take jurisdiction if an active duty officer is indicted for a human rights violation covered by the amnesty. The military court applied the amnesty to Laureani and closed the case.

President Aylwin commuted the sentences in 1993 of 11 persons convicted for politically motivated crimes committed during the military regime, including the only woman in that group. Eight of the former prisoners were sent to live outside Chile for the remainder of their sentences as a condition of their release. At year's end, the number of persons remaining in jail charged with violating state security laws before March 11, 1990, had dropped to 10. (There had been 335 when Aylwin took office.) Those prisoners suffered extended periods of pretrial detention and torture, and were colloquially known as "political prisoners." However, they were involved

in Chile's more notorious terrorist incidents such as the death of five bodyguards in the 1986 assassination attempt of then President Pinochet. The judicial system has sentenced six of them, including three for the assassination attempt. They applied for presidential pardons, and President Aylwin may commute their sentences as he has done in other cases. For the first time, a beneficiary of an Aylwin pardon was rearrested in 1993 for criminal activities committed after his release.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Searches of the home and interception of private communications are prohibited by the Constitution, unless either a civilian or military court issues a search warrant for specific locations. The 1984 antiterrorist law provides for surveillance of those suspected of terrorist crimes, and for the interception, opening, or recording of private communications and documents in such cases.

There were further developments in a 1992 political espionage case involving a cellular telephone conversation recorded and subsequently played on a national television program, destroying two candidates' presidential campaigns. The army acknowledged that an army captain had "misused" its espionage equipment to record a private conversation and leak it to the media. The Supreme Court ruled that the law on telephone intercepts only covered conversations carried on wire, not on cellular telephones, and ordered the defendants freed of all charges. The military courts punished the army captain only for neglect of duty, but he was discharged from the army in November.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and the press, and these rights are generally respected in practice. The press generally maintains its independence and exercises responsible, professional judgment, including in its criticism of the Government. Issues sensitive to the military, including human rights abuses, are widely covered in the media. During 1993, military courts heard no new cases against journalists, but several cases were still pending from prior years. A military court confiscated one edition of a newspaper for reporting on the Soria case while a "gag order" was in effect, but it did not call the editors to court. Several attempts by Congress to transfer jurisdiction in such cases from military to civilian courts were not successful.

Press debate focused on censorship on several occasions in 1993. In March the navy seized and prohibited circulation of a publication by a retired navy captain entitled "Ethics and the Intelligence Service." In April a Santiago court of appeals prohibited the sale or distribution of a book by Francisco Martorell entitled "Diplomatic Impunity."

In August President Aylwin reignited the censorship controversy when he requested that the national television station delay the broadcast of an interview with Michael Townley in which the former DINA agent detailed how and why he put a bomb under the car of Orlando Letelier. The President asserted that showing the interview on the government-owned station at that time was needlessly inflammatory. The program aired 10 days later, but the program's director was dismissed for adding to the debate about presidential influence over the state-owned television station and for allegedly asserting excessive independence from the board of directors.

b. *Freedom of Peaceful Assembly and Association.*—Citizens have the right to peaceful assembly and association. Permission to hold rallies and demonstrations on streets and public plazas is issued according to police guidelines. Permission must be requested 72 hours in advance, and it is usually granted; however, authorities often suggest an alternate location to minimize inconvenience to other people.

Prior to September 11, the 20th anniversary of the coup, the Government asked Santiago authorities not to authorize demonstrations near La Moneda presidential palace, the site where most of the fighting took place on the day of the coup and where former President Allende committed suicide. Anticoup demonstrators threw rocks at police, erected barricades, overturned cars, and set fires. When Carabineros responded, a police vehicle ran over and killed a 66-year-old man, and an 18-year-old member of the Communist Youth died of gunshot wounds, probably the result of Carabinero fire (see Section 1.a.). Ten days after the incidents, an attorney representing the injured Carabineros asked the courts to prosecute the demonstrators who were responsible. Since he asked that the courts pursue the "instigators" as well as the material authors of the injuries, human rights groups (some of whom were among the organizers) claimed he was attempting to restrict freedom of assembly.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion. Chile is predominantly Roman Catholic, but other denominations practice their faiths without restriction.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Chileans by law are free to move within and to enter and leave their country. The National Office of Returnees—established by the Congress in 1990 to facilitate the reincorporation into Chilean society of more than 26,000 Chileans who have returned from exile—has assisted more than 13,000 exiles and their families by providing special access to health care, housing, and information on job opportunities.

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

Chile is a constitutional democracy, and citizens now have the right to change their government through periodic elections. There is universal suffrage for citizens 18 years of age or over, and more than 95 percent of those eligible are registered to vote. Voting is compulsory for those who register. National elections for the President and Congress were held on December 11, the second since the return to democracy. President-elect Frei won the biggest majority in modern Chilean history, capturing 58 percent of the vote in a six-candidate race, but Chile's unique binomial system allowed the rightist opposition to pick up strength in both the Senate and the Chamber of Deputies.

The former military government wrote the 1980 Constitution and amended it slightly in 1989 after General Pinochet lost a referendum to stay in office. It provides for a strong presidency and a legislative branch with more limited powers. The President has the authority to designate the "urgency" of bills and to determine time limits for Congress to consider them. In addition, the Constitution includes provisions designed to protect the interests of the military and the political right and, according to its defenders (and even some critics), to provide stability in the political process and encourage the formation of large coalitions. The center-left coalition which governed Chile in 1993 accepted the legitimacy of the 1980 Constitution but sought to amend elements characterized as "authoritarian enclaves" left over from the previous regime. These included limitations on the President's right to remove chiefs of the armed forces, an electoral system that gives the political opposition a disproportionate representation in Congress, and the existence of nonelected "institutional senators" who deprive the governing coalition of an elected majority in the Senate.

Women have had the right to vote in municipal elections since 1948 and in national elections since 1952, and they are active in political life, especially at the grassroots level. Women make up a majority of the registered voters and of voters who actually cast ballots, but there are few women in leadership positions. Although some women lost their bids for reelection, 6 women won new seats in the Chamber of Deputies, increasing their numbers to 9 of 120 deputies. Chile's indigenous people are able to participate freely in the political process. Although relatively few members of Chile's Indian population are politically active, their participation has increased since the 1990 democratic transition. Of the nearly 1 million self-described indigenous people in Chile, there is one representative of Indian descent in the Congress.

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

The Aylwin Government cooperated with nongovernmental organizations that seek to investigate continued human rights violations in Chile. A number of government officials were formerly active in the Catholic Church's Vicariate of Solidarity (which closed its offices in 1992). The Vicariate had taken the lead in defending human rights during the Pinochet regime and provided legal counsel to families of victims who were killed or disappeared between 1973 and 1990. The Social Aid Foundation of the Christian Churches hired many of the Vicariate's lawyers and assumed the bulk of the Vicariate's caseload of pre-1990 human rights violations.

Several human rights leaders established the Foundation for Documentation and Records of the Vicariate of Solidarity to maintain the case files and assist in documenting human rights abuses between 1973 and 1990. The Chilean Human Rights Commission is affiliated with the International League of Human Rights and continues to gather evidence of police abuses. The Defense Committee of the Peoples' Rights provides legal counsel to those currently accused of politically related crimes and to victims of human rights abuses. The Communist Party and the Group of Families of the Disappeared Detainees are working for the repeal of the 1978 amnesty law.

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

Women.—Legal distinctions between the sexes still exist, despite a 1989 law which eliminated many restrictions on women. Divorce is not legal in Chile; those who seek to remarry are required to seek annulments. The courts are relatively tolerant on technicalities for dissolving a marriage, but since annulments imply that the marriage legally never existed, former wives and children are left without any legal recourse for financial support. A bill to create conjugal property as an option in a marriage passed the Chamber of Deputies but has not yet been voted on in the Senate. Inheritance laws provide strong protection for wives and protect female offspring, and a 1992 law accords children born out of wedlock the same civil rights as offspring born in wedlock. Many believe, however, that the changes in law have not been matched by a change in attitude by society, police, or the courts.

Abuses such as wife beating continue to be tolerated or ignored. The National Women's Service (SERNAM), whose director was the only woman with cabinet rank in the Aylwin Government, estimated that one in four women had been subject to physical violence by her husband or partner, but that 75 percent do not dare to report it. A 1992 survey conducted by SERNAM in metropolitan Santiago showed the highest level of violence in the lower economic strata, where 34 percent of women reported that they had experienced physical abuse. SERNAM conducted courses on the legal, medical, and psychological aspects of domestic violence for Carabineros, who are often the first public officials to intervene in such incidents. More than 5,000 have been trained in new techniques for assisting abused women. SERNAM also teaches courses (therapy) for wife abusers and allows free followup when the aggressor needs further support. SERNAM estimates that authorities are able to prevent further abuse in 70 percent of the cases that are reported.

Children.—The Government is committed to children's rights and welfare, and strengthening the family was a prominent campaign theme across the political spectrum. A U.N. Children's Fund study found that malnutrition among Chilean children was the lowest in the Western Hemisphere, affecting less than 1 percent. The National Minors Service (SENAME) found that sexual abuse of minors, some as young as 6 years of age, occurred but that few cases are reported. The Carabineros support the creation of a public defender for children's rights.

Indigenous People.—In 1993 Congress passed a law that was drafted by a committee composed of representatives of the various indigenous groups recognizing the ethnic diversity of the indigenous populations. It replaced a law that emphasized assimilation, and it gives them a greater voice in decisions affecting their lands, cultures, and traditions. The law allows for eventual bilingual education in schools with a large indigenous population. The population which identifies itself as indigenous (nearly 1 million, according to the 1992 census) remains separated from the rest of society, largely because of historical, cultural, educational, and geographical factors. The Mapuches in southern Chile form the bulk of the indigenous population (over 90 percent), but there are small Aimara, Atacameno, Huilliche, Rapa Nui, and Kawaskhar populations in other parts of Chile.

A young Mapuche leader, Aucan Huilcaman, was convicted of inciting land takeovers but was free on bail pending the outcome of his appeal. At the World Human Rights Conference in Vienna, he advocated indigenous peoples' rights to "possess, control, administer, and manage a territory" while choosing the appropriate development strategy to suit each culture. While the new law honors this principle, some Indian leaders would prefer more explicit reference to the right for community ownership of land according to their traditional pattern. Huilcaman was not able to run for Congress because of his criminal record, but several other indigenous people were candidates. They tried to form a united front, urging Indians to vote their ethnic origins rather than for political affiliation. However, most of the Indian candidates were on the leftist ticket that won no seats in the Congress. One, Francisco Huenchumilla, a Christian Democratic moderate, ran for reelection and won easily, capturing more than 47 percent of the vote in a seven-candidate race.

National/Ethnic/Racial Minorities.—Chile is a relatively homogeneous and isolated society and intolerance of small ethnic minority groups is evident. A Korean immigrant was banned from a local health club because the owner claimed that her "odor" would keep other customers from coming to use the sauna. She filed suit, and the Supreme Court ruled in her favor, but the courts have yet to fix damages.

Religious Minorities.—The number of bombings of Mormon churches declined this year, with 15 reported, apparently as a result of the success the police had in arresting leaders of the Lautaro. Two of the incidents, however, were more violent than those in the past, with terrorists confronting worshipers in the churches. The terrorists' motives for attacking the Mormons were not clear but were apparently more political than religious.

B'nai B'rith International raised concern about the activities of a small "neo-Nazi" movement; its District 27 issued a report in July that noted groups of as many as 200 Chileans had held ceremonies to declare their allegiance to the Third Reich and their opposition to democracy.

People with Disabilities.—Chilean law does not require that public buildings provide access for people with disabilities, and the Santiago metro, the pride of Chile's system of public transportation, has no provisions for wheelchair access. Chile has for many years conducted a telethon to assist people with disabilities in obtaining physical therapy. Groups connected with the telethon are beginning to increase public awareness of people with disabilities. For example, one group formed a dance company with several of the performers confined to wheelchairs. Reserved parking for the disabled is no longer a rarity.

Section 6. Worker Rights

a. *The Right of Association.*—Most workers have the right to form unions without prior authorization or to join existing unions, and 14.4 percent of the work force was organized at the end of 1992. Legislation was introduced to allow government employee associations the same rights as trade unions. Such associations now participate in labor centrals, but they do not enjoy the same legal protection as unions. Only the police and military are not allowed to form such employee associations.

The Labor Code now permits the formation of nationwide labor centrals, and the largest and most representative one, the Unified Workers Central (CUT), legalized its status in April 1992. The Labor Code does not conform in key respects to International Labor Organization Conventions 87 and 98 on, respectively, freedom of association and the right to organize and bargain collectively, which Chile has not ratified. However, the Government actively encouraged labor to organize. The number of labor unions increased by more than 40 percent under the Aylwin Government.

Affiliations with confederations and federations (second-tier labor groups) continued to increase, and many of them maintain ties to international labor organizations. The CUT is not now affiliated with any labor international, but it scheduled an extraordinary congress in 1994 to reconsider the matter. Unions are independent of the Government, but most union leaders are elected from lists based on party affiliation. The CUT has factions affiliated with the Christian Democratic (the largest), Socialist, and Communist parties.

Reforms to the Labor Code in 1990 removed significant restrictions on the right to strike. Labor unions continue to object to the requirement that workers vote by secret ballot in the presence of a labor inspector or notary on whether to accept a company's final offer. Striking workers may no longer be fired after 60 days on strike without severance benefits. Employers are required to show cause whenever they fire workers but can claim "needs of the enterprise" as a sufficient cause. Observers believe that some employers invoke this clause to fire employees for attempting to form unions.

b. *The Right to Organize and Bargain Collectively.*—The climate for collective bargaining has improved, and the number of negotiated contracts has grown steadily; at the end of 1992, 16.7 percent of the eligible workers had collective bargaining agreements. The process for collectively negotiating a formal contract is heavily regulated, and the Labor Code contains detailed rules for contract negotiations. Multicompany or sector negotiations require the prior consent of all affected companies and unions, so most negotiations take place at the company level. The Labor Code allows multiple unions and worker committees to engage in parallel negotiations with the same company. Strikes may be called only if workers reject a collective bargaining agreement. However, the law permits (and the Aylwin administration encouraged) informal union-management discussions to reach collective agreements ("convenios") outside the regulated bargaining process. These agreements have the same force as formal contracts. Once a contract has been signed, workers must pursue grievances in the court system.

The Labor Code specifies what can be "matters for collective bargaining" and prohibits collective bargaining over any issue that "can limit or restrict the ability of the employer to organize or direct the enterprise." Labor leaders say this is used by some employers to limit discussions of working conditions. Employers may also include a clause in individual employment contracts that some employees are supervisory personnel who are not allowed to participate in collective bargaining. In the telephone company, for example, most technical personnel have such contracts.

Temporary workers—defined in the Labor Code as agricultural, construction, and port workers, as well as entertainers—may now form unions, but their right to collective bargaining continues to be restricted. Some 700,000 workers, including most

agricultural workers, are limited to informal negotiations, meaning they have no protection from unfair bargaining practices.

The Labor Code provides sanctions for unfair bargaining practices that protect workers from dismissal during the bargaining process, but union leaders claim companies invoke the "needs of the enterprise" clause to fire workers after a union has signed a new contract. Although the law protects union officials from such dismissals, second-echelon leaders who do not hold union offices may lose their jobs. The Labor Ministry's Director General says this raises questions about the real cause for dismissals, but his legal authority only allows inspectors to assure that companies make severance payments; they do not investigate the causes for a dismissal. If a worker proves in court that he was fired unfairly, this will raise his severance payment by 20 percent but not get his job back.

The Labor Code also applies in Chile's duty-free zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited in the Constitution and the Labor Code, and there is no evidence that it is currently practiced.

d. *Minimum Age for Employment of Children.*—Child labor is regulated by law. Children as young as 14 years old may legally be employed only with permission of parents or guardians, after completing their compulsory elementary schooling and in restricted types of labor. Those aged 15 to 18 may be employed in a larger variety of jobs and at expanded hours, but only with their parent's or guardian's permission. Labor inspectors enforce these regulations and voluntary compliance is good in the formal sector. Economic factors have forced many children to seek employment in the informal economy which is more difficult to regulate. Carabineros have procedures to counsel parents who force their children to work.

e. *Acceptable Conditions of Work.*—Minimum wages, hours of work, and occupational safety and health standards are regulated by law. The maximum legal workweek is 48 hours, which must be worked in the course of either 5 or 6 days. The maximum length of any given workday is 10 hours. Since the Aylwin administration took office, there have been tripartite negotiations each year in which business and labor agreed to the minimum wage proposal sent by the Government to Congress. Since 1990, the minimum wage increased by more than 30 percent in real terms. Lower paid workers also receive a family subsidy (which employers deduct from their taxes) to help raise their earnings to an acceptable level. The formula for calculating the minimum wage considers projected future inflation and increases in productivity, and the minimum monthly wage is now about $115 (46,000 pesos).

The Ministry of Labor has inspectors to enforce laws covering working conditions. Despite increases in resources, enforcement is difficult, especially in small enterprises and the informal sector, but voluntary compliance is fairly good. Workers who remove themselves from situations that endanger their health and safety have their employment protected, provided they have asked a workers' delegate to bring the problem to the attention of labor inspectors.

COLOMBIA

Colombia is a constitutional, multiparty democracy long dominated by the Liberal and Conservative parties. The M–19 guerrilla movement, which became a legal political party, Democratic Alliance M–19 (AD/M–19) in 1990, fielded a presidential candidate and several congressional candidates in 1993. A small Socialist party, Patriotic Union, also participates in national politics. The next national elections will be held in May 1994. Until August, the country was under a state of emergency declared by President Cesar Gaviria in late 1992. This allowed the President to issue decrees on public order matters normally requiring legislative action. During the fall session, Congress debated many of these decrees,with the participation of human rights groups, and incorporated some of their provisions into permanent legislation.

Internal security is the primary responsibility of the Ministry of Defense, which in addition to the armed forces, includes the National Police (CNP). The Department of Administrative Security (DAS), which is responsible for national security intelligence, reports directly to the President. Elements of the police and the armed forces remained responsible for widespread human rights abuses.

Colombia has a mixed economy in which the private sector has assumed an even more dominant role as a result of the economic liberalization program introduced by the Gaviria Government. Crude petroleum rivals coffee as the principal export. The privatization of selected public industries continued, with three banks and a number of smaller enterprises sold by the Government during the year. Narcotics traffickers continued to control extensive economic interests.

Colombia's engrained democratic tradition has survived despite high levels of internal violence. For 8 months in 1993 and 35 of the past 42 years, the Government operated under states of emergency which gave the executive a wide range of powers to issue decrees, some of which impinged on the basic rights of citizens, in order to deal with civil unrest associated with internal violence. Narcotics traffickers, leftist guerrilla groups, and rightwing paramilitary groups—the last of which sometimes act with the support or acquiescence of local or regional military or police units—committed the majority of human rights abuses. However, the army and police appeared to be jointly responsible for almost as many violations as the combined nongovernmental groups.

Narcotics traffickers frequently resorted to terror in attempts to intimidate the Government and the general population. They continued to disseminate false information about official human rights violations in an effort to undermine the Government's credibility. Narcotics traffickers and guerrillas cooperated extensively. The commander of the armed forces estimated that 60 percent of the revenue of the Revolutionary Armed Forces of Colombia (FARC) in two provinces came from drug trafficking.

Individual members and units of the police and army were responsible for extensive human rights abuses including extrajudicial killings, disappearances, torture, and arbitrary detention. As acknowledged by the Attorney General and the National Human Rights Ombudsman, a major reason for the high level of abuse was the virtual impunity with which most took place. Targets of abuse in rural and urban areas by the security forces included workers, politicians, labor organizers, human rights monitors, and, most frequently, peasant farmers in guerrilla territory. Violence and economic discrimination against women remained commonplace.

The Government actively sought to improve its human rights record and effect reform, passing a comprehensive police reform law establishing a civilian Police Commissioner's Office and a National Advisory Board. It remains to be seen whether these efforts will reduce police and military abuses. The Office of the Defender of the People remained underfunded, while the Procuraduria, an independent government watchdog agency, conducted some investigations and imposed sanctions on a few state agents implicated in human rights abuses. The armed forces initiated a human rights awareness campaign at the end of the year, creating a special office staffed by civilians to advise the joint chiefs of staff on human rights issues and to develop training materials and programs.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—The overall murder rate in Colombia increased for the second year in a row in 1993. Bogota's leading newspaper, El Tiempo, cited 15,000 murders attributed to all sources throughout the country in the first 6 months of 1993, as compared to 11,000 for the same period in 1992. Due to insufficient police and judicial resources to investigate and prosecute most killings and the frequently overlapping violent forces at work, it is often difficult to separate political from nonpolitical murders.

The Center for Investigations and Popular Education (CINEP), Bogota's Jesuit-affiliated human rights and social welfare research center, reported a total of 581 politically motivated murders for the period from January through September 1993, compared with 873 for all of 1992. Of these, 159 were attributed to members of the state security apparatus, 37 to paramilitary groups, 242 to the guerrillas, and 143 to unknown perpetrators. According to the Andean Commission of Jurists (CAJSC), 437 cases of politically motivated killings were reported between January and June 1993, with another 755 killings presumed to have been politically motivated. CAJSC also stated that, during the full year, an average of 11 people per day were killed in politically motivated attacks, a figure almost identical to that of 1992. In December a press report cited a figure of 649 political killings in Colombia for the year. The report also stated that the department of Antioquia had the highest incidence of this violence, with a total of 230 such killings.

The armed forces continued to be responsible for extrajudicial killings, including one reported massacre. Lt. Colonel Luis Becerra was dismissed from the army and placed under investigation by the Attorney General for his alleged role in the October 1 massacre of 13 unarmed peasants in Rio Frio by a paramilitary unit. Unit members also raped six women among the peasants before killing them, and there were signs of torture. An army unit under Becerra's command was reported to have placed weapons on the peasants and dressed them in guerrilla-style uniforms after the massacre. There were credible reports that Becerra was tied to the 1988 killings of 23 purported guerrillas who later turned out to be unarmed banana workers. The

Permanent Committee for the Defense of Human Rights reported an increase in massacres over the past 12 years, citing 176 massacres with 857 victims in 1992. The report assigned responsibility for about 10 percent of the massacres during this 12-year period to government forces.

In April members of the 2nd Mobile Brigade allegedly tortured and executed high school teacher Parmencio Bonilla, cattleman Jairo Arguello, and laborer Roberto Alvarado in El Mordisco, Arauca department. According to witnesses, guerrillas ambushed a military patrol shortly before these three were captured; area residents reported that none of the three had ties to the insurgents. There were credible reports that the army executed two guerrillas who represented the Socialist Renewal Current faction in negotiations with the Government and that the local authorities attempted to cover up this extrajudicial killing.

The Procuraduria reported that five investigations of alleged human rights violations committed by the military were completed between January and August, resulting in administrative sanctions against 14 service members. Charges against nine servicemen were dropped.

Members of the CNP also committed extrajudicial killings. CINEP linked CNP agents to a total of 21 of these killings through September, noting that this number had dropped from 40 the previous year. In September the Procuraduria charged a police captain and five agents of the Criminal Investigative Unit (SIJIN) in Narino department for their participation in the summary execution of five people in Catatumbo in March 1992. The five, suspected of having attacked buses along the Pan American highway, were detained but never brought into custody or charged. The bodies of the victims showed signs of torture, and there was no indication that they were armed at the time of their detention. In March a 9-year-old girl was found strangled in a Bogota police station after having been sexually assaulted. In the wake of the crime, CNP Inspector General Humberto Maldonado and Operations Director Nassim Diaz were dismissed, along with several other high-ranking officers. This incident was also cause for a rapid acceleration in drafting the police reform bill that was signed into law in August, and galvanized public opinion as to the dire need for institutional reform of the CNP. The murdered child's father, himself a police agent, was initially detained as a suspect but was later released. A continuing investigation had not produced any new developments by year's end.

CINEP reported 118 incidents of "social cleansing" between January and September throughout most major cities, which represented a slight decline from the previous year. This activity involves attacks and killings, often by off-duty police, directed against groups deemed socially undesirable, i.e., prostitutes, homosexuals, indigent street people and street children (see Section 5), drug addicts, and panhandlers. Many of these victims were rural peasants forced to flee military and guerrilla violence in their native regions who migrated to the cities in search of improved economic opportunities. Merchant or vigilante citizens' groups are alleged to sponsor the attacks; off-duty police agents or contract killers are the most frequently accused perpetrators of these murders. The October beating death of an indigent street poet in Bogota at the hands of police catalyzed public outcry, and a crowd of 3,000 turned his funeral into a peace march. Two policemen were in custody and under investigation for this killing.

The Procuraduria reported that the Special Investigative Unit formed by the Prosecutor General's Office (Fiscalia) in 1992 to investigate these occurrences found one police officer and two agents linked to incidents but did not find sufficient evidence to suggest that there was official police complicity in organized attacks against a specific class of citizens. It determined that the three members of the CNP acted for personal motives; their cases were referred to the Attorney General's Office for Police Affairs, where they remained under investigation at year's end.

The Bogota Human Rights Ombudsman associated with the National Office of the Defender of the People issued a report in September decrying the increased incidence of "social cleansing." The report very clearly accused elements of the police of tacit complicity in these cases and cited 12 murders as well as hundreds of lesser abuses, such as physical aggression and harassment by police or police-sponsored groups.

The inquiry into the 1991 death of journalist Henry Rojas continued. A former Arauca mayor and an army colonel who had been exonerated in May were rearrested in September. The Procuraduria investigation was still pending at year's end.

The Simon Bolivar Guerrilla Coordinating Board stepped up attacks against the military in the early fall during its "black September" campaign. In separate attacks against police and military convoys in Usme and Antioquia, FARC guerrillas killed 13 policemen and 13 soldiers, respectively. Survivors of the two attacks reported that the guerrilla attackers first dynamited the convoys and then bayoneted or shot

the wounded at close range. Press and human rights sources reported that 264 members of the police and armed forces died while on active duty during the year.

Guerrillas were also responsible for many extrajudicial killings. Members of a dissident faction of the Army of Popular Liberation (EPL) assassinated a well-known, outspoken peace activist, Father Javier Cirujano, in May in San Jacinto, Bolivar. His accused killer, Ariel Contreras, was arrested by DAS agents in September. Other, less notable victims included those who refused to submit to extortion, those suspected of collaborating with the Government or military, and, in particular, those former guerrillas who deserted the subversive movements to reintegrate themselves with the noncombatant population under the Government's "reinsertion" plan. In September FARC members killed the parents of a soldier when they became lost on their way to visit him and stumbled into rebel territory.

Nationwide, policemen continued to be murdered by drug traffickers, terrorists, guerrillas, and common criminals, although the number dropped significantly from the previous year. According to official police statistics, 177 police officials were killed from January through September, compared to 620 in 1992. Of these 177 deaths, 36 were attributed to narcotics traffickers. In November National Liberation Army (ELN) guerrillas assassinated Colombian Senate Vice President Dario Londono in Medellin. He was chairing congressional debate on public order legislation at the time. Following his murder, the ELN published several open letters that stated that other congressmen who supported the legislation would be targeted as well. Also in November, the body of Italian Honorary Consul Guisseppe Suarigia was discovered several months after he had been kidnaped by the FARC in Bucamaranga.

In November alone, press reports estimated that upwards of 70 banana workers were killed in Uraba. Accounts indicate that the killings were most likely perpetrated by EPL guerrillas against "reinserted" former subversives. Two weeks later the FARC openly assassinated another 20 or so reinserted workers, arriving at the plantations in force with death lists in hand and executing the laborers in front of their fellow workers.

Narcotics-related terrorism remained at a high level during the first several months of 1993 but tapered off during the second half of the year. Before government forces tracked him down and killed him on December 2, fugitive drug kingpin Pablo Escobar conducted a random bombing campaign in Medellin and Bogota, intended to force the Government to grant him favorable terms of surrender. The attacks culminated in April with the explosion of a powerful bomb in a fashionable Bogota neighborhood that left 11 dead and over 200 wounded. Escobar was also believed to be responsible for ordering the deaths of over 140 policemen since his escape in July 1992. In October an ELN bomb attack in central Bogota against a police bus claimed the lives of 2 policemen and wounded 17 other police and civilian bystanders.

A shadowy paramilitary group dedicated to the elimination of Pablo Escobar and his Medellin-based trafficking organization conducted a series of terrorist attacks, mostly aimed at Escobar's family and associates. The group, known as the "Pepes" and led by the well-known paramilitary chief Fidel Castano, conducted spectacular attacks on Escobar's properties and assets. Despite the group's public announcement in April that it would disband due to government opposition to its activities, killings of Escobar defense attorneys and associates continued. Two days before Escobar's death, the group announced it would resume its activities. It claimed responsibility for the killing of an Escobar relative on the same day that the drug kingpin was killed by the military.

In general, paramilitary activity declined during the first part of the year but, according to press reports, began to resurface in the latter half of 1993. The national weekly, Cambio 16, reported the return of irregular armed militias sponsored by ranchers and often tacitly supported by regional armed forces in the conflict-ridden region of Uraba. Paramilitary groups, including associates of deceased paramilitary leader Gonzalo Rodriguez Gacha, were responsible for a series of killings, incidents of torture, and disappearances among rural peasants in the Yacopi area.

b. *Disappearance.*—Security forces continued to be responsible for disappearances. The Procuraduria received 47 reports of disappearance alleged to have been perpetrated by the police or military between January and August that included 62 total victims. Forty-two of these cases are still in the preliminary investigative stage,and three were dismissed. There were no sanctions administered during this period. One case under investigation was the April 19 disappearance of human rights activist Delio Vargas, last seen being forced into a vehicle driven by an army intelligence operative.

Given the complexity of Colombia's internal order situation and the variety of agents, both state-sponsored and criminal, involved in this struggle, the line be-

tween political disappearance and kidnaping for profit is often unclear. Combining all sources, however, Colombia suffers from one of the world's highest rates of forced abductions. Disappearances attributed to the police and military came under increasing government scrutiny, and a bill was submitted to the Congress that would clearly define and codify forced disappearance as a crime distinct from kidnaping. The chairman of the congressional committee studying the bill indicated that there were 266 allegations of disappearances pending before the Organization of American States in 1993. According to CAJSC, of 98 reported disappearances in the first half of 1993, 34 percent were attributed to state security agents, 14 percent were associated with paramilitary groups and 52 percent were perpetrated by unknown authors. CAJSC noted a drop in the figure for military participation from the previous year but a corresponding rise in the rate of paramilitary involvement with disappearances.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although torture is prohibited by law, incidents of police and military beatings and torture of detainees continued, especiallyin the period immediately following detention and prior to long-term incarceration. CINEP recorded 13 cases of torture alleged to have been perpetrated by security forces, down from 31 the previous year. The Procuraduria reported that a total of 42 cases of torture alleged to have been committed by members of the police and military were investigated between January and August. Administrative sanctions were imposed on 7 police and 10 members of the armed services for incidents involving torture during that time. In August Gilberto Jurado, the Secretary of Public Works in Fortul, Arauca, and a member of the Patriotic Union Party, was detained and beaten by membersof the army's Reveiz Pizarro Battalion. His torturers denied him medicine he requires daily and submitted him to a mock execution. Jurado was saved by the intervention of the regionalhuman rights ombudsman who was able to secure his release and have him brought to a hospital. The specific motive for the attack is unclear; it is not known if any investigation is being conducted against the military perpetrators.

The paramilitary groups that operate in the countryside routinely torture victims before killing them. Torture is also a common guerrilla and narcotics terrorist practice. Unresolved cases were reported throughout many departments in which decapitated bodies were found with the hands and feet severed to prevent identification of the victim.

Overcrowding in Colombia's prisons is a serious problem that caused poor sanitary and health conditions in many institutions and drew harsh criticism in September from Prosecutor Attorney General Gustavo de Greiff. The prison system, designed to house some 27,000 people, stood at 110 percent of occupancy in 1993, with roughly 30,000 inmates.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution includes several mechanisms designed to prevent illegal detentions. A detainee must be brought before a judge within 36 hours and has the right to seek, before any judge, a petition of habeas corpus that must be acted upon within 36 hours. Despite these legal protections, instances of arbitrary detention occurred, although according to CINEP, there were far fewer cases reported in 1993 than the previous year. The Procuraduria investigated cases involving alleged victims of arbitrary arrest or detention and levied administrative sanctions against members of the police and servicemen. The International Committee of the Red Cross (ICRC) reported that it had made a significant advance in gaining access not only to prisons but to certain military and police provisional detention centers.

Exile is not practiced.

e. *Denial of Fair Public Trial.*—The right to due process is specifically provided for in the Constitution. The accused have the right to representation by counsel, but historically representation for indigents has been woefully inadequate. To address this situation, the Government's Office of the Defender of the People began a drive to establish an expanded public defender program. Due to a reluctance to grant bail, many detainees never come to trial; they simply remain in pretrial detention until they have been incarcerated for the time stipulated for the minimum sentence applicable to the crimes they are alleged to have committed.

The judiciary remained overburdened and struggled to delineate its functions in the wake of the 1991 constitutional changes. It is independent of the executive and legislative branches in theory and largely in practice. The judiciary has long been subject to intimidation when dealing with narcotics trafficking and paramilitary cases. Magistrates, judges, attorneys, and prosecutors were suborned, threatened, assassinated, or had family members killed in connection with certain cases. In an attempt to provide increased judicial protection and specialization in these cases, in 1991 the Government established a special jurisdiction for narcotics, terrorism, and public corruption cases. There are five such "regional jurisdictions" in which anony-

mous judges and prosecutors handle all major trials of narcotics terrorists. Law enforcement agencies' investigative powers were strengthened under this system, and conviction rates rose dramatically. According to public opinion polls, Chief Prosecutor Gustavo de Greiff became the most respected public official in the Government during this time.

The regional jurisdiction system nonetheless gave rise to a series of due process concerns. The regional prosecutors were overwhelmed by staggering caseloads, which in turn led to long delays in issuing indictments. In August the Constitutional Court struck down a provision of the law by which the regional jurisdiction courts were able to suspend detainees' rights to provisional release and bail. Some 5,000 drug and terrorist suspects stood to be released under provisions of the Criminal Procedures Code. President Gaviria issued a last-minute state of emergency decree which temporarily prevented the release. According to the Director of Prisons, some 10,000 detainees linked to special jurisdiction cases remained in prison without being indicted in 1993.

Defendants in the regional jurisdiction system lack important procedural rights contained in the Constitution. For instance, it is extremely difficult for a defense attorney openly to impeach an anonymous witness. Due to the anonymity of the judge and prosecutor, it is also quite difficult for a defense attorney to bring charges of malfeasance or corruption against either state official. The anonymity of the judges, prosecutors, and key witnesses led many defense attorneys and human rights groups to accuse the courts of railroading suspects. A revision of the Criminal Procedures Code removed the restriction on defense teams copying documents used as evidence by the prosecution.

Critics also charged that the special jurisdiction courts were used to try persons involved in nonterrorist activities but who commit a violent act that technically brings them within the scope of these courts. In one case, 13 telephone workers were detained for investigation by special jurisdiction courts on sabotage charges related to an April 1992 national strike. After criticism by labor and human rights groups, the Fiscalia later decided to try them in ordinary criminal courts.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—A judicial order is generally required for authorities to enter a private home, except in cases of hot pursuit. There were widespread violations of legal norms regarding searches in remote regions, but in urban areas the sanctity of the home was generally respected. The Procuraduria did not receive any reports of illegal searches by state officials between January and September 1993. This might be explained partially by the fact that the Fiscalia was vigilant in requiring police to obtain search warrants, especially in high visibility cases such as the extensive manhunt for Pablo Escobar in Medellin.

Telephone wiretaps and the interception of mail must be authorized by a judge. This protection extends to prisoners incarcerated in the penal system.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—There were no reports in 1993 that military aircraft targeted civilians in antiguerrilla operations. Human rights groups, nonetheless, continued to insist that civilian populations in known guerrilla territory were purposely targeted during military operations. The military denied this accusation and maintained that its operations did not deliberately target noncombatants, although they recognize that injuries among the civilian population occurred.

Mines laid by both the military and guerrilla forces in areas of conflict were responsible for maiming and killing hundreds of civilian noncombatants. The guerrillas continued their attacks on oil pipelines and power stations. CAJSC published two detailed reports on human rights abuses in Putumayo and the Magdaleno Medio region in which they reported that it is common practice for the army's mobile brigades to force civilians to wear camouflage uniforms and precede patrols in dangerous or mined areas.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—These constitutionally protected rights are respected.

The press regularly criticized the Government without recrimination. The privately owned print media published a wide spectrum of political views, many of which take harsh antigovernment positions. Television frequencies and facilities are owned by the State which leases air time to private production companies. The Government imposes some restrictions on the television coverage of terrorist activity, and reserves the rights to prohibit broadcast media from covering certain news events during states of emergency. Human rights groups charged that these restrictions were unnecessary and restricted the exercise of free speech through the 8 months of the year during which the state of emergency was in effect. "Tutela,"

which is a judicial injunction or motion that can be brought before any judge seeking immediate redress for violations of basic constitutional rights, theoretically provides all Colombians with a constitutional means to denounce perceived injustices freely. In a few instances, tutela has been employed against the press by persons who felt that they had been slandered. In general, however, the justice system and the administration have been attentive not to curtail free speech by means of unjustified recourse to tutela.

During 1993 violence directed against journalists appeared to decline somewhat but did not disappear completely. In February the editor of a Cucuta newspaper, Eustorgio Colmenares, was murdered, allegedly by members of the ELN.

Academic freedom in Colombia is generally accepted by the Government, and there exists a wide spectrum of political activity throughout the country's universities. Teachers at the elementary and secondary levels in guerrilla-controlled territory are often subject to threats and intimidation from local subversive operatives and are unable to resist guerrilla propaganda campaigns.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly and association, and the Government respects these rights in practice. Public meetings and demonstrations are normally held without interference. Permission is required for demonstrations and is usually granted except when the Government concludes that there is imminent danger to public order. Any organization is free to associate with international groups in its field.

c. *Freedom of Religion.*—The Constitution provides for complete religious freedom, and there is little religious discrimination in practice. In March the Constitutional Court declared unconstitutional portions of the 1973 Concordat with the Vatican, which requires Catholic religious training in public schools, and abolished this provision. Mainline and evangelical Protestants constitute between 3 and 6 percent of the population. The Government permits proselytizing among the indigenous population, provided the Indians welcome it and are not induced to adopt changes that endanger their survival on traditional lands.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens are constitutionally assured the right to travel domestically and abroad. In areas where military operations against guerrillas are under way, civilians were required to obtain safe-conduct passes from the military; guerrillas reportedly used similar means to restrict travel in areas under their control.

Peasants were often forced to leave their farms due to military counterinsurgency operations, guerrilla and paramilitary conscriptions, and narcotics trafficking violence. The nongovernmental U.S. Committee for Refugees reported that an estimated 300,000 Colombians could be considered internally displaced.

Emigration is unrestricted, and expatriates may, by law, repatriate.

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

Citizens exercise this right in regular elections that have historically been considered fair and open.

Presidential elections are held every 4 years. The Liberal and Conservative parties are the most competitive, with one or the other customarily winning the presidency. The President may serve only one term and may not be reelected. All citizens are enfranchised at age 18. Public employees are not permitted to participate in political campaigns but, with the exception of the military, may vote. All parties operate freely without government interference.

There are no legal restrictions, and few de facto ones, on the participation of women or minorities in politics. There are 7 female senators and 13 female representatives serving in Congress and several top government officials, including the Foreign Minister and the Minister of Education, are women. Women also hold key positions in the judicial branch and the prosecutor general's office. Two seats in the 102-seat Congress are reserved for representatives of the indigenous population, and a third indigenous citizen holds an at-large seat. There is growing self-awareness and political activism among the indigenous peoples of Colombia.

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

The Center for Investigations and Popular Research (CINEP), the Andean Commission of Jurists, the Regional Committee for the Defense of Human Rights (CREDHOS), the Intercongregational Commission for Justice and Peace, and the Permanent Committee for the Defense of Human Rights are among the prominent human rights groups active in Colombia. These organizations maintain data banks on human rights and produce regular reports and publications showing the results of their investigations into human rights abuses. Often these reports are highly crit-

ical of the Government and denounce its lack of zeal in conducting official investigations and disciplining implicated state agents.

These and similar groups functioned unimpeded by official government interference but were at times the victims of threats and intimidation by paramilitary groups or individual members of the police or military. Some of the members of CREDHOS, for example, were forced to leave the country in 1992 following the murder of two of their associates; they returned to Colombia in 1993 but work under different names in a different city due to security considerations.

The Procuraduria is charged with protecting citizens from abuses of human rights and investigating allegations of state complicity in cases of abuse or violation. The Defender of the People has the constitutionally assigned duty to ensure the promotion and exercise of human rights, but this office is severely underfunded and not effective. The President has a Special Advisor for human rights issues who investigates allegations of abuse and engages in the dissemination of human rights education and information.

All three of these offices collaborate extensively with local and international human rights organizations. Government and nongovernmental organization (NGO) seminars and programs study the causes of violence and human rights violations.

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

Women.—The Constitution declares that "men and women have equal rights and opportunities. Women may not be subjected to any form of discrimination." It also specifically requires authorities to "guarantee adequate and effective participation by women at the decisionmaking levels of public administration." Long before implementation of the new Constitution, moreover, Colombian legislation had guaranteed women extensive rights.

Despite these constitutional guarantees, discrimination against women still exists, especially in the rural sectors of the country. While legally entitled to remuneration equal to that of men, in practice women earn 30 to 40 percent less than their male counterparts. Women comprise 41 percent of the country's active economic population, but men dominate the top positions in government and private industry. As in past years, however, women continued to constitute a growing percentage of the university population, now almost equal to men, and increased their participation in a wide variety of traditionally male-dominated professions.

According to Pro Mujer, a Bogota-based women's organization that assists victims of violence directed against women, statistics on sexual assault are incomplete and unreliable. Only a small percentage of rape cases are ever reported, and even fewer are brought to trial. The Government, through the Colombian Institute of Family Welfare and the Office of the Presidential Advisor on Women's, Family and Children's Issues, provides training and education programs in parenting skills, reproductive rights, and birth control, as well as vocational training for lower income mothers. Nonetheless, penalties for abuse directed against women are often not commensurate with the gravity of the assault, and in the poorer urban and rural areas, both physical and economic discrimination against women is commonplace.

Children.—Colombia has significant constitutional and legislative commitments to the protection of the rights of children, but they are flawed in practice. A Children's Code sets forth principles for the protection of minors and establishes services to enforce those protections. The Constitution provides for the fundamental rights of children and states that the family, society, and the State are obligated to assist and protect children, to foster their development, and to assure the full exercise of their rights.

The reality of children's rights is much bleaker. In September the Procuraduria issued a report showing that the incidence of violent physical abuse directed against children had risen dramatically within the past year. An average of four minors per day were killed by adults in Bogota alone. According to the Foundation for Andean Children, a Bogota-based group that caters to the needs of street children, a core group of approximately 200 children dwell in Bogota's sewer systems. Thousands of others live on the streets and resort to petty thievery to support themselves. Most of these children, known as the "disposable ones," are addicted to intoxicating inhalants. The Foundation reported, however, that the situation improved over the past 2 years due to international pressure, primarily from the European Parliament. There were no roundup killings of street children in 1993, although in August posters sponsored by illegal merchant groups appeared in downtown sections of Bogota threatening such children with their own funerals.

Indigenous People.—There are approximately 80 distinct ethnic groups among the roughly 800,000 indigenous inhabitants of Colombia, who constitute 1.5 percent of the population. The Constitution gives special recognition to the fundamental rights

of indigenous people. Under its provisions, two senatorial seats are reserved exclusively for indigenous representation and a special criminal and civil jurisdiction, based upon traditional community laws, functions within Indian territories. The Ministry of the Interior, through the Office of Indigenous Affairs, is responsible for protecting the territorial, cultural, and self-determination rights of Indians. Ministry representatives are located in all regions and departments of Colombia and work with other governmental human and civil rights organizations to promote Indian interests and investigate violations of indigenous sovereignty.

A Presidential decree issued in June regulated the creation of traditional Indian Authority Boards. These boards are entitled to handle national or local funds and are subject to fiscal control of the Comptroller General. The decree also gives these boards the right to administer their respective territories as municipal entities. Indigenous communities are free to educate their children in the traditional dialects and in the observance of cultural and religious customs. There is a small but growing number of indigenous university students.

Despite protective efforts by the Government, Indians often suffer at the hands of narcotics traffickers and guerrillas in their homelands. The Office of the Presidential Advisor for Human Rights, which has a special section dedicated to the protection of indigenous rights, reported that attacks by the FARC on the Coyaima tribe in Tolima department were especially brutal, and included the burning of entire villages and the assassinations of Indian leaders. Press reports in November chronicled persistent attacks by the FARC on members of the former indigenous guerrilla group Quintin Lame that signed a reinsertion accord with the Government in 1991. In one such incident in November, FARC operatives executed Jorge Issac Vargas, a tribal leader of the Paletara Municipality in Cauca department, before a local crowd during an indigenous festival.

National/Racial/Ethnic Minorities.—About 2 million blacks, primarily residing in the Choco department, form a racial minority in Colombia, and represent 4 percent of the general population. They are entitled to all constitutional rights and protections but have traditionally suffered from unofficial economic discrimination. In an attempt to rectify the situation, the Government passed an Afro-Colombian Law which calls for increased government and private investment in Choco. The law also provides for greater self-determination at the local and regional levels among the black population. The police and military also took steps to increase recruitment of black officers from Choco, creating special training programs and academy scholarships for black applicants to the services.

People with Disabilities.—The Constitution protects the fundamental social, economic, and cultural rights of the physically disabled. In 1988 Colombia became a party to the 159th Agreement on Professional Rehabilitation and the Employment of the Disabled, as adopted by the 1983 General Conference of the International Labor Organization (ILO). There is no legislation specifically mandating provision of access for people with disabilities.

In 1993 three separate bills were introduced in Congress to further expand protection for the physically and mentally disabled. The bills proposed hiring a greater percentage of employees among the ranks of the disabled; a 5-percent allocation of the governmental Institute of Family Welfare budget to programs for disabled minors; and a stipend equal to one-half the minimum wage to those handicapped individuals who are unable to support themselves. The bills were still under discussion at year's end.

Section 6. Worker Rights

a. *The Right of Association.*—The right of workers to organize unions and strike is recognizedby law. The Labor Code provides for automatic legal recognitionof unions which have obtained 25 signatures from a workplace and penalties for interfering with workers' freedom of association. It also stipulates the independence of labor organizations to determine internal rules, elect officials, and administer activities, and forbids the dissolution of trade unions by administrative fiat. According to the latest data available (1992), 886,446 organized workers are members of 2,435 different unions. These groups are free to establish international affiliations without government restrictions.

The Constitution extends the right to strike to nonessential public employees and authorizes the Congress to enact implementing legislation. Before carrying out a legal strike, unions must negotiate directly with management and engage in conciliation procedures if no agreement results. By law, public employees must go to binding arbitration if conciliation talks fail; in practice, public service unions decide by membership vote whether or not to seek arbitration.

Two ILO supervisory bodies criticized 10 provisions of Colombian law in 1993, including: the supervision of the internal management and meetings of unions by gov-

ernment officials; the presence of officials at assemblies convened to vote on a strike call; the suspension of union officers who dissolve their unions; the requirement that contenders for trade union office must belong to the occupation in question; the prohibition of strikes in a very wide range of public services which are not necessarily essential; various restrictions on the right to strike and the power of the Minister of Labor and the President to intervene in disputes through compulsory arbitration; and the power to dismiss trade union officers involved in an unlawful strike.

Throughout the year, there were various protests in major cities against announced layoffs of government workers, the privatization of several government entities, and the government-backed social security reform bill. Two ILO technical experts, invited by the Government to provide advice on the social security bill, were withdrawn for security reasons in April. Workers' fear of violence from guerrillas and narcotics traffickers has reduced the number of participants in labor demonstrations. In September, after reports that guerrillas intended to use a nationwide strike to foment violence, trade unionists called off the strike and announced a march for peace instead.

Organized labor suffers from a disproportionately high rate of violence from a variety of sources including the army and police, illegal paramilitary groups, guerrillas, and common criminals, and also as a result of internal union struggles. There have been some complaints of violence by authorities against trade unionists. These cases are currently under investigation by the Prosecutor General's office.

Workers at the state-owned oil company went on strike in early 1993. During the negotiations, guerrillas killed an oil company executive and stepped up sabotage of oil pipelines. In retaliation for the arrest of a union leader charged with terrorism, guerrillas kidnaped two company employees who were later released unharmed. During the year an unknown number of trade unionists were killed, particularly in the banana-rich region of Uraba. According to press reports, 70 banana workers were killed in November and December during an upsurge in violence that led the Government to station a military brigade permanently in the area. Jesus Guevara, vice president of the embattled Banana Workers Union, was killed on January 29 by EPL dissident guerrillas who opposed his conciliatory stance with farm owners and his moderate political views. The Secretary General of the same union, Jose Oliverio Molina, was murdered in February by unknown assailants. In March banana workers went on strike to protest the violence. The Government attempted to remedy the situation by providing increased financial aid and more security for that region. In April unknown gunmen killed another important labor leader, Jose Ignacio Vargas, president of a textile union in Medellin.

Rural peasants have suffered from a rise in drug trafficker and guerrilla acquisition of prime land in some sectors of the country, now totaling one-third of the best cattle land, according to a study by the Agrarian Reform Institute. Peasants living in these areas were victims of violence from the new landowners and guerrillas, who also forcibly recruit peasant youths. These same peasants were also subjected to human rights violations by the military which perceives them as guerrilla sympathizers. Many peasants were victims of open crossfire between guerrillas and the armed forces. An unknown number of peasant labor organizers were killed in 1993.

The International Confederation of Free Trade Unions alleged numerous acts of intimidation, abduction, arbitrary arrest, summary justice, torture, and murder by the security services or paramilitary forces during 1992–93. These included the assassination of 45 trade unionists in Barrancabermeja; the murder of a gold miner from Segovia who had protested the detention of a union leader by the military; the torture and hanging of the national leader of the agricultural workers' union, FENSUAGRO, and the execution of another FENSUAGRO leader in Magangue by armed men believed to be security forces; the torture and hanging of two rural workers from Ovejas at Fusiliers Battalion headquarters; the murder of a rural trade unionist by the army's Nueva Granada Battalion; the death of a SINTRENAL union member from La Dorada, Caldas, following his arrest; and the abduction and torture of a labor leader from Valle del Cauca, reportedly by an army intelligence unit. It was not possible to confirm, either with the Ministry of Labor or NGO's, the complicity of state agents in these cases. It is also not clear that all of the victims were trade unionists.

The ILO's Committee on Freedom of Association examined seven complaints containing allegations of threats against the life and security of trade unionists and the right to collective bargaining. Its Committee of Experts expressed concern about the serious climate of violence which made the exercise of freedom of association difficult. The workers' bench of the ILO conference in June alleged that 94 percent of the 618 persons detained under the antiterrorist decree in 1992 belonged to trade unions, that more trade unionists were killed in Colombia in 1992 than in any other country, and that 800 had been killed since 1987. The workers also protested the

arrest and conviction of trade union leaders for "obstruction of work" under section 290 of the Penal Code.

b. *The Right to Organize and Bargain Collectively.*—The right of workers to organize and engage in collective bargaining enjoys constitutional protection. Unions were successful in organizing larger firms and public services, which include less than 8 percent of Colombia's economically active population. High unemployment and weak union organization have limited workers' bargaining power in the private sector. Antiunion discrimination or the obstruction of union association is illegal; this prohibition is enforced by administrative labor inspections. It is unclear if these inspections are effective. A few companies have been fined, and some workers have used the courts to seek redress. The new Labor Code increased the fines for restricting freedom of association. The use of strikebreakers is prohibited by law. However, the Single Confederation of Workers of Colombia (CUT) alleges that Act No. 50 of 1990 undermines the right to organize by permitting the practice of short-term labor contracts and has cited several companies in which workers were dismissed because of trade union activity, which continue under examination by the ILO's Committee on Freedom of Association.

The revised Labor Code eliminates mandatory mediation in private labor-management disputes, and extends the grace period before the Government can intervene in an effort to resolve conflicts. Confederations and federations are empowered to assist their affiliates in collective bargaining.

Colombian labor law also applies to the country's seven free trade zones (FTZ's). There is no restriction against union organization in the FTZ's. Several public employee unions have collective bargaining agreements in the FTZ's of Barranquilla, Buenaventura, Cartagena, and Santa Marta.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is legally prohibited, and this prohibition is respected in practice. The Constitution specifically forbids slavery or any treatment of human beings resembling servitude.

d. *Minimum Age for Employment of Children.*—The Constitution prohibits the employment of children in most jobs before the age of 14, and the Labor Code prohibits youths under the age of 18 from requesting employment permits. This provision is respected in larger enterprises and major cities. However, the extensive informal economy is effectively outside government control. A recent Ministry of Labor study reported that about 800,000 children between ages 12 and 17 work. There are also many younger children who work in the informal sector as street vendors, as well as children who work in substandard conditions in some small coal mines.

e. *Acceptable Conditions of Work.*—The Government annually sets a national minimum wage which serves as an important benchmark for wage bargaining. The current level was set by the Government after the national labor council, a tripartite advisory board, failed to reach an agreement among government, labor, and private sector representatives in December 1992. It is consistent with the Government's anti-inflation policies but falls short of providing an adequate standard of living for a worker and family. Over one-quarter of the population earns less than the minimum wage, which is about $125 (98,700 pesos) per month.

The law provides for a standard workday of 8 hours and a 48-hour workweek. The ILO reiterated its previous requests that the Government amend the Labor Code to conform with the Convention on the issue of weekly rest. Lax enforcement of labor laws is partly due to the small number of Labor Ministry inspectors and to fear on the part of unorganized workers that they will lose their jobs.

Workers' occupational safety and health are extensively regulated, but many such regulations are difficult to enforce for workers in the informal sector who are not covered by social insurance systems. The ILO recommended that the Labor Code be amended to ensure that all agricultural workers benefit from compensation for industrial accidents. Employees have the right to ask for Ministry of Labor inspections in cases of suspected occupational hazards. According to the Ministry of Labor, workers have the right to withdraw from a hazardous situation without jeopardy to continued employment. However, Colombian workers suffered many industrial accidents during the year, many of them incapacitating, owing to a combination of low levels of public safety awareness, scant involvement by organized labor, and lax enforcement by the Labor Ministry. Charges about improper working conditions in the cut flower export industry resurfaced during the year. Minister of Labor officials admitted misuse of chemicals by the flower industry in the more remote areas of the country but claimed that the industry as whole followed proper procedures in the use of chemicals.

COSTA RICA

Costa Rica is a well-established, stable democracy with separate executive, legislative, and judicial branches. A Supreme Electoral Tribunal is considered a fourth branch of government. Elections for president, two vice presidents, and 57 deputies to a unicameral Legislative Assembly are held every 4 years; they have been free and fair. Rafael Angel Calderon won the February 1990 presidential election, in which approximately 80 percent of eligible voters participated. The President is constitutionally barred from reelection. Members of the Legislative Assembly may be reelected but only after at least one term out of office. The next presidential and legislative elections will be held in February 1994.

The 1949 Constitution abolished Costa Rica's army. Several government ministries share responsibilities for law enforcement and national security: The Ministry of Public Security includes the Civil Guard, the Crime Prevention Unit, and the Antidrug Police; the Ministry of Government includes the Rural Guard and the Directorate of Narcotics and Intelligence; and the Ministry of the Presidency has the Directorate of Intelligence and Security. The Judicial Police, under the Supreme Court, is an investigative force, while the San Jose Metropolitan Police and the Transit Police within the Ministry of Public Works and Transportation also have limited police functions. Public security forces generally observe procedural safeguards established by law and the Constitution, but there have been occasional incidents of the use of excessive force by the police.

Export-oriented businesses, both in agriculture and light industry, lead the Costa Rican economy. Economic growth accelerated in 1992 to about 7.3 percent but slowed in 1993 to about 6 percent. The right to own private property is protected by the Constitution; however, foreign and Costa Rican property owners who have had land expropriated for national parks, Indian reserves, or squatters have had significant difficulties receiving adequate compensation in a timely manner.

Costa Ricans enjoy a wide range of individual rights and freedoms. Complaints of human rights abuse, when they arise, tend to cite delays in the judicial process (many prisoners are subjected to lengthy periods of pretrial custody) or discrimination against blacks, Indians, and women. The police, particularly the Rural Guard, have sometimes used excessive force. There were credible charges that in September seven Judicial Police officers tortured and killed a suspected gang member.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—The Government does not practice, abet, or condone political killing, and none was reported.

Serious charges arose in September, when a suspected member of a gang of thieves died while in the custody of the Judicial Police. A subsequent autopsy revealed that he had been beaten to death. Seven members of the Judicial Police were arrested, and an investigation of the incident continued at year's end. All seven have been discharged from the police force, and three are under indictment.

In February 1992 residents of the Talamanca region testified that members of a 13-man counternarcotics Rural Guard unit beat and shot two suspected drug traffickers. These Rural Guards, known as the "Cobra Command," were also accused of mistreating local residents, forcing some to serve as supply- bearers, and assaulting two women. The entire squad was taken into custody when the Judicial Police began an immediate investigation. The two commanding officers (charged with committing the murders) are under indictment; the other 11 were subsequently released.

b. *Disappearance.*—There were no known or reported incidents of politically motivated abductions or secret arrests.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits cruel or degrading treatment and holds invalid any statement obtained through violence. These prohibitions are generally respected in practice, but incidents of police mistreatment are sometimes reported.

Although there was considerable debate over the suitability and adequacy of the law enforcement system in 1993, efforts to professionalize the various police agencies and standardize training had little success. A bill, submitted over 2 years ago, to grant career status to the police and set minimum entry requirements continued to languish in the Legislative Assembly.

Prisoners generally receive humane treatment in Costa Rica. While physical abuse by prison guards is uncommon, a limited number of guards have been implicated in swindles, robberies, and drug trafficking. Prisoners may bring complaints

before the special defense counsel for prison inmates, which will investigate them. Especially serious cases are handled by the Office of the Chief Prosecutor.

Public concern about crowded penitentiaries and the availability of weapons in prisons is growing. Occasional rioting is a problem in several large prisons. The Government continues to earmark funds to repair or improve the more rundown facilities.

d. *Arbitrary Arrest, Detention, or Exile.*—Judicial warrants are required for arrests and an arraignment before an officer of the court must take place within 24 hours of arrest. The Constitution entitles detained persons to a judicial determination of the legality of the detention. These rights are generally respected, although persons charged with serious offenses often remain in pretrial custody for long periods due to judicial backlogs. The past 2 years brought some improvement in this regard. The number of prisoners awaiting trial stood at 1,145 at the end of March 1990; by the end of June 1992, the most recent figures published, it had dropped to 688 (as of the end of March 1992, 134 prisoners had spent more than 9 months in detention without being sentenced).

The right to bail is provided for by law and observed in practice. Bail is sometimes denied to repeat offenders, however, and is usually denied to foreigners, major drug offenders, and terrorists on the assumption they would leave the country before coming to trial.

Generally, detainees are not held incommunicado. With judicial authorization, however, suspects may be held for 48 hours after arrest or, under special circumstances, for up to 10 days. The judiciary has proven effective at ensuring that legal and constitutional safeguards are observed.

The Constitution bars exile as punishment.

e. *Denial of Fair Public Trial.*—The judiciary is independent and assures a fair public trial.

The Supreme Court supervises the work of the lower courts, known as tribunals. Its 24 magistrates are elected by the Legislative Assembly to 8-year terms, which are automatically renewed unless the Legislative Assembly votes against a renewal by a two-thirds majority. Accused persons may select an attorney of their choice. Access to legal counsel is guaranteed and honored in practice. The State provides counsel to those who cannot afford to hire their own.

There are no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—There were no reported instances during 1993 of extralegal invasions of privacy conducted by, or with the knowledge of, the Government. Judicial warrants are required to search private homes, and police seldom fail to comply. Government authorized wiretaps remain illegal, pending enactment of implementing legislation by the Legislative Assembly.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution specifically provides for freedom of speech and press, and these freedoms are respected in practice. Nine major privately owned newspapers, several periodicals, 6 privately owned television stations, and over 70 privately owned radio stations pursue independent editorial policies. The media freely criticize the Government, and there is no evidence of self-censorship or governmental intimidation.

In 1993 the Constitutional Chamber of the Supreme Court expanded press freedom by finding Article Seven of the Press Law unconstitutional. The law had imposed heavy penalties, including jail terms, for those accused repeatedly of libel. The revision now requires a separate finding of guilt in each individual case regardless of prior legal history. A 1969 law requires journalists to be accredited by the government- sponsored journalists' guild. The Calderon administration publicly supported the licensing requirement on the grounds that it ensures professionalism.

An Office of Censorship rates films and has the authority to restrict or prohibit their showing; it has similar powers over television shows and stage plays. A censorship tribunal reviews appeals of the office's actions.

b. *Freedom of Peaceful Assembly and Association.*—Constitutional provisions for freedom of assembly and association are fully respected. Permits required for parades or similar large-scale gatherings are granted routinely; they are not required for other public meetings.

c. *Freedom of Religion.*—Freedom of religion is protected by the Constitution and generally observed in practice. Foreign missionaries and clergy of all denominations work and proselytize freely. Roman Catholicism, however, is the official state religion, and Costa Ricans affiliated with non-Catholic groups note that non-Catholic churches are required by law to comply with building codes from which Catholic churches are exempt. These groups seek remedial legislation. Catholic priests may

perform marriages, whereas non-Catholic religious marriages are not valid without an additional civil marriage. The current law on career educators stipulates that all teachers of religion, including non-Catholic teachers, must be approved by the Catholic Church's Episcopal Conference. In July 1991, a number of teachers of religion (most of them Catholic) filed suit before the Supreme Court asking that the law be overturned. As of the end of 1993, their plea was still pending.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Though there are no restrictions on travel within the country, all citizens and residents are required to obtain an exit visa before traveling abroad. Emigration and right of return are not restricted. Costa Rica supports multinational refugee programs and has accepted many refugees from Central and South America. The Constitution specifically prohibits repatriation of anyone subject to political persecution. Political asylum traditionally has been granted to exiled dissidents of various political orientations.

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

Costa Ricans choose their government through free, open, and competitive elections (by secret ballot) every 4 years. The integrity of elections is ensured by the independent Supreme Electoral Tribunal, and election results are respected. The Legislative Assembly can and does reject executive branch initiatives. Citizens can and do petition their elected representatives for legislative redress and assistance with government bureaucracies. Prior to the February 1994 elections, the ruling Social Christian Unity Party and the opposition National Liberation Party controlled 29 and 25 seats, respectively, in the 57-member Legislative Assembly. A leftist Coalition Party held one seat, and two independent provincial parties each held one seat.

There are no legal impediments to women's participation in politics. Women are underrepresented in leadership positions in government and politics, but this has begun to change. There are two women cabinet ministers, three vice ministers and six members of the Legislative Assembly. Ten women candidates for national deputy have solid chances to win in the February 1994 elections, and a woman is assured election as vice president, since both major parties have female candidates.

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

A 1984 executive order created the Office of Ombudsman for Human Rights, now housed in the Ministry of Justice. The Ombudsman's office hears complaints from individuals about human rights abuses. As noted above, a similar office considers complaints within the penitentiary system. Three nongovernmental groups monitor and report on human rights in Costa Rica: the Costa Rican Commission for Human Rights; the Commission for the Defense of Human Rights in Central America; and the Family and Friends of Political Prisoners of Costa Rica. There are also several private groups dedicated to assisting refugees.

A new ombudsman's office, the Defender of the People, opened in October with a mandate to look into any perceived human rights abuses committed by public officials. The office will concentrate initially on administration of justice, public health, and medical administration (malpractice); however, the offices of the Ombudsmen for Children and Women are also in the process of being transferred to the new authority.

Costa Rica has traditionally been a strong supporter of multilateral and private human rights organizations. Both the Inter-American Institute of Human Rights and the Inter-American Court of Human Rights maintain their headquarters in San Jose. The Government has invited the Inter-American Commission on Human Rights to visit the country whenever it wishes.

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

Women.—The role of women, although still primarily domestic, is legally unrestricted. According to the latest Census Bureau statistics, 30 percent of working-age women earn wages, as opposed to 79 percent of working-age men, although these figures probably underestimate the number of women in the work force due to the nature of their employment. The number of female professionals and technical workers is growing.

Women and men are generally paid equally for equal work. In 1990 the Legislative Assembly passed significant legislation designed to supplement existing laws against sex discrimination. The new law reinforces women's property rights, forbids employers from firing a woman for becoming pregnant or adopting children, and reaffirms the necessity for institutional safeguards to prevent and punish violence

against women. Two relatively new government agencies, the Justice Ministry's Women's Defense Counsel and the Government Ministry's Women's Delegation, act as advisors and legal advocates for women who have suffered abuse, harassment, or discrimination. The White Cross Center, which reports to the Ministry of Public Security, was established in 1992 for the specific purpose of investigating and prosecuting crimes against women and providing temporary shelter for battered women. However, owing to a lack of personnel and funds, it has had little impact.

A recent government-sponsored survey indicated that 78 percent of 1,300 women interviewed reported having suffered abuse, either physical or mental, with 35 percent reporting frequent abuse. (The definition of "abuse" was not reported in the survey.) The increase in reported crimes against women may reflect increased attention to human rights, making it easier for women to file charges and take advantage of social services. Physical abuse of women, including domestic violence, is prosecuted and often results in stringent punishment. Still, many proponents of women's rights want an overhaul of the Penal Code to stiffen penalties and broaden the definition of rape. (Abuse of female minors, for example, is only considered aggravated assault.) There are a number of private organizations, including the Arias Foundation, that monitor abuse of women, provide counseling, and work to inform women of their legal rights.

Children.—The Government is committed to children's human rights and welfare within the constraints of a limited budget. Although spending has decreased somewhat in recent years due to continued economic strains, the Government has consistently spent over 4 percent of its gross domestic product on education and over 5 percent on medical care. This commitment to children has yielded a high rate of literacy and a low rate of infant mortality.

Children are not the victims of any systematic or organized discrimination or exploitation, but public awareness of crimes against children has grown. During the first 3 months of 1993, 625 new cases of the mistreatment or sexual abuse of children were reported, compared to 203 cases of child sexual abuse for all of 1990 (estimates are that two-thirds of all abuse is sexual). As with violence against women, it is difficult to determine whether the increasing number of cases is due to better reporting or reflects an actual increase in the number of such crimes. Legal proceedings against those who commit crimes against children are hampered by traditional family attitudes and the fact that such crimes are treated as misdemeanors.

Among the governmental programs that provide services and safeguard the rights of children are an integrated program for adolescent health, a national guardianship for infancy, and a program for abused children. Private organizations that provide assistance include the Arias Foundation and Paniamor.

Indigenous People.—Costa Rica's population of 3.2 million includes some 24,000 indigenous people. Most live in traditional communities on 21 reserves which, in part because of their remote location, often lack access to schools, health care, electricity, and potable water. Although hampered by budgetary restraints, the Government is attempting to improve the quality of basic services in the indigenous areas. Indigenous people participate in the management of their own affairs through the National Indigenous Commission (CONAI), and indigenous leaders continue to urge the Government to devote more resources to helping their communities. A serious concern is the management and control of natural resources located within indigenous reserves.

Until quite recently, about 20 percent of indigenous people were undocumented and so lacked proof of citizenship. That problem has been all but eliminated by legislation that helped nearly 7,000 indigenous people obtain identification papers, allowing them to vote and making it easier for them to obtain credit. A number of cases were filed in 1993 with the Office of the Ombudsman for Human Rights alleging discrimination against indigenous people. Most of these cases involved actionstaken by CONAI rather than allegations of discrimination by individuals.

National/Racial/Ethnic Minorities.—Costa Rica's 30,000 blacks, who reside largely on the Caribbean coast, enjoy full rights of citizenship, including the protection of laws against racial discrimination. The 1990–94 Legislative Assembly includes one black member. The Government treats all matters of racial discrimination as human rights issues; the Office of the Ombudsman for Human Rights received no complaints of racial discrimination in 1993.

People with Disabilities.—Government funding for those with disabilities has been limited. Discrimination against those with disabilities is not prohibitedby law, and there are no laws mandating access for such persons. Social services that exist function primarily as charities, with little emphasis on integration into the larger society. Both governmental and private agencies provide services, among which are the Costa Rican Foundation for the Blind, the National Council for Rehabilitation and Special Education, and the Costa Rican Federation for the Functionally Limited.

Section 6. Worker Rights

a. *The Right of Association.*—Workers are nominally free to join unions of their choosing without prior authorization, although barriers exist in practice. Approximately 15 percent of the work force is unionized. Unions are independent of government control and are generally free to form federations and confederations (three social democratic labor federations merged in 1991), and to affiliate internationally. However, the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), the International Confederation of Free Trade Unions (ICFTU), and other trade union organizations contend that trade unionism's right of association has been hurt by Costa Rica's "solidarismo" (solidarity) movement.

This movement espouses cooperation between employers and workers, offering workers such benefits as credit unions and savings plans in return for their renunciation of the right to strike and bargain collectively (although, in practice, solidarity associations have in the past acted as psuedo- collective bargaining agents). Solidarity associations are financed in part by employers and are allowed under Costa Rican law to offer a range of services and engage in profit-making activities, which unions are not permitted to do.

In November the Legislative Assembly approved a package of reforms to the Labor Code that addressed International Labor Organization (ILO) concerns based in part on activities of the solidarity movement. These reforms included: reducing the number of members necessary to form a trade union to equal that required to form a solidarity association; explicitly prohibiting the dismissal of workers who attempt to organize or join a union; and increasing fines and tightening enforcement against employers who violate the Labor Code. A separate reform proposal would include a fund ("cesantia") created to provide severance and retirement benefits, partially funded by employers but employees could designate the organization which would receive the funds. This would enable unions to compete directly with solidarity associations in a number of service activities. As of the end of the year, the severance pay reform had not been approved.

"Permanent workers' committees" made up of members of solidarity associations have entered into "direct agreements" with their employers, sometimes in order to stop attempts by an established union to negotiate a collective bargaining pact. In June 1991, the ILO's Committee on Freedom of Association concluded a 2-year investigation and ruled that management's use of solidarity and the associations' involvement in trade union activities (such as collective bargaining) were violations of freedom of association. The 1993 package of labor code reforms included a provision explicitly prohibiting solidarity associations from participating in collective bargaining or direct agreements affecting labor.

Strikes and labor unrest increased somewhat but remained at a low level in 1993. There are no restrictions on the rights of private workers to strike, but the Labor Code contains clauses that employers have used to fire employees who try to organize or strike. Very few private sector workers are union members, and there were no notable private sector strikes in 1993. Costa Rican law restricts the right of public sector workers to strike, but two articles of the Penal Code that mandated tough punishment for striking government workers were repealed by the Legislative Assembly in June. The Government has indicated that it will present a new law to the Legislative Assembly that would guarantee organization and collective bargaining rights to all public sector workers and afford the right to strike to public workers who are not in "essential services" as defined by the ILO. Public sector labor disputes produced a scattering of demonstrations and brief strikes, notably one that occurred in late summer and caused minor disruptions in social services, particularly in classrooms due to the participation of teachers' unions.

b. *The Right to Organize and Bargain Collectively.*—The right to organize is protected by the Constitution. Specific provisions of the labor code reforms provide protection from dismissal for union organizers and members during the period of union formation. In a separate decision in October, the Constitutional Chamber of the Supreme Court ruled that Costa Rica's ratification of ILO Convention 135 in 1977 protects union leaders from being fired without cause. These two events greatly enhanced legal guarantees for workers seeking to organize. Previously, employers used a clause in the Labor Code, permitting employees to be discharged "at the will of the employer" provided the employee received severance pay, to fire labor organizers. Currently mandated severance pay equals 1 month's salary for every year worked, up to a total of 8 years. The payment of severance benefits to dismissed workers has often been circumvented in practice. Public sector workers cannot engage in collective bargaining because the Public Administration Act of 1978 makes labor law inapplicable in relations between the Government and its employees.

Collective bargaining is allowed in the private sector but, due to the dearth of unions, is not a widespread practice. All labor regulations apply to the country's

nine export processing zones (EPZ's). Labor Ministry oversight of labor regulations within the EPZ's is limited, however, by a lack of manpower and resources.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, and there are no known instances of either.

d. *Minimum Age for Employment of Children.*—The Constitution provides special employment protection for women and minors and establishes the minimum working age at 12 years, with special regulations in force for workers under 15. A child welfare agency, in cooperation with the Labor Ministry, is responsible for enforcement. Enforcement in the formal sector is reasonably effective. Nonetheless, child labor appears to be an integral part of the large informal economy and there were scattered reports of children being employed in export industries. (These incidents appear to be isolated and do not represent an industry-wide pattern.)

e. *Acceptable Conditions of Work.*—The Constitution provides the right to a minimum wage. A National Wage Board, composed of three members each from government, business, and labor, sets minimum wage and salary levels for all sectors. The monthly minimum wage ranges from $111 (16,829 colones) for domestic servants to $540 (81,501 colones) for certain professionals. Pay can and does exceed the set amounts. The Board usually meets at the beginning and middle of each year. While violations sometimes occur, the wage and salary levels are generally respected. The minimum wage set in November was to take effect on January 1, 1994 for the private sector. Public sector negotiations, based on the private sector minimum wage, were still under way at year's end. Workers at the low end of the wage scale often find it difficult to maintain an acceptable standard of living, whether they have a family to support or not, and must spend an inordinate percentage of their pay on basic human needs such as food.

The Constitution sets the workday hours, remuneration for overtime, days of rest, and annual vacation rights. It requires compensation for discharge without due cause, although this provision is often circumvented in practice. Maximum work hours are 8 during the day and 6 at night, up to weekly totals of 48 and 36 hours, respectively. Ten-hour days are permitted for work not considered unhealthful or dangerous, but weekly totals may not exceed 48 hours. Nonagricultural workers receive an overtime premium of 50 percent of regular wages for work in excess of the daily work shift. Agricultural workers are not paid overtime, however, if they work beyond their normal hours voluntarily. There is little evidence that employers coerce such overtime from employees.

A 1967 law governs health and safety at the workplace. This law requires industrial, agricultural, and commercial firms with 10 or more workers to establish a management-labor committee and allows the Government to inspect workplaces and to fine employers for violations. Most firms required to set up such committees have followed the letter of the law, but often little effort is made to utilize the committees or turn them into effective instruments for improving the workplace. Workers have the right to leave work if conditions are dangerous. In practice, however, workers who leave the workplace may find their jobs in jeopardy unless they file a written complaint with the Labor Ministry. There are too few labor inspectors, especially outside the capital, to ensure that minimum conditions of safety and sanitation are maintained.

CUBA

Cuba is a totalitarian state dominated by President Fidel Castro, who is Chief of State, Head of Government, First Secretary of the Communist Party, and Commander in Chief of the armed forces. President Castro has sought to control all aspects of Cuban life through a network of directorates ultimately answerable to him through the Communist Party, the bureaucracy, and the state security apparatus. The Party is the only legal political entity and is headed by an elite group whose membership is ultimately determined by Fidel Castro. The Party controls all government positions, including judicial offices. Though not a formal requirement, party membership is a de facto prerequisite for high-level official positions and professional advancement.

The Ministry of Interior is the principal organ of state security and totalitarian control. It operates border and police forces, orchestrates public demonstrations, determines whether to recognize nongovernmental associations, investigates nonconformity, regulates migration, and maintains pervasive vigilance through a series of mass organizations and informants. It is charged with suppressing opposition and dissent of any kind. The Ministry is under the de facto control of the Revolutionary Armed Forces, which in turn are directed by Fidel Castro's brother Raul. The mass

organizations attempt to extend government and Communist Party control over each citizen's daily activities at home, work, and school. Neighborhood Committees for the Defense of the Revolution (CDR's) mobilize citizens, impose ideological conformity, and report suspicious behavior.

The economy remained highly centralized despite some changes during the year, most notably decriminalization of hard currency possession and legalization of some types of self-employment. The Government, however, continued to control the means of production and remained virtually the sole employer. The economy continued to decline dramatically, reflecting the collapse in Cuba's relationship with the former Soviet Union. An annual $4–5 billion in Soviet aid has ended. Total foreign trade was one-fourth the 1989 level. The Government continued its austerity measures known as "the special period in peacetime," which call for draconian efforts toward economic self-sufficiency.

The Government sharply restricts basic political and civil rights, including freedom of expression, association, assembly, and movement, as well as the right to privacy, the right of citizens to change their government, and worker rights. Authorities neutralize dissent through a variety of tactics designed to keep activists off balance, divided, and discredited by labeling them mentally disturbed social misfits or hostile agents of foreign nations. To a lesser extent than in the past, the Government used "acts of repudiation," which are attacks by mobs organized by the Government but portrayed as spontaneous public rebukes of dissident activity. The Government also metes out exceptionally harsh prison sentences to activists whom it considers a threat to its control.

In March the U.N. Human Rights Commission (UNHRC) passed a resolution endorsing the report of the UNHRC's Special Rapporteur, which made a strong and detailed criticism of Cuba's systematic violations of human rights. The report concluded with seven steps Cuba must take to bring its human rights practices up to minimum international standards. The Government for its part continued to refuse the new Special Rapporteur, like his predecessor, permission to visit Cuba. While there were no systemic changes improving human rights, the Government did release several imprisoned human rights activists and reduced the number of acts of repudiation. The overall human rights situation remained poor, almost as oppressive as in 1992.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Law enforcement officers were responsible for several extrajudicial killings. Five policemen arrested and handcuffed Jesus Acosta Ramos of Manicaragua in Villa Clara province on February 5 and brutally beat him in front of eyewitnesses. Acosta died later that day; his autopsy certified that he had died of a heart attack, failing to mention the injuries sustained. Rogelio Carbonel Buevara died on March 7 in a police holding cell after being beaten near his home by three policemen from the Malecon unit in Havana's Vedado district. Carbonel's widow was told days later that his death was due to natural causes. Police officer Cariel Gonzalez shot and killed 13-year-old Simon Heredia Alvarez in Cespedes in Camaguey province during a May 1 celebration, reportedly after Heredia complained to Gonzalez that he should not mistreat people who were waiting in line. This led to disturbances involving a few hundred of the town's inhabitants, who chased Gonzalez to the police station. They were finally dispersed upon a show of force by police. In addition, there were several confirmed incidents in which border patrols killed people trying to leave the country (see Section 2.d.).

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits abusive treatment of detainees and prisoners. However, police and prison officials frequently employed beatings, neglect, isolation, and other abuse in dealing with detainees and prisoners convicted of political crimes (including human rights advocates) or those who persist in expressing their views. State security officials often subjected dissidents to systematic psychological intimidation in an attempt to coerce them to sign incriminating documents or to collaborate. The UNHRC Special Rapporteur found prison conditions, especially habitual beatings, severe overcrowding, and the lack of food and medical care, in violation of Cuban law. Dissidents are often placed in cells with common criminals.

The Government claims that prisoners have guaranteed rights, such as family visitation, adequate nutrition, pay for work, the right to request parole, and the right to petition the prison director. However, according to human rights activists, these purported rights are often and capriciously withdrawn, especially from political prisoners. There has been no indication that authorities investigated reports of abuse

or took disciplinary action against the agents responsible. Among the many reported cases of brutality by prison guards and police was that of human rights activist Luis Alberto Pita Santos, whose arm was broken during a severe beating by prison guards in Boniato prison in January after refusing to wear a prison uniform. Ten guards handcuffed and severely beat activist Juan Carlos Aguiar Beaton in front of other prisoners at Guanajay prison in July.

Human rights activists and political dissidents are systematically harassed, beaten, and otherwise abused in public and private by police and state security officials as a means of intimidation and control. Three plainclothes policemen in December 1992 accosted Nelson Eduardo Cruz Cabeza, an activist with the group Edad de Oro, and told him to stop his activities; they then beat him, causing an injury to his head which required six stitches.

Authorities continued to use acts of repudiation to intimidate activists and as a pretext for their arrest, though to a lesser extent than in 1992. Crowds of people are amassed outside homes of activists to harass them, yell insults, and vandalize property. At times, the targeted activist is forced through the crowd by police and physically beaten or abused. During such acts, police often arrest activists "for their own protection," and later charge them with counterrevolutionary activity, resulting in prison terms.

d. *Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention are commonplace. The Law of Penal Procedures requires police to file charges and either release a detainee or place him before a prosecutor within 96 hours of arrest. Authorities are also legally required to provide suspects access to a lawyer within 10 days of arrest. These procedures are routinely denied to those detained on state security grounds. The Constitution states that all civil liberties can be denied anyone opposing the "decision of the Cuban people to build socialism." Authorities invoke this open-ended article to justify lengthy detentions of activists on the grounds they constitute "counterrevolutionary elements." The UNHRC Special Rapporteur found that the legal system lacks laws and institutions needed to afford due process.

According to human rights activists, there were between 1,500 and 2,000 Cubans incarcerated for illegal exit and at least another 2,000 imprisoned for various political crimes. The Penal Code contains several articles prohibiting "counterrevolutionary" activity. Activists are often imprisoned for "enemy propaganda," "illicit association," "contempt for authority" (usually for criticizing Fidel Castro), "clandestine printing," or the broad charge of "rebellion." The latter is brought against advocates of peaceful democratic change.

The Penal Code also includes the concept of "dangerousness," defined as "the special proclivity of a person to commit crimes, demonstrated by his conduct in manifest contradiction of socialist norms." Government authorities continue to intimidate activists by threatening prosecution under this article. If the police decide a person exhibits such behavior, the offender may be brought before a court or subjected to "therapy" or "political reeducation" for 1 to 4 years. In late 1993, there was a sharp increase in the number of convictions for dangerousness as several hundred people, possibly more in the Havana area alone, were sentenced to prison. Some were human rights activists such as Felipe Lorens, head of the Marti Youth Organization, who was sentenced to 4 years in prison in October.

Reports of arbitrary arrests of human rights monitors continued unabated. On June 22, plainclothes police picked up Maria Celina Rodriguez, president of the opposition group "Liberty and Faith," and her 6-year-old son and took them to a nearby house, where they were interrogated for 7 hours regarding her human rights activism. Police detained Roberto Pintado of the "Marti Youth Organization" in June and told him to stop his dissident activities or be tried on charges of "illicit association" and sentenced to 2 or 3 years in prison. The Government also preempts dissident activity by arbitrarily prolonging prison sentences by bringing new charges against detainees for human rights activities allegedly committed during imprisonment.

e. *Denial of Fair Public Trial.*—Cuban law and trial practices do not meet international standards for fair and impartial public trials. Almost all cases are tried in less than 1 day. Although the Constitution provides for independent courts, it explicitly subordinates them to the National Assembly and the Council of State, which is headed by Fidel Castro. Judges are elected by the rubberstamp National Assembly and its lower level counterparts. The judiciary's independence is also compromised by the subordination of the courts to the Communist Party. There is no known case in which a court has ruled against the Government on any political or security matter.

Civil courts exist at municipal, provincial, and Supreme Court levels. All are presided over by panels composed of a mix of professionally qualified and lay judges. Military tribunals assume jurisdiction for certain "counterrevolutionary" cases. Most

trials are public; however, trials are closed when state security is allegedly involved. Testimony from a CDR member may be introduced on behalf of a defendant and may contribute to either a shorter or longer sentence. The law recognizes the right of appeal in municipal courts. In provincial courts, some cases are appealable, such as those involving maximum prison terms or the death penalty. The law requires that an appeal be filed within 5 days of the verdict.

Criteria for presenting evidence, especially in cases of human rights activists, are arbitrary and discriminatory. Often the sole evidence provided, particularly in political cases, is the defendant's confession. It is usually obtained under duress and without legal advice or knowledge of a defense lawyer. Defense lawyers often are not allowed to meet with defendants until the day of the trial. Several activists who have served prison terms say they were tried and sentenced without counsel and were not allowed to speak on their own behalf.

The law provides an accused the right to an attorney, but the latter's impartiality and independence are compromised by the absence of an independent bar association and by ideological controls exerted over members of the state-controlled lawyers' collectives, especially when defending persons accused of state security crimes. Observers have reported reluctance among attorneys to defend those charged in political cases.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Although the Constitution provides for inviolability of one's home and correspondence, official intrusion into private and family affairs remain one of the most repressive and pervasive features of Cuban life. Party-controlled mass organizations permeate society. The State has assumed a virtual right of interference into the lives of citizens, even those who do not actively oppose the Government. These intrusions aim ostensibly at "improving" the citizenry but are calculated to encourage ideological conformity.

Authorities possess a wide range of social controls. The educational system teaches that the State's interests have precedence over all other ties and commitments. Teachers, selected in part for their ideological commitment, emphasize Communist doctrine in the classroom and may penalize students whose families question orthodox opinion. Teachers are required to evaluate students' ideological character, which is noted in records carried by students throughout their education and which affect their future prospects.

The Interior Ministry employs an intricate system of informants and neighborhood security committees (CDR's) to monitor and control public opinion. Guardians of social conformity, the 80,000 CDR's are tasked with closely monitoring the daily lives of residents. Participation in them is described as voluntary; it is, in fact, obligatory. CDR's report suspicious activity, such as reception of foreign radio or television broadcasts in the home, conspicuous consumption, unauthorized meetings, including with foreigners, and attitudes toward the Government. Activist Sergio Seco Cordero, for example, was denounced in a report by his CDR as "disaffected" because of his "active participation against our Socialist system." Such people are often harassed and fired from their jobs (see Section 2.a.).

Cubans do not have the right to receive publications from abroad. Their international correspondence is often read by state security. Overseas calls are difficult to make and are monitored; conversations with foreigners are reported. Activists, diplomats, and foreign journalists report surveillance by security agents, though this seems to have decreased.

Authorities regularly search people's homes without probable cause for purposes of intimidation and harassment. Police broke into the home of activist Carlos Negrin on February 3 and seized three pairs of foreign-made shoes. They told Negrin that his mother-in-law had accused him of illicit economic activity. Negrin and his wife were arrested, taken to the police station, and placed in a holding cell. Negrin's wife had a miscarriage and was taken to a hospital; though doctors ordered bed rest, she was returned to the station, where she and Negrin were held for 5 days. They were both released after paying a fine equal to 1 month's salary.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Government does not allow criticism of the revolution or its leaders. Laws are enforced against antigovernment propaganda, graffiti, and insults against officials. The penalty is 3 months to 1 year in prison for contempt. If Fidel Castro or members of the National Assembly or Council of State are the object, the sentence is 1 to 3 years. Rosa Campos Hernandez, for example, was sentenced to 3 years' imprisonment because she allegedly made defamatory statements about Castro and other ministers while standing in the door of her Havana home. Local CDR's inhibit freedom of speech by monitoring and reporting dissent or criticism (see Section 1.f.).

The Constitution states that electronic and print media are state property and "cannot become, in any case, private property." The media are controlled by the Communist Party and operate under its guidelines. They faithfully reflect government views and are used to indoctrinate the public. No other public forum exists. TV Marti and Radio Marti, which broadcast from the United States, are often jammed; however, other foreign broadcasts are not. Police and Interior Ministry officials frequently confiscate foreign newspapers from members of the Independent Journalists' Association (APIC) and human rights activists. The Government also circumscribes artistic, literary, and academic freedoms. Education is the exclusive prerogative of the State. Schools follow Marxist-Leninist precepts as interpreted by the Government.

Beyond the Government's tight control over media, other forms of expression are rigidly monitored. The Government often arrests people for the crimes of "enemy propaganda" and "clandestine printing." Dissidents are physically attacked and intimidated if they try to report on incidents. APIC head Nestor Baguer called one of his contacts abroad in July with news about a large-scale disturbance near Havana. The next day two men posing as telephone company employees beat him in his home and destroyed his telephone. On August 6, three men severely beat APIC member Jorge Casanovas Crespo just outside the offices of the Communist Party's Central Committee as he was heading to an APIC meeting. Casanovas required six stitches; vision in one eye was severely affected.

Academic publications and research may not conflict with government or party policy. On January 26, Leonardo Jose Rodriguez Perez, a researcher at the Center for Metallurgic Research, became the latest of several fired from their jobs after signing the "open letter from Cuban professionals to the second (1992) Ibero-American summit."

b. *Freedom of Peaceful Assembly and Association.*—The Constitution does not provide for freedom of assembly or association, nor are these freedoms permitted. Any assembly of more than three persons, even in a private home, is punishable by up to 3 months in prison and a fine. Though not universally enforced, this is often used as a legal pretext to harass and imprison human rights advocates. Even activists who act respectfully towards authority are subject to continuous harassment and persecution. Organizers of "illicit or unrecognized groups" may be sentenced to up to 9 months. The authorities have never approved a public meeting of a human rights group.

The Penal Code forbids "illegal or unrecognized groups." The Justice Ministry, in consultation with the Interior Ministry, decides whether to recognize organizations. Apart from "recognized" churches and a few carefully monitored groups such as the Masonic Order, small human rights groups represent the only associations outside the State and party. Authorities continued to ignore numerous applications for legal recognition by human rights groups, whose members were often jailed for "illicit association" or became the targets of reprisals. Human rights activists were fired from their jobs for such reasons as being "connected to counterrevolutionary groups" or being a "focal point for political deviation" with "ideas very contrary to those of our revolution."

Because of such restrictions, public demonstrations by opposition groups are extremely difficult to organize. Activists Juan Guarino and Paula Valiente were arrested on April 30 by state security after planning a May Day march outside a Havana church. The following day, 150–200 persons gathered for the march; when activists unfurled the Cuban flag, the police moved in and began beating people with blunt instruments. Several were arrested. Guarino and Valiente were convicted of "inciting public unrest" on May 18 and released on parole, an uncharacteristically lenient sentence. Since their release, however, both have been harassed by state security and kept under tight surveillance (see Section 2.d.).

c. *Freedom of Religion.*—In recent years, the Government has made legal changes which eased somewhat the harsher aspects of its suppression of religious freedom. In 1991 it allowed religious adherents to join the Communist Party, while in 1992 it amended the Constitution to prohibit religious discrimination and remove references to "scientific materialism," i.e., atheism, as the basis for the Cuban State. Such actions were praised by the Protestant Ecumenical Council, but the Catholic Church stated its concern over the gap between the Government's rhetoric and actions. The Catholic Bishops issued a pastoral letter calling for national reconciliation and dialog. Although harshly critical of the letter, the Government did not directly retaliate against the Church.

Despite these changes, religious persecution continues. Members of the armed forces are prohibited from allowing anyone in their household to observe religious practices. Elderly relatives are exempted if their beliefs do not influence their spouses or children and are not "damaging to the revolution." The Government con-

tinued to use the Penal Code to persecute Jehovah's Witnesses and, to a lesser extent, Seventh-Day Adventists. Jehovah's Witnesses were often convicted of clandestine printing if a search of their home revealed religious materials or illicit association for having religious meetings. They have also been found guilty of contributing to the delinquency of a minor, of "not complying with duties related to respect and love of country," and of "abuse of the freedom of religion" when, out of religious conviction, they refuse to honor symbols of the Cuban State. Because the Government considers them "active religious enemies of the revolution," Jehovah's Witnesses and Adventists are watched and often harassed by the CDR's, who also maintain surveillance over "spiritualists who give consultations," in addition to such categories as "counterrevolutionary ex-convict" and "common criminal."

Church attendance has grown rapidly in recent years, despite government and party efforts to restrict and control church activities. Churches and other religious groups must register with the Government and be officially recognized. Authorized religious organizations may hold activities only at designated places of worship. Construction of new churches is prohibited, forcing many churches to meet in individuals' homes. Religious holidays were eliminated in 1961. No religious processions outside of church grounds are permitted, and churches are denied any access to mass media.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no legal restrictions on domestic travel, other than a restricted zone near the U.S. Naval Base at Guantanamo. Persons who are found to be HIV-positive are restricted to sanatorium communities and allowed to leave those communities only on highly restricted conditions. The Government now allows persons over 20 years of age to apply for permission to travel abroad. The vast majority of persons who qualify for immigrant visas or refugee status are allowed to leave; however, the Government continues to delay or deny exit permits in certain cases, often without explanation. These often include professionals who have tried to leave and who have since been banned from working in their occupational field. Others are refused permission because the Government considers their cases sensitive. Dissident scientist Rolando Roque Malherbe, for example, had been refused an exit visa since 1990 and had been unable to attend conferences abroad. The Government finally permitted Roque to leave in December for a teaching position in Spain. President Castro's daughter, Alina Fernandez, slipped out of the country in disguise, after being refused an exit visa for years. The Government also has coercedsome people, mostly activists, into leaving the country. Paula Valiente, head of Mothers for Dignity, was constantly harassed by state security officials to emigrate. Threats were made thather 17-year-old son would be imprisoned on trumped-up charges. To avoid that, Valiente left Cuba with her son in November.

The Government also permitted hundreds of former political prisoners to emigrate, including several prominent activists who had previously been denied exit visas. Most notable was Mario Chanes de Armas, a former Castro comrade, who was allowed to emigrate in July. Chanes was released in 1991 after serving a 30-year prison sentence; he had been the longest serving political prisoner in the Western Hemisphere. Nydia Cartaya, wife of Joaquin Movrino Perez, an ex-army officer who defected in the mid–1980's, was also granted an exit visa after having been denied one since 1985. Activist Jose Luis Pujol, who had originally applied in 1986, was allowed to depart. Activists Elizardo Sanchez Santacruz and Rolando Prats were granted exit visas to make extensive trips abroad during the summer and were allowed to return to Cuba, even though Sanchez is out on bond pending trial on charges of contempt for resisting a beating by police in December 1992.

The Government continues to use aggressive, often violent, means to prevent citizens from emigrating without its permission. For example, on July 1, border guards in Cojimar opened fire on a boat carrying at least 15 unarmed Cubans who were trying to flee to the United States. Three were killed and at least 10 injured. Guards and police reportedly refused to assist those wounded in the water or allow others to do so. According to numerous accounts, this led to rioting by several hundred inhabitants. In October border guards killed Luis Quevedo Remolino after he tried to leave in a raft. Though the Government stated that he had been shot trying to depart illegally, Quevedo's family and friends assert he was beaten to death. Quevedo's cousins, who were involved in the escape attempt, were also beaten, though not as seriously. The incident led several thousand people to march in a funeral procession on October 14 in Regla near Havana; Quevedo's family reportedly diverted the hearse to the police station and removed the body from the coffin, to show that it was covered with deep bruises and had no bullet wounds. Despite the dangers involved, a record 3,656 Cubans made it to the United States in rafts. It is not known how many perished en route.

In five incidents witnessed by U.S. military personnel in late June, border guards used hand grenades and rifle fire against unarmed swimmers trying to escape to the U.S. Naval Base at Guantanamo in southeast Cuba. In response to U.S. protests over the use of excessive force, the Government denied the reports, calling them "slanderous." Over 30 Cubans are known to have died while attempting to seek asylum at the Base, either shot by Cuban soldiers or killed by Cuban mines, while 821 made it safely.

There is no right of repatriation. Exit permits for temporary travel specify that the person must return within 30 days, although extensions are available. Cubans who live abroad must apply for permission to return for visits. A quota of 10,000 visits per year by those who left between 1959 and 1980, as well as a general ban on the return of those who left after 1980, were greatly liberalized in August.

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

Cubans have no legal right to change their government or to advocate a change. The Constitution states that the only political organization allowed is the Communist Party. A small group of leaders select members of its highest governing bodies—the Politburo and Central Committee.

In February the Government permitted direct elections to the national legislature for the first time since it was created in 1976. Before nomination, however, every candidate had to be screened by a "candidacy commission" composed of members of party-controlled "mass organizations." Only one candidate per seat was allowed; voters could either vote "yes" or leave the ballot blank; there was no space even to check "no." These procedures were designed to ensure that only those who follow the government line would be on the ballot. Formation of political parties, campaigning, and the making of campaign promises was forbidden.

Leadership positions in Castro's Government have been dominated by white males since its inception; there are very few women or minorities in positions with policy responsibility in the Party or the Government. There are 3 women on the 25-member Politburo; the country's first female provincial party secretary was not chosen until 1993. Though blacks and mulattoes make up over half the population, they comprise only 4 of the 25 Politburo members and only 15 percent of over 200 members of the Central Committee.

The Government has ignored calls for democratic reform and labeled activists who proposed them "worms" and traitors working to undermine it. Any change judged not compatible with the revolution is rejected, as are proposals by Cubans who seek nonviolent political change or open debate about the political system. The Government retaliates against those who have peacefully sought political change.

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

No domestic or international human rights group is recognized by the Government or permitted to function legally. As noted above, domestic human rights monitors are subject to intense intimidation and repression. In violation of its own statutes, the Government refuses to consider applications for legal recognition submitted by human rights groups. The main domestic human rights monitoring groups are the Cuban Human Rights Committee, the Cuban Pro-Human Rights Party, the National Council for +Civil Rights, and the Cuban Commission for Human Rights and National Reconciliation. In addition, the Cuban Democratic Convergence, the Cuban Coalition, and the Civic Democratic Alliance are umbrella organizations including a number of smaller human rights groups.

The Government has steadfastly rejected international human rights criticism. In 1991 Cuba's U.N. Representative stated it would not recognize the UNHRC mandate on Cuba and would not cooperate with its Special Rapporteur, even though Cuba is a UNHRC member. In March, after the UNHRC passed a resolution condemning human rights violations in Cuba by the largest margin ever, Cuban Ambassador Jose Perez Novoa said the resolution was the result of a "political vendetta" and maintained that "there are no large-scale and flagrant human rights violations in Cuba." Cuba continues to ignore repeated requests by the UNHRC's Special Rapporteur to visit Cuba to meet officials and citizens.

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

Cuba is a multiracial society with a majority of black and mixed racial ancestry. The Constitution forbids discrimination based on race, sex, or national origin, although evidence suggests that racial and sexual discrimination occurs.

Women.—The Family Code states that women and men have equal rights and responsibilities regarding marriage, divorce, raising children, maintaining the home,

and pursuing a career. The Maternity Law provides 18 weeks of maternity leave and grants working women preferential access to goods and services. About 40 percent of all women work. They are well represented in the professions, although few are in positions with policy responsibility.

Information from human rights groups and other sources indicates that domestic violence and sexual assaults occur, but no statistics are available. Violent crime is rarely reported in the press and, due to cultural traditions, victims of mistreatment are reluctant to press charges. However, the law establishes strict penalties for rape, and it appears to be enforced. Prostitution has increased greatly in the last few years, especially around tourist areas.

Children.—The Constitution states that the Government will protect "family, maternity, and matrimony." It also states that children, legitimate or not, have the same rights under the law and notes the duties of parents to protect them. Education is free and is based on the ideology of Marx and Jose Martí, and state organizations and schools are charged with the "integral formation of childhood and youth."

National/Racial/Ethnic Minorities.—Information about racial discrimination is not readily available. Many blacks have benefited from the social changes of the revolution. Nevertheless, there have been numerous instances of police harassment against blacks, including black foreigners and diplomats who were mistaken for being Cuban. Many black activists report being singled out for harassment. Officials have told them during interrogations that they are "ungrateful" for not appreciating what the revolution did for them and insulted them with racial epithets.

People with Disabilities.—There have been few known cases of discrimination based on disability. There are laws to provide for the disabled, but no laws mandating accessibility.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution gives priority to state or collective needs over individual choices regarding free association or provision of employment. Decisions and choices of workers are subordinate to the "demands of the economy and society." The law does not permit strikes, nor are any known to have occurred in 1993. Established labor organizations are not trade unions in any real sense and do not act as a voice for worker rights, including the right to strike. Labor is organized under the control of the State and party through one umbrella group, the Confederation of Cuban Workers (CTC).

Although a constitutional amendment removed reference to the CTC and its Secretary General's participation in the Council of Ministers, the CTC's union monopoly is reflected in the explicit reference to it that remains in the Labor Code. The CTC serves primarily as a state instrument to enforce political and labor discipline, to encourage productivity and extended hours of "voluntary" labor, to hold down labor costs, and to conserve raw materials. However, some CTC organizations have served as debating forums for a narrow range of labor issues, such as safety or working conditions.

Despite Cuban disclaimers in international forums, independent unions are explicitly prohibited. In 1992 the International Labor Organization (ILO) concluded that independent unions "do not appear to exist" and ruled that Cuba violated ILO norms on freedom of association and the right to organize. In May the ILO Governing Body rejected the arguments of the Justice Ministry for failing to reply to the General Union of Cuban Workers' (UGTC) request for registration and legal recognition and requested the Government to make an immediate pronouncement on registration.

Those who attempt to engage in union activities face government persecution and harassment. In February state security officials again arrested Rafael Gutierrez Santos, president of the fledgling independent trade union USTC, and detained him without making formal charges. He was released in August, pending trial. In February police raided the home of independent unionist Juan Guarino during a meeting of the National Council of Independent Unions. After searching the house for 7 hours, police confiscated union materials and newspapers and then arrested eight union members, telling them they would be "crushed like cockroaches" if they continued their union activities. They were released several hours later. In March police arrested UGTC executive member Roberto Trobajo and detained him for a week due to his union activities.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining does not exist. The State Committee for Work and Social Security sets wages and salaries for the state sector. Because the CTC is a government instrument, antiunion discrimination is only relevant as it applies to government repression of attempts to form independent unions. There are no known export processing zones in Cuba.

The Government in September relegalized self-employment, which had been abolished in 1968, by allowing people to apply for licenses to work in over 100 different occupations, from hairdresser to muleteer. However, the regulations exclude university graduates, employees in sectors determined to be government priorities, or any state employee whose work is ruled necessary. They also exclude those who do not show proper "labor discipline" (a category which includes dissidents), among others. Furthermore, permission to work outside the state sector can be revoked if the State decides the worker's services are again needed.

c. *Prohibition of Forced or Compulsory Labor.*—Neither the Constitution nor the Labor Code prohibit forced labor. The Government maintains "correctional centers" where people are sent for crimes such as illegal departure. They are forced to work on farms or building sites, usually with no pay and inadequate food. Internees who do not cooperate are often imprisoned.

Special groups of workers, known as "microbrigades," on loan from other jobs, are employed on special building projects. They have increased importance in the Government's efforts to complete tourist and other facilities that have priority attention. Workers who refuse to volunteer for these often risk discrimination or loss of their jobs. Microbrigade workers, however, are reportedly rewarded with priority listing for apartments, a strong incentive for such work.

The ILO's Committee of Experts criticized Cuba for violating ILO Convention 29 (Forced Labor) based on allegations in a report by the International Confederation of Free Trade Unions (ICFTU) that "voluntary labor is, in practice, forced labor under the terms of the Convention, since refusal to do such labor results in the loss of certain rights, benefits, and privileges." In response, the State Labor Committee in January repealed a 1980 resolution, thereby eliminating merits and demerits from workers' labor records. In June the ILO conference committee expressed hope that this marked the first step toward complete elimination of any form of coercion involved in voluntary labor.

d. *Minimum Age for Employment of Children.*—The legal minimum working age is 17. The Labor Code exempts 15- and 16-year-olds to let them obtain training or fill labor shortages. However, students over age 11 are expected to devote 30–45 days of their summer holiday to farm work up to 8 hours per day. "Voluntary labor" by student work brigades is still used extensively in the farming sector.

e. *Acceptable Conditions of Work.*—The minimum wage is supplemented by free medical care and education and subsidized housing and food. Even with these subsidies, however, a worker must earn far more than the average wage to support a family. The minimum wage is less than $200 (200 pesos) per month (which is about $3 at the black market rate). Moreover, most basic necessities, like food, medicine, clothing, and cooking gas, are rationed and in very short supply, if available at all. This has worsened dramatically in the past 3 years.

The standard workweek is 44 hours, with shorter workdays in hazardous occupations such as mining. To save energy, the Government reduced workdays to 5 hours in many institutions. Worker safety and pollution control provisions are usually inadequate. Effective control and enforcement mechanisms to ensure worker safety are lacking. Industrial accidents apparently are frequent.

DOMINICA

Independent since 1978, Dominica is a parliamentary democracy and a member of the Commonwealth of Nations. Prime Minister Eugenia Charles' Dominica Freedom Party, in office since 1980, was reelected in 1985 and 1990 in free and fair elections.

The Defense Force was disbanded in 1981 following two violent coup attempts. Since then the Commonwealth of Dominica police have been the only security force. The police force, supervisedby the Commissioner of Police, includes a Coast Guard unit and a Special Services Unit (SSU)—a small, paramilitary unit established in 1983 by the Regional Security System of the Eastern Caribbean states. There are no instances on record of human rights violations by the SSU. The police are controlled by and responsive to the democratically elected Government.

Dominica's mountainous terrain and periodic devastation by hurricanes make it one of the least developed nations in the Eastern Caribbean. The primarily agrarian economy depends upon earnings from banana exports to the United Kingdom. Several small industrial plants operate, but unemployment and underemployment are high. Per capita gross domestic product at current prices was estimated at $2,233 in 1992. The Government is attempting to develop its tourist industry, to diversify

agricultural production, and to promote exports of raw fruits, vegetables, and coconut products both within and outside the region.

Human rights were generally well respected in Dominica, although overcrowding and unsanitary conditions continued in the prison, and there were charges of searches without cause of young men in drug-related inspections.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture or other forms of cruel, inhuman, or degrading treatment or punishment, and there were no reports of such practices. Prominent nongovernmental organizations, trade unions, and the press reported that allegations of harsh treatment by law enforcement officials made in previous years have diminished. Overcrowding and unsanitary conditions continue to be problems in Dominica's only prison facility. An addition to the prison is under construction, and during the past 2 years, the prison instituted work therapy, sports programs, educational opportunities, and counseling to offset the poor conditions.

d. *Arbitrary Arrest, Detention, or Exile.*—The law requires that persons arrested or detained be charged with a crime within 24 hours or be released from custody. This is honored in practice except in rare cases in which, for example, persons cannot afford legal counsel.

e. *Denial of Fair Public Trial.*—Dominican law provides for public trial before an independent, impartial court. Criminal defendants are presumed innocent until proven guilty, are allowed legal counsel, and have the right to appeal. Indigents are provided free legal counsel only in capital cases.

There are no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits arbitrary entry, search, and seizure. Search warrants are required by law. While there were no official reports of arbitrary government intrusions into the private lives of individuals, most human rights groups allege that young men are often searched with little or no probable cause in drug-related inspections.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The right of free expression is provided in the Constitution and adhered to in practice. The political opposition openly criticizes the Government. Dominica's main radio station is state owned but offers ample access for citizens to express their views. There is also an independent radio station owned by the Catholic Church which broadcasts, although it has not yet been granted an official operating license.

Dominicans also enjoy good access to independent news sources through cable television and radio reception from neighboring islands. The principal newspaper was founded by the Catholic Church, but the Church divested its interest in it in 1990. The editorial stance of the newspaper remains progovernment, but opposition viewpoints are prominently reported. During the intraparty leadership campaign of 1993, a second weekly newspaper, the Tropical Star, was inaugurated. It published its political views without interference.

Political parties publish their own journals, and the opposition United Workers' Party prints a weekly newsletter. The Dominica Labour Party complained that a ban on live broadcasts of parliamentary sessions, which continued in 1993, is a form of censorship.

b. *Freedom of Peaceful Assembly and Association.*—The Government respects the constitutionally mandated freedoms of association and assembly and does not hinder opposition groups from holding political meetings or public demonstrations. Such meetings and gatherings were held frequently throughout the year.

c. *Freedom of Religion.*—Roman Catholicism is the predominant faith, and there are various Protestant denominations. There are also small Muslim and Rastafarian communities. While Rastafarians are not banned from entering Dominica, they are not always looked upon kindly by Dominican immigration officials. A "dread law" forbidding dreadlocks (braided hair) was repealed over 10 years ago, but harassment of Rastafarians still occurs occasionally. Outside religious groups are not restricted in their activities.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—These rights are provided for by law and respected in practice. The Government may revoke passports if subversion is suspected but has not done so in recent times.

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

Dominica, independent since 1978, had a prior long historical tradition of democracy and home rule. Power is exercised by a Cabinet appointed by the Prime Minister. Elections are by secret ballot and held every 5 years or earlier, at the discretion of the Prime Minister. Elections in 1980, 1985, and 1990 were free and fair, and voter participation was high. The 1990 elections were contested by the incumbent Dominica Freedom Party (DFP), the Dominica Labour Party (DLP), and the United Workers Party (UWP). The DFP won 11 of the 21 parliamentary seats, the UWP 6, and the DLP 4. As a result of a December 20 by-election, the UWP holds seven seats and the DLP three. Prime Minister Charles plans to remain in office until the next general election (due before 1995), but the DFP has already chosen Foreign Minister Brian Alleyne to be Charles' eventual successor as party leader.

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

There are no government restrictions on the formation of local human rights organizations, although no such groups exist at present. Several advocacy groups such as the Association of Disabled People and a women and children self-help organization operate freely and without government interference. There were no requests for investigations of human rights abuses from international or regional human rights groups during 1993.

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

The Constitution includes provisions against racial and sexual discrimination, which are adhered to in practice.

Women.—Beyond the general protection of the Constitution, women do not benefit from any specific civil rights legislation. There is little open discrimination, yet sexual harassment is common. Both the police and the courts prosecute cases of rape and sexual assault. Under the law, victims may report sexual and other violent abuse to the Welfare Department or to the police, but there is no specific recourse for women who are abused by their husbands. There is no shelter for battered women, but a hotline manned by volunteers is available. The Welfare Department often provides assistance to victims of abuse by finding them temporary shelter, providing counseling to both parties, or recommending police action. The Welfare Department reports all cases of abuse to the police, although the police are often reluctant to interfere in domestic quarrels.

Women's rights organizations advocate adoption of eight gender-neutral draft laws developed by the Caribbean Community Secretariat for Women's Rights. These proposals cover domestic violence, sexual harassment, sexual offenses, inheritance, and other matters but have not been introduced in Parliament. Property ownership is deeded to "heads of households," who are usually males. When the husband head of household dies without a will, the wife cannot inherit the property or sell it, although she can live on it and pass it to her children.

In the workplace, young women often are able to obtain jobs because they are considered more reliable than their male counterparts, who are often unemployed. The law permits unequal pay for men and women in daily paid employment. In the civil service, pay is attached to a specific job and is fixed, whatever the gender of the incumbent. In the private sector, there is no law requiring equal pay for equal work by salaried workers.

Children.—Legislation covering children's rights in Dominica includes the Children and Young Person's Act, the Legitimation Act, the Infants' Protection Act, and the Adoption of Infants Act. Enforcement of these laws falls under the Welfare Department, police, court system, and prison director. However, there is no enforcement arm for the Children and Young Person's Act, and the training school it mandated has not been established. The Government lacks the resources, organizations, and skills needed to effect much positive change in the area of children's rights. There were 210 reported cases of child abuse during 1992, compared to 174 in 1991 and 127 in 1990. It is likely that this represents an increase in reporting cases rather than an actual increase in child abuse.

Women's advocacy groups have also called for programs to supportpregnant school children and those with babies. During 1992 the age of consent to sexual relations was raised from 14 to 16.

Indigenous People.—There is a significant Carib Indian population in Dominica, estimated at 3,000 out of a total population of 72,000. Most live on a 3,700-acre reservation created in 1903. School, water, and health facilities available on the Carib reservation are similar to those available to other rural Dominicans. Caribs participate in national political life and enjoy the same civil rights accorded other Dominican nationals. Worrell Sanford, a Labour member of Parliament who resigned December 20,is a Carib, and Carib Chief O'Gustie is a nationally respected leader.

People with Disabilities.—Beyond the general protection of the Constitution, the disabled do not benefit from any specific legislation. There is no requirement mandating access for those with disabilities. Fiscal considerations limited action to adopt legislation covering the disabled. Dominica lacks trained specialists, roads inhibit mobility of shut-ins, and wheelchairs are unaffordable. There is no rehabilitation center.

Section 6. Worker Rights

a. *The Right of Association.*—Workers have the legal right to organize, to choose their representatives, and to strike. Less than 10 percent of the work force is organized; two unions disbanded in 1992, and there was only one significant strike, which lasted 1 day. The Civil Service Association, which had instigated demonstrations against the Public Service Act of 1991, continues to press for changes in areas of concern to civil servants. Among other provisions, the law sets a limit on the period for wage negotiations. (In the past, civil servants traditionally received large back-pay awards after marathon negotiations.) This Act also bars civil servants from speaking in public on controversial national political issues, except when it is in line with their duties. There is no restriction on forming a national labor federation. All the unions are independent of the Government and political parties and are affiliated with various international labor organizations.

b. *The Right to Organize and Bargain Collectively.*—Unions have legally defined rights to organize workers and to bargain with employers. Collective bargaining is widespread in the nonagricultural sectors of the economy, including the government service, and there is also recourse to mediation and arbitration by the Government. Antiunion discrimination by employers is prohibited by law, and union rights are enforced by judicial and police authority. In addition, workers fired for union activities must be reinstated. Enforcement mechanismsare the responsibility of Department of Labour inspectors under the supervision of the Labour Commissioner. However, the small Labour Inspection Office lacks qualified personnel to carry out its duties under existing labor legislation. Labor regulations and practice governing Dominica's industrial areas and other export firms do not differ from that prevailing in the rest of the economy. It is legally compulsory for employers to recognize unions as bargaining agents once both parties have followed appropriate procedures.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited and does not exist.

d. *Minimum Age for Employment of Children.*—The minimum legal age for employment is 15 years. Employers generally observe this law without government enforcement.

e. *Acceptable Conditions of Work.*—Minimum wages for various categories of workers are set by statute and were last revised in November 1989. The minimum wage rate for most categories of workers is $0.56 (EC$1.50) per hour and is not sufficient to provide a decent standard of living for a household. However, most workers earn more than the legislated minimum wage. The standard legal workweek is 40 hours in 5 days. The law provides for a minimum of 2 weeks' paid vacation. The Employment Safety Act, an occupational health and safety law, is considered by a major union and by local nongovernmental organizations to be consistent with international standards. The Advisory Committee on Safety and Health is an established body but has never met. The enforcement mechanism consists of inspections by the Department of Labour, which can and does prescribe specific compliance measures, impose fines, and prosecute offenders. In practice, however, inspections are rarely made.

DOMINICAN REPUBLIC

The Dominican Republic is a constitutional democracy with a popularly elected President and a bicameral Congress. In practice, the system heavily favors the executive branch, headed by six-term President Joaquin Balaguer. The Supreme Court heads an only nominally independent judiciary whose members are appointed by the

Senate. Political parties representing the ideological spectrum from left to right freely participate in elections.

The National Police (PN), the National Department of Investigations (DNI), the National Drug Control Directorate (DNCD), and the military (army, air force, and navy) form the security services. The PN has general investigative and principal arrest authority. The military services have investigative and general arrest authority for armed forces personnel and may arrest suspects apprehended by military patrols. The DNI is the principal national investigative body for national security concerns and also possesses arrest authority. The DNCD, a narcotics law enforcement agency formed in 1988, brings under a single authority elements of the PN and military services. All security services are under control of the Government and are generally responsive to civilian authority, but some members of these organizations continued to be responsible for human rights abuses.

Once heavily dependent on sugar, the Dominican economy has grown more diverse; tourism and export processing zones (EPZ's) are now major sources of income and employment. The economy showed the benefits of reforms initiated in 1990; inflation was reduced and real economic growth was expected to be from 1.5 to 3 percent in 1993. State-owned firms such as the State Sugar Council (CEA), the Consortium of State Enterprises (CORDE), and the Dominican Electricity Corporation (CDE) continue to be heavily involved in the economy, and the financial and administrative difficulties of these firms still impede economic growth.

Principal human rights problems included continuing instances of police killings of civilians, arbitrary detention and beatings of suspects, security services' refusal to obey judicial orders, judicial corruption, court backlogs and maladministration, and abuses of Haitian migrant workers. The extent of antiunion discrimination in the EPZ's gained increased public attention, while the condition of itinerant Haitian workers in the sugar industry continued to show improvement from previous years.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—No political killings occurred in 1993, but there were several instances of extrajudicial killings by the police. Police use of excessive force led to at least nine civilian deaths. At least six other civilians were killed in personal disputes with low-ranking police personnel, with intoxication or romantic interest as the typical causes in these deaths. A police tribunal convicted a former police lieutenant and two former patrolmen on homicide charges and sentenced them to 5 years in prison for their role in one of the nine deaths. The cases involving the other eight deaths reportedly were pending before civilian courts at year's end.

Among other cases heard by police tribunals in 1993, a DNCD agent received a 15-year sentence for voluntary manslaughter in a September 1992 shooting, and a police corporal received a 15-year sentence (reduced to 5 years on appeal) for fatally wounding a fleeing suspect during an April 1992 raid on a gambling ring. Police tribunals also sentenced two ex-patrolmen to 15 years and 10 years, respectively, in prison in connection with two incidents in which they shot and killed other police personnel.

Police personnel discharged for their involvement in deaths in 1993 were reportedly awaiting trial in the civilian court system, a process which will likely take years. Although a civilian court dismissed charges against an ex-police lieutenant involved in killing lawyer Rafael Ortiz during September 1992 antigovernment protests, the police have refused to release the ex-lieutenant. Two ex-police majors accused of misconduct in the same case remain fugitives; the ex-patrolmen and civilian informant charged in the actual shooting remain in prison awaiting trial on charges of homicide.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture and other forms of physical abuse are illegal under law. There continued to be instances of security service personnel engaging in beatings of detainees, although some monitors report a decline in incidence of abuse.

Cases in which police officials received little or no punishmentfor abuse continued in 1993. In one instance, a National Policelieutenant colonel accused of running a torture ring in police headquarters was relieved of his job in March 1992 but selected for advanced training before the charges were formally dismissed in January 1993. The National Police appealed the ruling, and the case remains pending before a higher court. In another case, on September 29, a police tribunal sentenced a police captain to a 1-month suspension without pay and an ex-police captain to 6

months in prison in connection with the torture of a part-time university professor in January 1992. In other instances police tribunals convicted for physical abuse an ex-patrolman who received a prison sentence of 5 months, a corporal sentenced to 2 months in prison, a patrolman who was given 5 months, and two patrolmen who received 2-month sentences in two seperate incidents. Approximately 60 percent of cases brought before police tribunals resulted in convictions; the figure in civilian courts is significantly lower.

Prisons are overcrowded, and health and sanitary conditions are substandard. Some prison personnel reportedly engage in extortion and other corrupt activities, and most prisoners find it necessary to rely on relatives or their own finances in order to be fed adequately. Medical care suffers from a lack of supplies. In some instances, minors have been incarcerated in adult prisons (see Section 5).

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution stipulates that suspects may be detained for a maximum of 48 hours for investigation before arraignment, after which they must be charged or released. However, in special circumstances, suspects may be detained for longer periods with the approval of the prosecutor's office. Security services officials continued routinely to violate constitutional provisions by detaining suspects for "investigation" or "interrogation" beyond the prescribed 48-hour limit. Law enforcement authorities traditionally detain all suspects and witnesses to a crime, and use the investigative process to determine who are innocent and merit release and who should continue to be held.

Military officers occasionally violated legal provisions against military detention of civilians. Despite announcements to the contrary, the DNCD and National Police continued to engage in indiscriminate roundups of people in poorer neighborhoods. In 1993 these roundups were increasingly targeted at drug trafficking, and most detainees were released after several hours in custody. The security services also continued occasionally to detain relatives of suspected criminals with the aim of forcing the surrender of suspects; most of these cases occurred when relatives were present at the scene of a search that uncovered narcotics.

The National Police and the DNCD persisted in their refusals to release some prisoners and detainees who had been granted judicial release orders. Law enforcement and other governmental authorities cited judicial corruption as the justification for this noncompliance. In some of these cases involving narcotics or terrorist-related crimes, it appeared that evidence merited pursuing the cases in the judicial system. In other cases, prosecutors unsuccessfully appealed the judicial decisions to the Supreme Court so there was no further recourse available to block the release orders. The 54 prisoners in such circumstances include Luis Lizardo Cabrera, the subject of three separate judicial release orders since his detention as a suspect in the 1989 bombing of a U.S.-Dominican Binational Center which killed a 1-year-old girl.

No exile of citizens took place in 1993.

e. *Denial of Fair Public Trial.*—Although the Constitution stipulates an independent judiciary, in practice interference occurs from other public and private entitites, including the executive branch. The court system includes a Supreme Court, an appellate court, and courts of the first instance. The Senate appoints judges at all levels. Their terms of office correspond roughly to those of the President and other elected officials. A newly elected Senate can either replace the judges or reconfirm them, and may removeor transfer them by a majority vote. Critics credibly charge that senators customarily nominate judges on political grounds rather than for their competence as jurists. These same critics also fault some prosecuters and judges for corruption, incompetence, and a lack of effort. Administrative supervision of judges and prosecutors by the authorities in charge of these bodies is poor to nonexistent.

The Constitution provides for public trial, and court-appointed lawyers normally are provided at public expense to indigents in felony criminal cases, but rarely in criminal misdemeanor cases. The judicial process is plagued by chronic delays; of the penal system's approximately 11,000 detainees, only about 10 percent have been convicted. Although the right to judicial determination of the legality of detention exists, pretrial detention is legal and commonly employed. This custom, coupled with a lack of administrative and financial support for the system, creates a major backlog of cases, which in turn causes suspects to suffer long periods of pretrial detention that sometimes exceed possible criminal penalties.

Though the judicial system has provisions for a suspect's release on bail while awaiting trial, in practice, release on bail usually signifies dismissal of a case as the judiciary rarely, if ever, continues proceedings in such instances.

There are no special courts for political or national security cases, and civilians may not be tried by a military court. Members of the armed forces and police are under the jurisdiction of military or police courts but are frequently remanded to the civilian court system after review by a military or police board.

The Dominican Republic has no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—There were no credible reports of arbitrary governmental interference with the private lives of persons or families. Constitutional safeguards against invasion of the home are generally observed. A residence may not be searched except in the presence of a prosecutor or an assistant prosecutor, except in cases of "hot pursuit" or instances where there is probable cause to believe that a crime is in progress.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The law provides for these liberties and they are respected in practice. Dominicans of all political persuasions exercise freedom of speech. The numerous privately owned radio and television stations broadcast all political points of view.

The Government controls one television station but no major newspapers. Newspapers freely reflect independent and opposition points of view. Although journalists operate in a relatively tolerant environment, a certain amount of self-censorship exists for fear of offending prominent persons. In April the Government refused to bestow the "best novel of the year" award on the work chosen by an independent selection committee; this refusal stemmed from the perception that the book was an allegorical parody of the President. Economic considerations also inhibit free expression, as all the principal media outlets are owned by powerful economic consortiums or wealthy, influential families. In addition, some journalists solicit, or are responsive to, bribes in order to generate reports.

Public and private universities enjoy broad academic freedom. The main public university, the Autonomous University of Santo Domingo, with approximately 35,000 students, has no restrictionson enrollment and maintains a policy of nonintervention (other than curriculum development) in classroom affairs. The Government exerts no control over private universities except for the preservation of standards, and teachers are free to espouse their own theories without government oversight.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution grants these freedoms, which are commonly respected in practice. Outdoor public marches and meetings require government permits, which are usually granted. Professional organizations of lawyers, doctors, teachers, and others function freely and can maintain relations with counterpart international bodies of diverse political philosophies.

c. *Freedom of Religion.*—The Constitution prohibits discrimination on religious grounds and the Government has not interfered with the free practice of religion. There exist no religious requirements to hold public office, no restrictions on the practice of religious faiths, and no social discrimination based on religion. The Dominican population is predominantly Roman Catholic; several non-Catholic faiths have well established churches in the country.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Dominican citizens face no unusual legal restrictions on travel within or outside the country. During a week-long period in October, the Government ordered Dominican military personnel to repatriate undocumented Haitian nationals. The forced repatriations occurred in various regions of the country; human rights groups estimated that between several hundred and a few thousand Haitians were forcibly repatriated to Haiti. Local authorities in border regions have also undertaken on their own recognizance to repatriate small numbers of illegal Haitians, but these instances are difficult to document. Charges of forced recruitment and detention of Haitians to work on sugar plantations diminished in comparison with earlier years (see Section 6.c.).

Since the 1991 coup in Haiti, the United Nations High Commissioner for Refugees (UNHCR) accorded refugee status to 1,341 Haitians who fled to the Dominican Republic. Although the Government began processing petitions for Dominican recognition of the refugee status of the UNHCR wards in 1991, only 107 Haitians have been granted such status. Contingency planning for refugees has not developed very far since then.

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

The Dominican Republic is a constitutional democracy. The President, all 150 members of the Senate and Chamber of Deputies, and the mayors and city councilmen of over 100 municipalities are freely elected every 4 years by secret ballot and universal suffrage (except for active duty military and police, who may not vote). The President appoints the governors of the 29 provinces. The nation enjoys a functioning multiparty system. Opposition groups of the left, right, and center operate openly.

In practice, the President dominates public policy formulation and implementation, exercising his authority through use of the veto, discretion to act by decree, and influence as the leader of his party. The Congress traditionally has had limited powers and seldom disapproves actions by the executive branch, but it provides an open forum for the free exchange of views and debate. The governing party holds a majority in the Senate (16 of 30 seats) and has a plurality (42 of 120 seats) in the Chamber of Deputies.

Women and minorities confront no legal or practical impediments to political participation. Eight of the country's 29 governors, 4 Cabinet-level executive branch officials, and 14 of the 120 Congressional Deputies are female.

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

Nongovernmental human rights organizations operate freely without government interference. In addition to the Dominican Human Rights Committee, several other Haitian, church, and labor groups exist The Dominican Republic has been slow to acknowledge requests for information and criticism from some international human rights organizations. The Government took note of criticism by the U.N. Human Rights Commission (UNHRC) at its March 1993 session but did not address the issues or take any action on them. There were no instances of killings, beatings, or harassment of human rights monitors in 1993.

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

Women.—Discrimination based on race and sex is prohibited by law. However, women traditionally have not shared equal social and economic status or opportunity with men, and men hold the overwhelming majority of leadership positions in all sectors. In many instances, women are paid less than men in jobs of equal content and equal skill level. According to one study, women are the head of the household in 37 percent of the families in the capital city of Santo Domingo. Divorce is easily obtainable by either spouse, and women can hold property in their own names apart from their husbands. Legislative proposals to modify women's status under the Civil and Penal Code remained stalled in the Congress at year's end.

A study by one women's group reported 280 cases of violence against women from November 1990 to November 1992, based upon media reports and national police statistics. Of these, 64 percent were homicides, indicating that physical abuse cases were greatly underreported. No systematic studies exist on the extent of sexual harassment, an issue especially relevant to the export processing zones (EPZ's), which have a predominantly female work force. An undetermined number of Dominican women are victims of rings which smuggle Third World women to Europe to work as prostitutes in conditions rife with exploitation and mistreatment. The Government periodically prosecutes organized alien smuggling rings (commonly on document falsification charges), but enforcement is hindered by corruption and reluctance to restrict the emigration of Dominicans.

Children.—The Government's professed commitment to child welfare has not been supported by financial and intellectual resources. Despite the existence of government institutions dedicated to child welfare, the principal burden is carried by private social and religious organizations. The most serious abuse involving children is the failure of the justice system to respect the status of minors in criminal cases. Especially in narcotics cases, minors are sometimes treated as adults and incarcerated in prisons rather than juvenile detention centers. In 1993 the media widely publicized several sexual abuse cases involving minors; however, the lack of statistics makes it difficult to determine if such crimes are increasing. According to local monitors, the incidence of child abuse is underreported owing to continuing societal reluctance to overcome traditional beliefs that family problems should be dealt with inside the family. In 1993 sporadic instances of Haitian child labor on sugar plantations continued to occur (see Section 6.d.). A new Minor's Code was approved by the lower chamber of the Congress but stalled and was not passed by the Senate.

National/Racial/Ethnic Minorities.—Dominicans are strongly prejudiced against Haitians, many of whom are illegal immigrants, and who constitute a significant percentage of the unskilled manual labor force. This often translates into discrimination against those with darker skin. The Government has not acknowledged the existence of this discrimination nor made any efforts to combat it.

Credible sources charge that a long-standing government practice is to obstruct the recognition of Haitians born in the Dominican Republic as Dominican citizens. Lack of documentation also sometimes hinders the ability of children of Haitian descent to attend school; some parents fail to seek documentation for fear of themselves being deported.

People with Disabilities.—Disabled persons encounter discrimination in employment and the provision of other services. Law No. 21–91, which took effect in September 1991, mandates certain provisions for physical access for the disabled for all new public and private buildings.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for the freedom to organize labor unions and also for the rights of workers to strike and (and for private sector employers to lock out workers). All workers, except military and police, are free to organize and workers in all sectors exercise this right. The new Labor Code enacted in 1992 significantly strengthened the right of freedom of association and removed some restrictions on the right to strike by narrowing the definition of essential services to exclude transportation, food services, and fuel services. Requirements for calling for a strike include an absolute majority of the workers in the unit, a prior attempt to resolve the conflict through arbitration, written notification to the Labor Secretariat, and a 10-day waiting period following notification before proceeding with the strike. The Code also eliminated previous prohibitions against political and sympathy strikes. The Government respects association rights and places no obstacles to union registration, affiliations, or the ability to engage in legal strikes.

Strikes in 1993 occurred principally in the public sector, where doctors and nurses continued to stage periodic strikes and walkouts, and employees of state-owned companies staged strikes in response to financial difficulties and threats of job losses. One work stoppage was declared illegal in 1993.

Implementing regulations for the 1992 Labor Code were issued in November 1993. The Labor Code specifies in detail the steps legally required to establish a union, federation, and confederation. The Code calls for automatic recognition of a union if the Government has not acted on its application within a specific time. In practice, the Government has readily facilitated recognition of labor organizations. Organized labor represents between 10 and 15 percent of the work force and is divided among three large confederations, three minor confederations, and a number of independent unions. The International Labor Organization's (ILO) Committee of Experts (COE) observed in 1993 that the two-thirds majority vote required to form confederations was too high.

Unions are independent of the Government and political parties, although sympathizers of various political parties are found in most union organizations. Labor unions can and do freely affiliate regionally and internationally.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining is lawful and may take place in firms in which a union has gained the support of an absolute majority of the workers. Only a minority of companies have collective bargaining pacts. The Labor Code expressly stipulates that workers cannot be dismissed because of their trade union membership or activities. The previous Code allowed arbitrary termination of a worker so long as severance pay was provided; the 1992 Code exempts from dismissal specific numbers of union organizers and officials. The number of union organizers or officials given protection from layoffs can total up to 20 members of a union in formation, between 5 to 10 members of a union executive council (depending on the size of the work force), and up to 3 members of a collective bargaining negotiating committee. The new Code established a new system of labor courts for dealing with labor disputes; but their effectiveness has yet to be determined.

There are 26 established export processing zones (EPZ's) with over 400, mostly U.S.-owned or associated, companies and about 150,000 employees, mostly women workers. The Labor Code applies in these zones. Some EPZ companies have a history of discharging workers who attempt to organize unions. Although the Government registered more than 50 unions in the EPZ's since the new Labor Code went into effect in June 1992, fewer than 5 of these unions still have their membership intact. Of these, none was apparently able to function freely in the workplace. The other unions apparently ceased to function due to firings of union members, although some may have dissolved because of voluntary resignations or company closure. More than 20 EPZ firms face criminal charges brought by the Secretariat of Labor for Labor Code violations involving worker rights. By year's end, two firms had been convicted of such violations. No EPZ company has concluded a collective bargaining agreement with a union.

In June the American Federation of Labor-Congress of Industrial Organizations filed a petition accusing the Government of failing to ensure EPZ companies' compliance with Labor Code provisions concerning freedom of association and the right to organize and bargain collectively. The petition charged that EPZ companies continued to fire workers for attempting to organize unions and castigated the Dominican justice system for failing to issue timely decisions in cases brought before the courts.

A collateral charge was that a provision in Article 75 of the Labor Code enabled de facto blacklisting of trade union members. One such case brought under the old Labor Code in 1992 is under appeal by the Secretary of Labor following a judicial ruling in favor of the employer.

The State Sugar Council (CEA) employs workers from over 100 unions. Dominican workers predominate in the unions, although between two and five unions are Haitian-dominated. There have been some reports that the CEA has interfered with other efforts by Haitians to organize.

At year's end, no agreement had been reached in a 1990 dispute in which the administrator of the state-owned Dominican Electric Corporation (CDE) charged the CDE union (Sitracode) with sabotage, featherbedding, and corruption, and began massive firings of Sitracode leaders and activists which generated a complaint against the Dominican Republic in the ILO. In December 1991, the Government agreed to a settlement calling for pensioning 75 percent of the fired workers and rehiring the remainder. However, the Government refused to rehire Sitracode leaders, which the union thought had been part of the agreement. The case remained before the ILO, which requested that the trade union leaders be reinstated.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited by law. During previous years, the Government and the CEA forcibly recruited Haitian seasonal agricultural workers and then restricted them to work on specific sugar plantations. CEA denied the use of paid recruiters inside Haiti to obtain workers, and there is no conclusive evidence that either practice occurred to any significant degree in 1993. However, Haitian workers continued to face other problems (see below). Human rights groups alleged some instances of forced recruitment and forced labor of Haitians in the harvesting of other crops such as coffee and rice. The extent of such abuses remained unclear, as these agricultural sectors were not traditionally subject to the scrutiny received by the sugar industry.

In 1993 itinerant Haitian sugar cane workers continued to encounter restrictions on their freedom of movement, but the restrictions were less onerous than in the past. They included the presence of armed guards in and around various sugar plantations and the sequestering of workers' belongings in order to discourage their movement to other CEA plantations or other types of employment. To alleviate freedom of movement problems faced by itinerant Haitian workers, CEA and the Dominican Office of Immigration in late 1991 initiated a program to issue 1-year temporary work permits to the workers. The Office of Immigration reported that 32,357 temporary work permits had been issued under this program. Over half of the recipients were employed in private cane plantations or noncane cutting activities; 12,717 permits were issued to Haitians employed on CEA plantations. There are no firm statistics on the number of cane cutters on CEA plantations; estimates range from 15,000 to 30,000. According to an August 1993 survey by an independent polling firm, 50 percent of all itinerant Haitian workers possessed permits. There are no figures available on the number of forcibly repatriated Haitian cane and coffee workers.

d. *Minimum Age for Employment of Children.*—The Labor Code prohibits employment of youth under 14 years of age and places various restrictions on the employment of youth under age 16. These restrictions include a limitation of no more than 6 hours of daily work, no employment in dangerous occupations or jobs involving the provision of intoxicating beverages, and limitations on nighttime work.

In practice, many of the child labor restrictions are ignored. The high level of unemployment and the lack of a social safety net create pressures on families to allow children to earn supplemental income. A United Nations Children's Fund study estimated that approximately 58,000 minors work as itinerant vendors in occupations such as shining shoes, selling newspapers, and cleaning cars. During the past few years, the Labor Secretariat made some effort to enforce the law in cases where companies employed underage workers, but penalties were largely limited to small fines. Some young workers obtained work permits and continued their employment; those unable to obtain permits were dismissed.

Instances of child labor in CEA sugar plantations have diminished greatly. Past abuses reportedly included the use of unaccompanied minors recruited from inside Haiti without parental knowledge. CEA and the Labor Secretariat took steps to discourage child labor, and in 1993 it occurred in only isolated instances, most involving children accompanying their fathers into the fields.

e. *Acceptable Conditions of Work.*—The Constitution gives the Government legal authority to set minimum wage levels and the Labor Code assigns this task to a national salary committee. Congress may also enact minimum wage legislation. Real wages, especially in the public sector, still suffered from a serious erosion caused by an unprecedented 1990 inflation rate of 101 percent. Minimum wage raises since 1990 have not compensated for the loss of purchasing power, and no wage increases

took place in 1993. The vast majority of workers receive only the minimum wage, which is about $61 (780 pesos) per month. This represents only 20 percent of the estimated monthly cost of living for an average-size family in Santo Domingo. As a result, many people hold more than one job.

The Labor Code establishes a standard work period of 8 hours per day and 44 hours per week. The Code also stipulates that all workers are entitled to 36 hours of uninterrupted rest each week. In practice, a typical workweek is Monday through Friday plus a half day on Saturday, but longer hours are not unusual. The Code grants workers a 35 percent wage differential for work over 44 and up to 68 hours per week and a 100 percent differential for any hours above 68 per week.

Workplace safety and health conditions frequently do not meet legal standards. Health standards for workers are set by the Dominican Social Security Institute (IDSS). Nonhealth safety standards are covered by the Labor Code. The existing social security system does not apply to all workers and is underfunded. Furthermore, some employers charge workers for social security coverage but fail to pass the payments on to the IDSS. As a result, benefits are low, payments often delayed, and medical care is limited and available only in the major cities.

Workplace regulations and their enforcement in the EPZ's do not differ from those in the country at large, although working conditions are typically better. Some companies in privately owned EPZ's practice much higher worker safety and health standards. Both the IDSS and the Labor Secretariat have small corps of inspectors charged with enforcing standards. However, these posts are customarily filled through political patronage, and some inspectors have earned a reputation for corruption.

Conditions for agricultural workers, particularly Haitians, are in general much worse, especially in the sugar industry. Although CEA readily cooperates with nongovernmental organizations active in efforts to improve the conditions of sugar cane workers, in some cases CEA and the Government have failed to take measures to implement written agreements designed to overcome the problems facing sugar cane workers. Cane cutters on CEA plantations are paid by weight of cut cane rather than hours worked and thus are usually required to work significantly more hours than the standard workweek in order to earn a wage approaching that of workers in other industries. CEA continued to pay cane cutters in vouchers rather than cash, a violation of the 1992 Labor Code's prohibition of payment in noncash forms. Cane cutters also faced widespread cheating during the weighing of their cut cane. Although CEA and the Labor Secretariat signed an agreement with labor unions to allow union officials to assist the Labor Secretariat in the inspection and monitoring of CEA weigh stations, no action was taken to implement this agreement. Many Haitian worker villages continued to suffer high rates of disease and a lack of schooling, medical facilities, running water, and sewage systems.

ECUADOR

Ecuador is a constitutional republic with a president and a 77-member unicameral legislature chosen in free elections. In 1992 national elections saw the peaceful transfer of power from a center-left government to a center-right government, with a realignment of power within the National Assembly as well. Members of the Supreme Court preside over a judiciary that is constitutionally independent but susceptible to political pressure. The Assembly has important powers to question and censure Cabinet ministers; such censure results in automatic dismissal of the minister in question.

The Ecuadorian military has significant autonomy, reinforced by guaranteed access to revenues from the nation's oil exports, and from civil aviation, shipping, and other economic activities. The military has maintained a low profile in domestic politics since the return to constitutional rule in 1979. The National Police, responsible for domestic law enforcement and maintenance of internal order, falls under the civilian Ministry of Government and Police. There were various credible allegations of human rights abuses by the security forces, especially the National Police, during 1993.

The economy is based on private enterprise, although there continued to be heavy government involvement in key sectors such as petroleum, utilities, and aviation. Inflation remained high, between 30 to 40 percent in 1993. Most Ecuadorians are employed in the informal sector, either as urban street vendors or rural agricultural workers; rural poverty is extensive and unemployment is very high.

Ecuadorians enjoy, both in law and in fact, a wide range of freedoms and individual rights, but serious human rights problems have not yet been eliminated. These

include some instances of extrajudicial killings, torture and other mistreatment of prisoners and detainees, impunity for human rights abusers, violence by paramilitary groups in rural areas, lengthy detention before trial, a politicized court system, and pervasive discrimination against women, blacks, and Indians. The most fundamental concern is over shortcomings in the Ecuadorian legal and judicial system. People are subject to arbitrary arrest; once incarcerated, they may wait years before coming to trial. Often, the only way to avoid these problems is through the payment of bribes to a variety of officials.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no known politically motivated killings in 1993. There were, however, cases of extrajudicial killing of criminal suspects by the police, who often act with impunity in such cases, because disciplinary action for such activities is the responsibility of the police itself, and crimes by police officers are tried in special police courts.

The Catholic Church-affiliated Ecumenical Human Rights Commission (CEDHU) reported a total of 32 extrajudicial killingsin 1993, of which 24 were attributed to the security forces (which include the police, armed forces, prison employees, and other authorities). At least one of these cases later proved to be due to a traffic accident. Marines killed three people in an anticrime sweep in the port city of Guayaquil. The Marines carried out this sweep because the Navy is the dominant branch of the armed forces in that port city and the Government reportedly did not trust the police to do the job. The armed forces asserted that those killed were criminals who offered armed resistance, but no investigation was undertaken into the killings because they were killed in a firefight, in which several Marines were wounded, and because they were among the targets of the sweep. In addition to the casualties, 39 people were arrested in the sweep.

Not long after the Marines' sweep, the police mounted a similar operation in Guayaquil in which 65-year-old Antonia Mera de Molineros was shot and killed by police who entered her home by mistake. The police admitted the mistake and apologized. Alleged death squads murdered 14 persons in midyear in Guayaquil. All of the victims were known criminals who had been recently released from custody; one was still clutching his release papers. The Guayaquil-based Ecuadorian Committee on Human and Union Rights (CEDHUS) originally reported that it had evidence that the death squad was made up of police officers. Nevertheless, in July three common criminals were arrested and charged in the death squad killings.

Indigenous organizations continued to charge that indigenous people were the target of violent and lethal reprisals by paramilitary groups during illegal land invasions and other squatter demonstrations. The paramilitary groups are armed security guards hired by private landowners to protect their property. These forces often use military-like uniforms; some are reportedly operated or trained by former military or police officials, but there is no evidence of complicity with active-duty military or police personnel.

b. *Disappearance.*—There were no known cases of politically motivated disappearances during 1993. The Committee of Families of Victims of Repression organized weekly demonstrations in the main plaza of Quito and lists 11 cases of disappearances since 1985 in its pamphlets, the latest occurring in 1992. In seven of these cases the perpetrators are unknown; the group alleges police involvement in the other four.

Prosecution of those responsible for the 1988 disappearance of the Restrepo brothers continued to move very slowly. The highest ranking official charged in the case, ex-Commander of the Police General Gilberto Molina, who escaped from custody in October 1992, remained a fugitive. In June the charge against Molina was changed from covering up the disappearance and presumed deaths of the two to being one of the perpetrators of the crime itself. Molina issued a statement attacking the court for making such a charge without any solid evidence that a murder had taken place. Two other police officers charged in the case remain in custody.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although torture and similar forms of intimidation and punishment are prohibited by law, there were continued reports of physical mistreatment by police of suspects and prisoners. There were few reports of officials being punished for such abuses. The CEDHU published detailed reports on suspects claiming to have been tortured by the police, frequently naming police officials alleged to be responsible and often including photographs of the victims with their wounds. The Government took no action to respond to the CEDHU reports.

By law, police officers may be tried only before police courts in closed sessions. The practical effect of this is immunity from prosecution, with the occasional exception of some high-profile cases, such as that of the Restrepo brothers.

Prison conditions in Ecuador's overcrowded detention centers generally continued to be very poor. Prisons in the tropical coastal areas tend to be worse than those in the temperate highlands. The women's prison in Quito has notably better conditions than other facilities. There are no separate facilities for hard-core or dangerous criminals, nor are there rehabilitation programs.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution and Penal Code provide that no one may be deprived of liberty without a written order from a governmental authority, but these legal protections against arbitrary arrest or detention are often violated. Specific written orders must be signed within 24 hours of detention—even in cases in which a suspect is caught in the act of committing a crime. The suspect must be charged with a specific criminal offense within 48 hours of arrest. All prisoners have the right to a review of the legality of their detention within 48 hours of arrest, a review which is supposed to be carried out by the senior elected official (usually the mayor) of the locality in which the suspect is held.

Incommunicado detention is not uncommon although it is legally prohibited. Despite provisions of the Penal Code, the police often detain suspects without the required written order. Even when an order is obtained, appropriate authorities charged with reviewing it to determine its validity often allow frivolous charges to be brought, either because of overwork or because bribes are paid by the accuser. In many instances, the system is used as a means of harassment in civil cases in which one party seeks to have the other arrested on criminal charges. Suspects are frequently detained longer than 24 hours before orders are signed, and few are charged within 48 hours of arrest. Preventive detention up to and including trial is legal under certain circumstances.

In late August, the courts ordered a census to be taken in the 30 penitentiaries in the country to determine the number of people being held and their legal status as inmates. Several hundred prisoners were released for having served more than the maximum sentence for the crime for which they were accused without actually having been convicted and sentenced.

Exile is not used as a tool of political control.

e. *Denial of Fair Public Trial.*—Most nonmilitary defendants are tried by the regular court system, although some indigenous groups try members privately for violations of tribal rules. To depoliticize and modernize the court system, a major reform of the Supreme Court began to be implemented in January. The Supreme Court is now composed of 31 justices and 3 alternates chosen by Congress from lists of candidates submitted by the executive, the legislature, and the Court itself. The Court appointments are no longer coterminous with the term of the President, and terms of the judges are staggered so that one-third of the Court changes every 2 years.

While these reforms were intended to distance the judiciary from political influence, the ensuing selection process was no less political than in the past, with each party in the Congressdemanding its proportionate share of the Supreme Court. This made it much more difficult to arrive at decisions, and the Supreme Court failed to complete restructuring the superior courts because members could not agree on the candidates.

Due process rights for criminal defendants are provided for by law but often not observed in practice. In theory, the accused is presumed to be innocent until proven guilty. Defendants have the right to a public trial, defense attorneys, and appeal. They may present evidence but have the privilege not to testify against themselves, and they may confront and cross-examine witnesses. Although a public defender system exists, in practice there are relatively few attorneys available to defend the large number of indigent suspects. Trial is supposed to begin within 15 to 60 days of the initial arrest. In practice, however, as noted in Section 1.d., initiation of the trial phase can take years. Indigenous people and other minorities are disproportionately affected by these delays as they are more likely to be poor and unable to buy their way out of pretrial detention.

Bail is not generally available. Families of detainees sometimes intervene in an attempt to secure the prisoner's freedom through illegal means.

Political activity is not sanctioned in any way by the judicial system, and there are no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Police are required to have a warrant to enter a private home or business, except in the case of hot pursuit. The police generally respect the sanctity of private homes and correspondence. Police surveillance is permitted, but wiretapping is prohibited by the Constitution and the results of a wiretap are not admissible as evidence in court.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech, and this provision is generally respected in practice. However, the media and opposition political figures criticized the Government's use of the media for its own political ends. With the exception of two government-owned radio stations all of the major media organs—television, newspapers, and radio—are in local private hands (foreign investment in the media is prohibited). Using a law (promulgated by the last military regime) that requires the media to give the Government free space or air time, the Government frequently required television and radio to broadcast government produced programs featuring the President and other top administration officials. It also required newspapers to carry a minimum amount of news prepared by the National Secretariat of Social Communications.

The media represent a wide range of political views and often criticize the Government. However, some degree of self-censorship in the print media occurs, particularly with respect to stories about the military or corruption at high levels of national, provincial, or municipal government. There are 2 major daily newspapers in the capital, Quito, 5 in the principal commercial center, Guayaquil, and more than 20 additional papers published daily in other regions and cities. There are 4 national television networks, 4 local and provincial television networks, and about 300 radio stations. All are free of overt government censorship. Journalists working in the preparation and reporting of news (as opposed to opinion) must be graduates of an accredited Ecuadorian university journalism school, but the quality of investigative reporting is generally poor.

Ecuador has a large university system comprising both state-subsidized and private universities. The state universities are active in politics, particularly on the left of the political spectrum. The Government did not interfere in issues involving academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the rights of free assembly and association for peaceful purposes. These rights are generally respected in practice. Public rallies require prior government permits, which are generally granted, although exceptions exist (see below). Numerous political demonstrations took place in the capital and the outlying regions, including two national strikes. In general, the security forces intervened in demonstrations only when there was violence against persons or property, and police showed restraint in the use of force.

In January the Government refused to renew the permit for what had become a regular weekly demonstration by the Restrepo family and their supporters in the main plaza in front of the presidential palace. Then Minister of Government Roberto Dunn asserted that the demonstrations were too great a disruption and that, with the progress of the case through the courts, their usefulness had ended. Nonetheless, the family and an increasingly smaller group of supporters continued to gather near the plaza each Wednesday in silent protest. On several occasions when the protesters attempted to become more vocal, the police used tear gas to break up the demonstration.

c. *Freedom of Religion.*—The Constitution prohibits discrimination for religious reasons, and citizens are free to practice the religion of their choice. There is no official state religion. The population is nominally over 90 percent Roman Catholic, but there are active Protestant and Jewish communities in the major cities, and evangelical movements continue to attract new adherents. Numerous foreign-based religious orders and missionary groups are active in Ecuador.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution assures the right of all citizens to travel freely throughout the country, to choose their place of residence, and to depart from and return to Ecuador. These rights are respected in practice. Ecuadorian citizens who return to the country after residing abroad are not harassed or discriminated against by the Government.

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

Since the return to civilian rule in 1979, Ecuadorian citizens have actively exercised their right to change their national and local governments. Free elections resulted in the peaceful transfer of power to parties of opposing ideologies in presidential elections every 4 years. There are 17 legally registered political parties, spanning the ideological spectrum. Thirteen of the 17 parties, including 3 leftist parties, are represented in the Congress.

Voting is mandatory for literate citizens over the age of 18 and voluntary for illiterate citizens. There are no restrictions on voting by women or by minority groups. Police officers and active-duty members of the military forces cannot vote and there

is no provision for absentee voting. All citizens, regardless of sex, religion, socioeconomic status, or ethnic origin, have the right to form and join political parties and to run for local or national office. Members of the clergy, however, are barred by the Constitution from election to the Congress, the presidency, or vice presidency. Candidates must belong to one of the recognized parties and cannot run as independents.

Traditional elites tend to be self-perpetuating, and blacks, Indians, and women continue to be underrepresented in high positions in government. There are no specific laws, customs, or policies that prevent women and minorities from attaining leadership positions. This underrepresentation results from the fallout of past practices as well as present cultural and social forces which result in fewer women and members of minorities having the educational background or personal influence to enter leadership positions. Nevertheless, grassroots community groups, particularly among the indigenous population, enjoyed increasing success in pressuring the central Government to assist them.

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

Domestic human rights groups such as CEDHU and the regional Latin American Human Rights Association (ALDHU) are independent and actively monitor human rights issues in Ecuador. These groups, particularly CEDHU, have been outspoken in their criticism of the Government's record on specific cases, and CEDHU has taken a particular interest in defending the human rights of the poor. In August the armed forces contracted with ALDHU to provide human rights training to the military, and the police concluded a similar training agreement with ALDHU in December. International human rights organizations also operate without hindrance in Ecuador.

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

Women.—Although the Constitution prohibits discrimination based on race, religion, sex, or social status, discrimination against women is pervasive in society, particularly with respect to educational and economic opportunity. The women's movement blames culture and tradition for inhibiting achievement of full equality for women. There are fewer women in the professions or working as skilled laborers than men, and salary discrimination is common. Although violence against women, including within marriage, is prohibited by law, it is a common practice. Many rapes go unreported because of the victims' reluctance to confront the perpetrator. To date the Government has not addressed this question as a serious public policy issue.

Children.—The Government is committed in principle to the welfare of children, but has not taken effective steps to promote it. Government resources to assist children are limited, although several private organizations are very active in programs to assist the street children. Especially in the urban areas, the children of the poor often experience severe hardships. It is common to see children as young as 5 or 6 years old selling newspapers or candy on the street to support themselves, or to augment the family income. There also were reports in the media of growing prostitution among girls under 18 in urban areas. In rural areas, young children often must leave school at an early age to help out on the family's plot of land.

Indigenous People.—The vast majority of the rural population of approximately 5 million (slightly less than 50 percent of the population) is made up of peasants of Indian or mestizo ancestry, most of whom live in varying degrees of poverty. Land is scarce in the more heavily populated highland areas; infant mortality, malnutrition, and epidemic disease are common; and potable water and electricity are often unavailable. The rural education system is seriously deficient. Efforts to improve living standards for indigenous people were hampered by the Government's reluctance to change traditional spending patterns, especially those favoring the cities. Indigenous people enjoy the same civil and political rights as other citizens and also have several special privileges designed to allow them to manage their own affairs within their own communities. This is especially true in the Amazon area, where indigenous groups have claim to specific land areas. (These areas are more like park reserves than Indian reservations.) The Amazon indigenous groups in particular have begun to play a very active role in the decisionmaking process involved in the use of their lands for oil exploration and production. Many indigenous groups participated actively with the Ministry of Education in the development of the bilingual education system used in rural public schools.

Private paramilitary groups, sometimes working in conjunction with the police, were used to break up occupations of land by indigenous groups in rural areas. In 1991–92, the Government announced strengthened controls over private guard

forces and other armed groups that were not properly registered. In 1993 the Government arrested the members of a private security force, who had been hired to protect the property of the Yuracruz Agroindustrial Company, following the rape and murder of a 77-year-old indigenous woman. The security force at Yuracruz was replaced by periodic patrols by the police.

National/Racial/Ethnic Minorities.—The population of the rural, northern coastal area of Ecuador includes large numbers of black citizens. They suffer widespread poverty and pervasive discrimination, particularly with regard to educational and economic opportunity. There were no special government efforts to address these problems.

People with Disabilities.—While people with disabilities are not legally discriminated against, there are no laws to guarantee access for the handicapped, nor are they provided any other special government assistance.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution and Labor Code provide most workers the right to form trade unions. Workers not free to form trade unions include public security and military officials, and public sector employees in nonrevenue earning entities. The 1991 Labor Code reforms raised the number of workers required for an establishment to be unionized from 15 to 30, which the International Labor Organization (ILO) Committee on Freedom of Association (CFA) considers too stringent a limitation at the plant works council level. In 1993 the ILO reiterated that the Government should bring the Labor Code into compliance with international standards on this issue.

While employees of state organizations enjoy full rights similar to that of the private sector, the majority of public sector employees technically are prevented from joining unions and lack collective bargaining rights. Nevertheless, most public employees maintain membership in some labor organization, and the Government frequently is hampered by "illegal" strikes. Despite official threats, action is virtually never taken against striking public workers.

Approximately 8 to 9 percent of the work force is organized. There are four large labor centrals or confederations, three of which maintain international affiliation. Ecuador also has numerous labor federations unaffiliated with the four labor centrals, such as the Teachers' Organization, the National Artisans and Mechanics Confederation, and numerous peasant groups. None of the main labor centrals is firmly connected to any one political party.

There are few restrictions on workers' right to strike, except for public servants and workers in some state enterprises. A 20-day cooling off period is required before declaring a strike. The 1991 Labor Code revisions limit solidarity strikes or boycotts to 3 days, provided that they are approved by the Labor Ministry. In a legal strike, workers may take possession of the factory or workplace, thus ending production at the site, and receive police protection during the takeover. All salaries and benefits must be paid by the employer during a legal strike; and strikers and their leaders are protected by the Labor Code. Illegal strikes, however, far outnumbered the legal ones as public employees protested the Government's proposals to modernize government operations and privatize state enterprises.

b. *The Right to Organize and Bargain Collectively.*—Ecuador has a highly segmented labor market with a minority of workers in skilled, usually unionized, positions in state enterprises or in medium- to large-sized industries. The vast majority of the economically active population is either unemployed or underemployed in the informal sector, and most rural labor is not organized. The Labor Code requires that all private employers with 30 or more workers belonging to a union must negotiate collectively when the union so requests.

The ILO CFA found that a 1991 Labor Code provision calling for the formation of a single central committee composed of at least 50 percent of the workers concerned in institutions, both public and private, which deal with social or public functions, and in which there is no works council, did not take into consideration the possibility that less than 50 percent of the workers could be organized. The CFA also dealt with a complaint concerning a requirement that collective bargaining agreements involving entities of the State be cleared with the National Secretariat for Administrative Development (SENDA) to assure that funds had been budgeted. In this case, the ILO requested that the Government establish a means for direct consultation on agreements among employers, workers, and SENDA. Finally, the ILO decided that a special cooling off period prior to any strike action for public entities which deal in essential services was acceptable.

The new Labor Code streamlined the bargaining process in state enterprises by requiring workers to be represented by one labor union only. It prohibits discrimination against unions and requires that employers provide space for union activities

upon the union's request. Despite the reforms promulgated in November 1991, employers consider the Labor Code to be highly unfavorable to their interests and a disincentive to the hiring of union members and to employment in general. Employers often try to avoid hiring additional workers and unionization by substituting machinery for workers or "atomizing" their production processes to maintain plants employing less than the number needed to form a union. Employers are not permitted to dismiss a worker without the express permission of the Ministry of Labor, rulings which are not subject to judicial review. Dismissals ruled as unjustified by the Ministry of Labor require payment to the worker of large indemnities or separation payments by employers, although the reforms have set a cap on such payment.

The Labor Code provides for resolution of labor conflicts through an Arbitration and Conciliation Board comprised of one representative of the Ministry of Labor, two from the union, and two from management. The CFA expressed concern that the 1991 Labor Code revisions provide for compulsory arbitration if no agreement is reached, contrary to the principals of freedom of association. The Government provided the ILO an explanation of the law but did not change it.

A maquila (in bond) law passed in 1990 permits the hiring of temporary workers for the maquila industries only. While there is no express prohibition on association rights in the maquila law, in practice it is difficult to organize temporary employees on short-term contracts. The maquila system allows a company and its property to become a free trade zone wherever it is located. Many such zones have been established; most are dedicated to textiles or fish processing.

c. *Prohibition of Forced or Compulsory Labor.*—Compulsory labor is prohibited by both the Constitution and the Labor Code and is not practiced.

d. *Minimum Age for Employment of Children.*—Persons less than 14 years old are prohibited by law from working except in special circumstances such as apprenticeships. Those between the ages of 14 and 18 are required to have the permission of their parent or guardian to work. In practice, enforcement of child labor laws is seriously inadequate. In rural areas, many children begin to attend school sporadically at about 10 years of age in order to contribute to household income as farm laborers. In the city many children under age 14 work in family "businesses" in the informal sector, shining shoes, collecting and recycling garbage, or as street peddlers.

e. *Acceptable Conditions of Work.*—The Ministry of Labor has the principal role in enforcing labor laws and carries this out with a corps of labor inspectors who are active in all 21 provinces. The Labor Code provides for a 40-hour workweek, a 15-day annual vacation, a minimum wage, and other variable employer-provided benefits such as uniforms and training opportunities.

The minimum wage is set by the Ministry of Labor every 6 months in consultation with the Commission on Salaries, but also may be adjusted by Congress. Enforced by the Ministry of Labor, the basic minimum wage is very low and is not adequate to provide a decent standard of living for a worker and family. As of September, the minimum wage plus mandated bonuses totaled approximately $88.43 (s/172,000) a month. Most organized workers in state industries and formal-sector private enterprises earn substantially more than the minimum wage and also have significant other benefits. Because it is so low, the minimum wage is the operative wage in many informal sector activities where the majority of the economically active population is employed.

The Labor Code also provides for general protection of workers' health and safety on the job. In the formal sector occupational health and safety is not a major problem. A worker may not leave the workplace of his own volition even if there is a hazardous situation. The worker is allowed to request that an inspector from the Ministry of Labor come to the workplace and confirm the hazard; that inspector may then close down the workplace. The Government enforces health and safety standards and regulations through the Social Security Institute. There are no specific regulations governing health and safety standards in the agricultural sector, and, in practice, there is no enforcement of safety rules in the small informal sector mines that make up the vast majority of the mining sector.

EL SALVADOR

El Salvador is a constitutional, multiparty democracy with an executive branch headed by a President, a unicameral National Assembly, and a separate but politically appointed judiciary. Alfredo Cristiani of the Nationalist Republican Alliance (ARENA) was inaugurated President for a 5-year term on June 1, 1989. On January 16, 1992, the Government and the Frente Farabundo Marti para la Liberacion Nacional (FMLN) signed peace accords ending 11 years of civil war and providing

for the reintegration of government and FMLN ex-combatants into national life. The ensuing peace process suffered some serious delays. Both parties were at times slow to implement some requirements of the accords, most of which applied to the Government, but compliance with most key elements was achieved by year's end.

The Truth Commission, mandated by the peace accords to investigate serious human rights violations in the past decade, reported its findings on March 15. It recommended removal from government and military posts of those identified as human rights violators, as well as reforms of the Salvadoran armed forces (ESAF) and the judiciary. On March 20, however, the National Assembly approved amnesty from criminal prosecution for all those implicated in the Truth Commission report. Among those freed were the ESAF officers convicted in the 1989 Jesuit murders and the FMLN ex-combatants who were being held for the 1991 killings of two U.S. servicemen. In October the U.N. Secretary General reported that while some action had been taken to implement Truth Commission recommendations, much remained to be done.

The peace accords also established an Ad Hoc Commission to evaluate the human rights record, professional competence, and commitment to democracy of the ESAF officer corps. On June 30, the last of 103 officers identified by this commission as responsible for human rights violations were removed from active duty in the ESAF, and they were formally retired at the end of December. In July the U.N. Observer Mission in El Salvador (ONUSAL) declared the Government in compliance with the Ad Hoc commission recommendations. Although ONUSAL certified the complete demobilization of the FMLN on December 14, 1992, large undeclared FMLN arms caches were discovered in El Salvador and neighboring countries during 1993. On June 11, the U.N. Security Council called the maintenance of these caches the most serious violation to date of the peace accords. A new inventory was conducted, and destruction of arms caches was completed on August 18, after which ONUSAL declared the FMLN military structure completely dismantled. Substantial progress was made on electoral registration in preparation for the March 1994 general election.

The ESAF includes the army, air force and navy. In February the ESAF completed its downsizing as required under the peace accords, reducing its manpower from 62,000 to 31,000, and dismantling the last of its five elite rapid reaction battalions. Human rights training is now conducted annually for all enlisted soldiers and is an integral part of the curriculum at all professional development schools for officers. In March the new National Civilian Police (PNC) began replacing the old National Police (PN) on a department-by-department schedule. At the end of the year, the new PNC was deployed in 7 of El Salvador's 14 departments, as well as in parts of the capital. In the fall, the National Assembly passed legislation integrating personnel of the Special Investigative Unit (SIU) and the Executive Anti-Narcotics Unit (UEA) into the PNC, although concerns over the qualifications of some UEA personnel caused ONUSAL to withhold its approval pending further review. The PN will be abolished once the PNC is fully deployed. PNC personnel received human rights training at the new U.S.-supported police academy.

El Salvador has a mixed economy largely based upon agriculture and light manufacturing. The Government maintained its commitment to free market reforms, including privatizing additional banks and hotels. People are free to pursue economic interests, and private property is respected. The 1993 rate of real economic growth was 5 percent.

Progress on human rights was uneven in 1993. The greatest number of human rights complaints filed with ONUSAL were accusations against members of the PN; a much smaller number were filed against the ESAF. Institutional improvements continued in areas mandated by the peace accords, such as the training and partial deployment of the PNC, expansion of the Office of the Human Rights Ombudsman (PDDH), and the implementation of some judicial reforms. However, there remained an extremely high level of violence, particularly murder, assaults, and robberies, including crimes against children. The judicial system continued to be subject to political influence. The new amnesty law granted immunity to those who violated human rights during the years of civil strife.

The number of murders, which had declined early in the year, started to climb in the summer. Allegations of politically motivated assassinations by death squads continued. ONUSAL and the SIU investigated murders that might have been politically motivated. While there were no confirmed cases of politically motivated killings, investigations of a number of cases continued at the end of the year. Concern was sufficient, however, that, on December 8, the Government, in conjunction with the United Nations, formed a Joint Group with a 6-month mandate to investigate illegal armed groups and their possible involvement with political violence

during the 2-year period since the signing of the peace accords. There was widespread abuse of women and children.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—The end of hostilities in El Salvador led to an immediate and significant reduction in extrajudicial killings, though there were a few unsubstantiated murder allegations directed against unspecified government forces and the FMLN. The Ministry of the Presidency's oversight of the PN and the progressive deployment of the PNC substantially increased government control over the public security forces; however, there was some resistance to civilian control among elements of the PN. Demilitarization of large numbers of ex-combatants, poor morale among the PN, the incomplete transition to the new PNC, and the large number of arms in circulation among the citizenry left the Government unable to prevent or control significant criminal activity by private armed individuals or groups, some of whose actions may have been politically motivated.

On May 20, a confrontation developed between PN riot police and demonstrators representing the "war wounded," including former ESAF and FMLN combatants, in San Salvador. Five policemen fired shots in the direction of the crowd and one of the protesters, Santos Martinez Perez, an FMLN ex-combatant, was killed in the only fatal government-FMLN incident since the formal cease-fire period began in February 1992. The judge investigating the case ordered the policeman who fired the fatal shot detained on a charge of manslaughter, which the Attorney General's office sought to reduce to negligent homicide. Pending resolution of that issue, the PN refused to relinquish the accused to the judge in charge of the case, an example of PN resistance to civilian oversight.

There were no confirmed cases of death squad killings in 1993, but some observers continued to ascribe certain suspicious deaths to death squads. ONUSAL stated that some of the criminal armed groups active in 1993 used methods similar to those of the 1980's death squads, but stopped short of declaring that death squads still existed. Death threats remained a method of intimidation. PNC Academy Director Mario Bolanos received numerous anonymous death threats and had a bomb placed outside his office, which may have been the work of rejected academy applicants. A group called "Angels of Death" was described by the press as administering "street justice" to delinquents. In September a group called the "Guardian Angels" threatened to assassinate judges and PN members who did not administer justice to criminals. Also in September, callers claiming to represent the National Lawyers Association and the Maximiliano Hernandez Martinez Brigade made death threats against Dr. Rene Madecadel Perla Jimenez, a professor at the University of El Salvador and a member of the new National Council of the Judiciary (see Section 1.e.).

The Maximiliano Hernandez Martinez Brigade threatened the family of Jose Maria Mendez, a prominent lawyer, in October and November. Others threatened included Dr. Juan Mateu Llort, Director of the Institute of Forensic Medicine; Unity Movement political candidates in Usulutan; and several prominent businessmen accused of financing death squads. Unknown persons threw an incendiary device in October and a grenade in December at Christian Democratic Party leader Arturo Argumedo's home.

On October 25, Francisco Velis Castellanos, a leader of the Central American Workers' Revolutionary Party (PRTC) faction of the FMLN, was killed in San Salvador as he was delivering his 2-year-old daughter to a day-care center. Velis was shot in the head, and the assailants escaped in a waiting vehicle. The audacity of the crime, committed on a crowded downtown street, and the clean getaway, prompted speculation of a political motivation. A high-profile investigation, led by the SIU which was assisted by observers from the Federal Bureau of Investigation, Scotland Yard, and the Spanish Police, continued at year's end.

On October 30, a leader of the Renewed Expression of the People (ERP) faction of the FMLN, Heleno Hernan Castro Guevara, was killed on a highway in San Vicente department. Two other FMLN members were killed on October 27 in Guazapa, San Salvador department. The four deaths in 5 days spawned a number of allegations of renewed death squad killings. Investigators concluded, however, that Castro was killed when an argument escalated following a car accident. The ERP concurred in this assessment. Police are looking for the murder suspect.

On December 9, another FMLN/PRTC leader, Jose Mario Lopez, died from a gunshot wound in the leg in San Salvador. Eyewitnesses stated that he was shot by thugs when he attempted to stop a robbery. His bodyguard, however, who was also shot, later alleged that the assailants were really waiting for Lopez and that the attempted street robbery was a ruse.

On December 10, Jose Guillermo Ventura, the brother of an FMLN local candidate, was killed when three gunmen attacked his brother's house. The SIU, ONUSAL, and the PDHH initiated investigations. On December 11, six Santa Ana area peasants who were walking to an Alcoholics Anonymous meeting were attacked and murdered by three assailants. Within hours, the PN had arrested two ESAF members and a third person for the killings. The victims had no apparent political affiliations.

Earlier in the year, on February 13, Juan Carlos Garcia Panameno and Manuel de Jesus Panameno Garcia were murdered in Usulutan department. The two young men were associated with the FMLN-linked Monsignor Oscar Romero Committee of Mothers and Relatives of Political Prisoners, Disappeared, and Assassinated of El Salvador (COMADRES). Reports of death threats against one of the victims and his relatives lent initial credibility to COMADRES' allegations of military death squad involvement. A thorough investigation by the SIU, aided by cooperation from the victims' relatives in COMADRES, concluded that the murders were connected with a common robbery and not politically motivated. ONUSAL agreed with the SIU conclusion. A suspect was apprehended.

On February 21, Freddy Fernando Torres Portillo, an FMLN municipal leader, was found dead in San Salvador from a gunshot wound to the head. Torres had earlier reported death threats to ONUSAL and was the fourth member of a labor or leftwing organization murdered in an 8-day span. For these reasons, ONUSAL and the PDDH expressed initial concern over possible political motives in all four killings. Later evidence indicated, however, that the Torres murder may have been the result of a common crime. An ex-PN member who was an acquaintance of the victim was apprehended and questioned but released.

On August 19, a pair of gunmen killed a logistical operative, Oscar Grimaldi, from the Popular Forces of Liberation (FPL) faction of the FMLN. He was the second FPL logistical operative murdered within 2 months, which prompted accusations of death squad responsibility for both the Grimaldi and earlier killings. Others suggested that elements inside the FMLN had reason to silence both men for their knowledge about the FPL arms caches discovered in Nicaragua. The SIU identified both suspects and issued arrest warrants, but the alleged triggerman, Salvador Guzman Perez, was killed the day after his arrest warrant was issued. The SIU is investigating the Guzman killing. The other suspect in the Grimaldi case was apprehended, and the SIU concluded that the murder was not political. ONUSAL, however, still considered a political motive possible.

On December 29, a group of four assailants killed Ruben Eduardo Vanegas Escobar and his grandparents in Ochupse, Santa Ana department. The killers came to his house and asked for him by name. Vanegas was a member of the ERP and a local FMLN leader. The nature of the attack and the fact that nothing was taken from the house led ONUSAL to investigate the crime as a possible political killing.

Earlier in the year, on January 5, the badly beaten body of Supreme Court employee Adelmo Lemus was found in San Salvador. Lemus had worked for former Supreme Court president Francisco "Chachi" Guerrero, who was murdered in 1989. ONUSAL initiated an investigation to determine whether Lemus was killed in a common crime arising from an unresolved financial transaction or because he may have spoken to the Truth Commission about Guerrero's assassination. The case had not been resolved at year's end.

There were several murders of persons with ties to the ARENA party that government investigators concluded were the result of common crime. These include the murders of Sebastian Araniva in San Miguel, Celestino Antonio Cerna Linares and Elisandro Eusebio Cerritos Duarte in Santa Ana department, and Melvin Alexis Garcia Urbina in Morazan department. PN agents Jose Luis Chicas and Jose Alfredo Bonilla Cruz and ESAF Lieutenant Jose Francisco Rodriguez Melendez were brutally murdered in San Salvador, but government investigators concludedthat common crime was the motive.

On December 10, PN agent Pedro Vasquez Ramos and his brother, Rudy Oswaldo Vasquez Ramos, were kidnaped in Cuscatlan department. Their bodies were later found in a ravine with hands and feet bound and shot in the head. Bodily bruises and broken bones suggested the possibility of torture. The PN, ONUSAL, and the PDDH initiated investigations.

A previously unknown group, the Salvadoran Revolutionary Front (FRS), threatened retaliation for the May 20 war wounded shootings by the government riot police, and claimed responsibility for the murders of an ESAF captain and two PN policemen the following day. Most observers believe that the FRS simply claimed responsibility for the murders to enhance its credibility. The FRS issued sporadic threats throughout the remainder of the year, including those against U.S. military

civic action deployment and against high-ranking ESAF officers, but none was carried out.

On May 21, the day following the war wounded demonstration, ESAF Captain Juan Hernandez Mejia was killed on a highway near Guazapa by four armed men, dressed as members of the PN, who stopped his vehicle. When Hernandez called for help, two legitimate policemen who responded were also killed. Despite the FRS claim of responsibility for the murders, ONUSAL determined that the killings were the result of a highway robbery committed by a band of heavily armed renegade ex-FMLN and former ESAF members operating near Guazapa.

There was some progress in resolving outstanding incidents of human rights abuse from earlier years. In January the report of an international forensic team investigating the 1981 El Mozote massacre confirmed that a mass murder had occurred. The team identified the skeletal remains of 143 people, including 136 children and adolescents, and found that at least 24 individual firearms had been used in the massacre. The evidence clearly showed that the ESAF was responsible.

Three persons were arrested for the 1992 murder of Dr. Jose Mauricio Quintana Abrego, an ex-FMLN supporter who had become an ARENA party member. ONUSAL considered this a possible political crime.

The Truth Commission, in its report issued March 15, identified the Government or its agents as responsible for extrajudicial killings in the cases of Monsignor Romero (1980), the Rio Sumpul massacre (1980), the leaders of the Revolutionary Democratic Front (1980), the American nuns (1980), the El Mozote massacre (1981), the Dutch journalists (1982), the San Sebastian massacre (1988), the Jesuit priests (1989), and 14 other cases that were examined in detail. The Commission charged the ESAF, National Guard, and other security forces of the Government with direct responsibility for the great majority of the 817 instances of alleged death squad kidnapings,disappearances, and killings it investigated that occurred from 1980 to 1991.

The Truth Commission found the FMLN responsible for the assassinations of 11 mayors and numerous judges from 1985 to 1988. It also found the FMLN responsible for extrajudicial killings in the cases of the Zona Rosa massacre (1985), Anaya Sanabria (1987), Romero Garcia, also known as "Miguel Castellanos" (1989), Peccorini Lettona (1989), Garcia Alvarado (1989), Guerrero (1989), and the two U.S. servicemen killed in 1991 after their helicopter was downed by the FMLN. In the last case, on May 24 a judge ruled that the accused, Ferman Hernandez Arevalo and Severiano Fuentes Fuentes, were covered by the general amnesty law. The San Miguel appeals court upheld that decision, but both rulings were appealed to the Supreme Court on the grounds that the crimes were common crimes not covered by the amnesty law.

The Truth Commission recommended that all persons named in its report as human rights violators be removed from their positionsin the security forces or the Government and be barred from public office for 10 years. However, the National Commission for the Consolidation of Peace (COPAZ), composed of representatives from across the political spectrum, opposed the ban on public office as an unconstitutional deprivation of citizens' rights and as antithetical to national reconciliation,and requested the U.N. Secretary General not to support it. The Truth Commission sharply criticized the judicial system for complicity in covering up or ignoring human rights abuses and called for the resignation of all the Supreme Court magistrates,most notably the Supreme Court president, Mauricio Gutierrez Castro, for unprofessional conduct. The magistrates refused to resign before the June 1994 expiration of their current terms.

The Truth Commission also recommended significant reforms of the ESAF and the judiciary. In September the United Nations expressed satisfaction with the Government's progress in complying with the reforms of the ESAF. Many of the key judicial reforms recommended by the Commission are in some stage of implementation. Others, however, conflict with the Constitution; amendments require approval by two successive National Assemblies. The President sent some of the recommended constitutional reforms without endorsement to the National Assembly, which did not act on them in 1993.

The 1993 amnesty law was passed by the National Assembly on March 20, only 5 days following release of the Truth Commission report. It granted amnesty to those convicted or accused of political and related common crimes during the conflict, including those named in the Truth Commission report, and effectively ended further investigation into most human rights abuses committed during the war years. The governing ARENA party and its allies, the National Conciliation Party (PCN) and the Authentic Christian Movement (MAC), pushed the amnesty law through the National Assembly in a 47 to 8 vote with 13 abstentions. Hasty passage of this law by the progovernment parties prompted heavy criticism from local

human rights and opposition groups as well as from international organizations and foreign governments.

The Ad Hoc Commission established to evaluate the human rights record, professional competence, and commitment to democracy of the ESAF officer corps presented its confidential findings, identifying 103 officers as responsible for human rights violations, to President Cristiani and U.N. Secretary General Boutros Ghali on September 22, 1992. The Government failed to meet the initial November 1992 deadline for implementing the commission's recommendations, but the last of the officers were removed from active duty on June 30, 1993, and all were officially separated by December 31. In July ONUSAL declared the Government in compliance with the Ad Hoc Commission's recommendations.

b. *Disappearance.*—The Constitution forbids unacknowledged detention by the security forces or the military. There were some unconfirmed allegations of abductions by unspecified government forces, as well as by the FMLN, during 1993. A significant number of disappearances during the war years remained unresolved, and the new amnesty law meant that none of them was likely to be reopened.

On May 22, Gregorio Mejia Espinosa, a minor official in one of the parties belonging to the Democratic Convergence coalition, was kidnaped as he went to catch a bus in San Salvador. The armed kidnapers bound him and covered his head, transported him to a secured room, and questioned him about his party's activities and about student unrest following the May 20 war wounded shootings. During the questioning, Mejia was burned numerous times on his chest, perhaps with a soldering device. He and another captive were then taken to an isolated area where one of the kidnapers held a pistol to Mejia's head. When the gun failed to discharge, Mejia made his escape down a nearby ravine in a heavy rain. Mejia had been threatened previously by a group called N-ESA (New Salvadoran Anti-Communist Army). Both ONUSAL and the PDDH considered this kidnaping to have a possible political motive. No suspects have been identified in the case.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture is prohibited by the Constitution, but abuse and mistreatment of detainees continued, even though confirmed reports of torture by the public security forces were fewer than in the past. From January to October, ONUSAL's human rights division confirmed six reports of torture, one by the ESAF, two by the PN, one by an ex-PN member of the PNC, one by Mariona prison guards, and the unknown perpetrators of the Mejia kidnaping case described above.

Prison conditions remained bleak, with overcrowding the most significant problem. The largest prison, built 20 years ago to hold 800 prisoners, holds 2,200. At the beginning of the civil war in 1980, 3,000 prisoners were distributed in 30 penal centers; 14 facilities now hold 5,500 prisoners. Most cells are 15 by 20 feet, and some hold as many as 24 prisoners. Because of the overcrowding, some prisoners must sleep on the floor or "buy" a bed when one becomes available. Prisoners are fed, but most find it necessary to supplement their rations with help from family.

On November 17, 27 prisoners died in a riot at the San Francisco Gotera high-security prison. The most violent inmates in the national prison system are concentrated in this prison which, though built to house 160 inmates, actually holds over 300. The riot was reportedly the result of cell block rivalries and all the deaths were caused by actions of the prisoners, including a fire that was set during the riot. The security forces and the ESAF gained control of the situation in about 5 hours but were criticized for not acting faster.

In January a penitentiary training school was established to provide 1 month of training to all prison guards and officers on an annual basis, and guards must now have a ninth-grade education. These steps and the introduction of a case-tracking system resulted in some improvement in the treatment of prisoners. Some training and work opportunities are available, Spartan health care is provided, and conjugal visits are allowed. The women's prison and the juvenile detention center are less crowded, and conditions are somewhat better.

d. *Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention is prohibited by the Constitution, and its incidence declined, due largely to enactment of the 1992 Public Defender Law. ONUSAL received 275 complaints of arbitrary or unlawful detention by the security forces from January through October, a reduction from previous years. The PN frequently arrested people illegally without a warrant when police had only a suspicion of a crime. In September the President of the Supreme Court publicly suggested that, to control rising criminal activity, the police should enforce a previously unused "law of dangerous state," under which they may detain anyone who appeared dangerous, even though no crime had been committed. In the wake of this announcement, ONUSAL's police division received some complaints indicating that the law was being sporadically implemented.

The police may hold a person for 72 hours before presenting him to court. The practice of obtaining forced confessions during this 72-hour period was reduced through enforcement of the Public Defender Law, which guarantees counsel to indigent defendants from the moment of detention. Public defenders are now regularly called by the police to provide representation to detained suspects. From March 1992 to February 1993, public defenders freed from incarceration approximately 50 percent of their clients. There is still a large backlog of detainees in the prison system, however, and approximately 88 percent of all inmates were awaiting trial or sentencing.

The public defender's office tripled in size over the last 2 years, but there still was an inadequate number of public defenders. The courts have generally enforced a ruling that nighttime questioning without the presence of a public defender is considered coercion and any evidence so obtained is inadmissible. Questioning now is routinely delayed until morning and the arrival of the public defender.

When the detainee is delivered to the court, the judge may order detention for an additional 72 hours to determine if the evidence warrants holding the accused for further investigation. The judge is then allowed 120 days to investigate serious crimes, or 45 days for lesser offenses, before bringing the accused to trial or dismissing the case. In practice, these time limits were rarely observed, but a new law to become effective in 1994 would impose fines against lower court judges who fail to comply with time restrictions as a result of negligence.

Although the law permits release pending trial for crimes in which the maximum penalty does not exceed 3 years, many common crimes (against property, homicide, murder, manslaughter, and rape) carry penalties in excess of 3 years, thereby precluding release pending trial. Because defendants are imprisoned from the moment they are apprehended, and the judicial process can take several years, some have been incarcerated longer than the maximum possible sentence. Any detained person may request a review (habeas corpus) by the Supreme Court, but the request must be in writing, and the petitioner has neither access to the court nor any guarantee that the petition will be reviewed. The overwhelming majority of such requests are denied.

Salvadoran law does not allow compulsory exile.

e. *Denial of Fair Public Trial.*—The judiciary is only nominally independent and has been severely weakened by political pressures. People who are well-connected politically, economically, or institutionally, generally enjoy immunity from prosecution. Political affiliation and personal ties, rather than professional capabilities, appear to have been the traditional criteria used to appoint and reappoint judges.

The court structure is divided into four levels: justices of the peace, courts of the first instance, courts of the second instance (appeals courts), and the Supreme Court. Civilian courts exercise jurisdiction over military personnel who commit common (nonmilitary) crimes. Jury verdicts can be neither overruled by a judge nor appealed to a higher court. Sentences,however, may be appealed up to the Supreme Court. Under the Constitution, defendants have the right to a presumption of innocence; protection from self-incrimination; legal counsel; freedom from coercion; be present in court; the opportunity to confront witnesses; and compensation for damages due to judicial error. Most of these rights, however, are frequently ignored in practice.

Some progress was made in addressing problems in the judiciary, improving the administrative functions of the courts, updating the legal codes, and improving the overall professionalism of the system. The 11 members of the National Council of the Judiciary (NCJ), the newly independent body that screens and nominates judicial candidates, are now appointed by the National Assembly rather than by the Supreme Court. Four are selected from a list of nominations made by the Supreme Court. In August the NCJ began screening and nominating judicial candidates, as well as evaluating sitting judges. The NCJ also has responsibility for the judicial training school, formerly under the Supreme Court. Nevertheless, there was still a troublesome overconcentration of administrative power in the Supreme Court, which controls the licensing of all attorneys, disciplinary action against attorneys and judges, and the removal of judges.

Two reforms were enacted that should eliminate significant delays and grant greater autonomy to the lower courts. One repealed the requirement that all lower court decisions concerning offenses with a potential sentence of more than 3 years (80 percent of all cases) be approved by a higher level court. The other provided that the judge responsible for investigating whether there is sufficient evidence to bring the accused to trial will no longer be the same judge who presides over the trial.

All available evidence indicates that the Government holds no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—According to the Constitution, the police must have the resident's consent, a warrant, or

a reasonable belief that a crime is being or is about to be committed, before entering a private dwelling. In practice, forced entry without a warrant was frequently used to carry out arrests and investigations. Wiretapping of telephone communications by the Government, private persons, and political parties is illegal but commonly occurred.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of the press is provided for by the Constitution, and respected in practice. There was only one reported incident of violence directed at the press in 1993, a significant improvement over previous years. On November 1, 30 FMLN members staged a half-hour demonstration outside the conservative Diario de Hoy newspaper, protesting an editorial that suggested the murders of FMLN leaders were the product of internal purges. The demonstrators burned tires and an effigy of the paper's owner. During the year, the FRS threatened some radio and television stations with retaliation if they did not broadcast its communiques, but despite the refusal of some stations to comply, the threats were not carried out.

El Salvador has 5 daily newspapers, 8 television stations, approximately 150 radio stations, and 3 cable television systems. The Government operates one television station and one radio station; the FMLN was allocated a VHF television frequency in September. Both the Catholic Church and the ESAF have radio stations; the FMLN operates two broadband and several shortwave radio stations. Print and broadcast journalists from across a wide political spectrum regularly criticize the Government and report opposition views, although reporting by the predominantly conservative media tends to support the Government. The Government did not use direct or indirect means to control the media. However, most media owners are highly successful businessmen, and the reported news often reflects market pressures and advertisers' interests.

Academic freedom is provided for by the Constitution and is respected in practice. University autonomy prohibits law enforcement officials from entering public campuses, and this also was respected in 1993.

b. *Freedom of Peaceful Assembly and Association.*—Any association not formed for criminal purposes is legal and permitted. Numerous political, professional, religious, labor, and social organizations, including those allied with the FMLN, operate without legal restriction. Organizations in general encounter bureaucratic delays when applying for legal recognition, but this did not appear directed at any one group. Since the signing of the peace accords, FMLN members and others on the left held or freely participated in open forums and political rallies throughout the country. Contentious political issues were regularly the subject of seminars, conferences, and media discussions.

c. *Freedom of Religion.*—Freedom of religion is guaranteed by the Constitution and is respected. Roman Catholicism is the official religion and practiced by approximately 75 percent of the population, but other faiths, mostly evangelical Protestantism, have grown rapidly in popularity. These groups practice without hindrance.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution establishes the right of free movement. Article 97 states that foreigners may not involve themselves in the internal political affairs of the country, and the Government reserves the right to deny entry to, or deport, foreigners believed to violate that section of the law. Freedom of movement throughout the country is permitted by the Government. There are no restrictions on citizens changing their residence or workplace. A major effort by the Government to issue or replace citizen documentation in the 115 municipalities affected by the armed conflict continued in 1993.

The Government has provisions for granting asylum and refugee status. Since the end of the regional conflicts in Central America, the number of refugees in El Salvador has declined to very few. The Government imposes no control on emigration and cooperates with international organizations that arrange Salvadoran emigration to other countries.

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

The Salvadoran people exercise the right to change their government peacefully through regularly scheduled elections. Past elections have been judged free and fair, notwithstanding the climate of fear and violence perpetrated by both government and rebel forces during the civil war. The President and Vice President are elected every 5 years. Legislative and municipal elections are held every 3 years. Elections for all national and local offices will be held in March 1994, and ONUSAL has been

invited to certify them. It established an electoral division in June to oversee the electoral process. Various other nongovernmental organizations (NGO's) are also expected to observe the elections. The President is constitutionally barred from reelection to a second consecutive term. Voting is by secret ballot, and there is universal suffrage.

The last 11 mayors elected in 1991, whom the FMLN had prevented from assuming their offices in the former conflict areas, returned to their municipalities by February, and local governmental functions in these areas began to return to normal.

The field of political parties continued to expand in 1993. The FMLN, inscribed as a political party in December 1992, announced its political candidates and began campaigning for the 1994 general elections. The Supreme Electoral Tribunal (TSE) approved the Unity Movement and the Free People's Party as new political parties, bringing to 10 the total number of duly registered parties. The TSE organized a massive campaign to reach the 750,000 eligible voters without voter cards by November, focusing on the underrepresented, primarily youth and women; the latter totaled 60 percent of citizens without voter cards, according to the TSE. To encourage registration further, the National Assembly passed a law in September making the voter registration card a required document for identification purposes as of March 1, 1994. The registration drive, completed November 20, was successful, though applications were still being processed at the end of the year. It is estimated that at least 85 percent of eligible voters will be able to vote in the March election.

The number of women in politics is small but growing. A Vice President of the National Assembly is a woman, as are 7 other Assembly Deputies, out of 84. Three Cabinet Ministers are female, as are 33 of 262 mayors.

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

A number of nongovernmental human rights organizations, including the Catholic Church's Tutela Legal and the Human Rights Commission (CDHES), operated actively without government interference. Frequently echoing FMLN positions, the CDHES focuses primarily on alleged abuses by the Government. The CDHES also follows cases through the investigation and trial stages, provides free legal assistance, and publishes monthly reports. Tutela Legal, the human rights office of the Archdiocese of San Salvador, also focuses on allegations of government abuses, follows cases, and publishes periodic reports. Numerous other church, labor, and university groups and NGO's have human rights offices that operate without legal restriction. In addition, various international human rights groups visit or operate without government restrictions.

The first Human Rights Ombudsman was elected by the National Assembly in 1992. As the only human rights organization specifically established by the Constitution, the Ombudsman's Office (PDDH) is charged with receiving allegations of human rights abuses committed by government officials, investigating them and, if warranted, lodging official complaints against specific officials. The PDDH supplanted the Human Rights Commission (CDH) as the officially mandated human rights monitoring organization.

The United Nations Observer Mission (ONUSAL) is mandated to verify and monitor implementation of agreements between the Government and the FMLN, to investigate alleged human rights violations, and to conduct educational and public awareness campaigns promoting human rights. It makes recommendations to the Government and the FMLN and also reports directly to the U.N. Secretary General. In its July report, ONUSAL found that the overall human rights situation continued to improve, but noted continued human rights abuses and a serious problem with common crime. Its October report noted concern over a serious regression in the human rights situation, most notably the increase in extrajudicial killings of political leaders and the generally rising crime rate. On the positive side, ONUSAL praised the continuing progress in implementing institutional changes to protect human rights, and the absence of any verifiable cases of disappearances in 1993.

The PDDH began investigating reports of human rights abuses in July 1992. As of June 1993, the PDDH had received over 2,000 reports, and it opened regional offices in Santa Ana, San Miguel, and San Vicente. The number of reports received monthly jumped to 300 in July and over 400 in August. The PDDH budget for 1994, approximately $2.5 million, is double 1993's budget but still inadequate to duplicate ONUSAL's human rights monitoring operation when it terminates its mission in 1994. ONUSAL has praised the progress made by the PDDH since its inception, but some human rights groups have expressed concerns about the PDDH's capabilities. The PDDH should gain both experience and stature in 1994 through the involvement of its director as part of the Joint Group established on December 8 to investigate possible political violence since the peace accords.

The PDDH lodged public complaints of human rights abuses against various government agencies, most frequently the PN and the judiciary, and in numerous cases made specific recommendations for improvements in procedures and even for indemnification of victims. Some of the PDDH's complaints and recommendations were ignored. The PDDH publicly criticized the chief of the PN Fifth Command in San Miguel for refusing to cooperate with judicial investigations of human rights abuses. The PDDH said, however, that a number of institutions did act on its recommendations in a satisfactory manner. The Executive Anti-Narcotics Unit, for example, agreed to obtain judicial search warrants prior to entry. The PN antiriot unit agreed not to use war weapons to control demonstrations. Other institutions, including the San Salvador municipal police and the ESAF 2nd infantry brigade, took corrective actions following violations of administrative due process.

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

The Constitution states that all people are equal before the law and prohibits discrimination based on nationality, race, sex, or religion.

Women.—Women are granted the same legal rights as men under the Constitution, but suffer discrimination in practice. To improve the situation of women and children, the National Assembly passed a new Family Code in October. The new Code updates some laws that discriminated against women and children, most notably those living in informal unions. Spousal rights are granted to those who can prove that they lived together as a couple for at least 3 years, a status similar to common law marriage, significant because a large percentage of couples never officially marry.

Women also suffer from economic discrimination and do not have equal access to credit and land ownership. Wages paid to professional women remain lower than those paid to men in the same profession, and women in nonprofessional jobs are generally also paid less than similarly qualified men. Sixty-five percent of the economically active female population work in the informal economy. Training geared to females tends to focus on areas where they are already employed and on generally low-income occupations: teaching, nursing, home industries, or small businesses.

Violence against women, including domestic violence, is widespread. The Isidro Menendez Judicial Center received 564 reports of sexual violence against women in 1992, and it estimates that only 5 percent of total cases were reported. Hospitals reported a monthly average of 56 rapes in the capital city of San Salvador from January to September, while the police received only three reports per month in the same period. To increase reporting of rapes, victims have been encouraged, through a regular newspaper campaign by the Attorney General's office, to come forward and press charges immediately after the assault has occurred. Since 1991 a public prosecutor has been on duty 24 hours a day at the San Salvador children's hospital to assist rape victims and their families in taking legal action. Nevertheless, prosecution of rape cases is difficult because of pervasive cultural attitudes.

There are over 100 women's organizations to assist low-income women, and women's issues have been raised in the 1994 election campaign. Major concerns for women's rights groups are equal rights, unemployment, access to credit and skills training, illiteracy, health services, family planning, child care, and violence against women.

Children.—The Government recognizes its responsibility for children's rights and welfare, though this is reflected more in its efforts to reduce poverty and promote family stability through economic growth than in direct expenditure on children. The 1994 government budget for the Institute for the Protection of Children is $4.6 million, a 57-percent increase over 1993. Given the magnitude of children's health and welfare problems, the increased spending levels are still insufficient. In the context of total resources available to the Government, however, expenditures are substantial. In addition, $41 million in Salvadoran debt payments over the next 20 years will be placed in an account to fund child survival and environmental programs.

The new Family Code updates laws dealing with children, gives equal rights to children born out of wedlock, and tightens adoption procedures. Sexual abuse of children is another problem receiving growing attention. The San Salvador children's hospital treated between four and five cases per day of sexually abused children in 1993. Child malnutrition and the large numbers of orphans are also significant problems.

Indigenous People.—El Salvador is an ethnically homogeneous country, though a small segment of the population claims to have descended solely from indigenous peoples. The last census of Indians in El Salvador showed 80,000 in 1930, or 5.6

percent of the population. In 1932 approximately 30,000 were killed by government forces following an abortive uprising. In the face of such repression, most remaining indigenous people adopted local customs and successfully assimilated into the general population. There remain a few very small communities of indigenous people who still wear traditional dress, speak their native language, and maintain traditional customs without repression or interference. The Salvadoran National Indigenous Association (ANIS), headquartered in Sonsonate, promotes indigenous culture and language. The civil and political rights of indigenous people and their ability to participate in decisions affecting their lands, traditions, and allocation of natural resources are protected and respected by the Government to the same extent as other Salvadorans of comparable socioeconomic status.

People with Disabilities.—Except for the war wounded, who have secured both government and international funding for rehabilitation and retraining programs, the Government has no program to combat discrimination against the disabled, nor are there any laws mandating provision of access for people with disabilities.

Section 6. Worker Rights

a. *The Right of Association.*—The 1983 Constitution prohibits the Government from using nationality, race, sex, creed, or political philosophy to prevent workers or employers from organizing themselves into unions or associations. Full realization of the freedom of association called for in the Constitution has been impeded by numerous and sometimes conflicting laws governing labor relations; the current Labor Code prohibits partisan political activity by unions. This prohibition is routinely ignored; eight labor leaders currently serve in the National Assembly, and labor continued to play an important role in partisan activities.

In the 1992 peace accords, the Government committed itself to seek consensus on revised labor legislation through a socioeconomic forum with equal representation from labor (including groups aligned with the FMLN), government, and the private sector. During 1993, labor, the private sector, and the Government moved haltingly toward producing a revised Labor Code. In August the forum sectors signed a tripartite agreement on approval of certain International Labor Organization (ILO) conventions, granting legal status to labor unions and associations and establishing a framework to govern labor relations. ILO technical experts informally assisted the parties to review international labor conventions, and the forum submitted 11 to the Assembly for ratification. The ILO also reviewed and made recommendations for reforming the existing Labor Code and other labor legislation, including the Organic Law for the Ministry of Labor.

The ILO recommended 49 changes to the Labor Code. Although the socioeconomic forum discussed these recommendations through early December, it was unable to agree on a draft to submit to the Assembly. The Government then submitted its own version of the ILO recommendations to the Assembly, based on what it believed to be fair compromises between positions held by labor and business in the forum talks. The ILO reviewed the Government's version and reported that there were no significantchanges from its original recommendations. The legislation is scheduled to be debated and voted on in early 1994. Most importantly, the proposed changes would streamline the process required to form a union; extend union rights to agricultural, independent, and small-business workers; and extend the right to strike to union federations (at the present time only unions, not union federations, have the right to call a strike). The Government has not sought ratification of ILO conventions on freedom of association because this would require changes in the Constitution.

There are approximately 150 active unions, public employee associations, and peasant organizations, which represent over 300,000 Salvadorans, approximately 20 percent of the total work force. Unions are not under pressure to affiliate with the Government or other political forces; nevertheless, many labor organizations have close ties to various political groups. Labor alliances change frequently, but the Intergremial, an umbrella organization including most major labor organizations, continued to enjoy the prominence it gained with the 1991 presentation of a draft labor code and labor's participation in the forum. The current Labor Code forbids foreigners from holding leadership positions in unions, but unions freely affiliate with international labor organizations.

Only private sector nonagricultural workers have the right to form unions and strike; employees of nine autonomous public agencies may form unions but not strike. Nevertheless, workers from other sectors, including the public sector, have carried out strikes that, while technically illegal, were treated as legitimate. Even in sectors where the right to strike exists, strikes are sometimes technically illegal as labor and management often ignore the onerous and time-consuming legal requirements to settle labor disputes. Public sector strikes, though illegal, are fre-

quent and are generally settled through negotiations between public employee associations and the Government. Mandatory arbitration of public sector disputes is provided for under the Labor Code. Proposed changes to the Labor Code would give the right to form unions and strike to all private sector workers and streamline legal requirements.

In August members of the public health workers' union began a strike to demand a salary increase, a designated hospital for their use and that of their family members, and improved hospital conditions. Pointing to the public sector status of the union's members, the Government refused to meet the strikers' demands and fired a number of them. After nearly a month, the Government and most of the organizations backing the strike reached a compromise agreement; the Government agreed to reinstate fired workers, drop legal proceedings against them, and consider a salary raise. There were credible reports, however, that the Government failed to reinstate all fired workers to their previously held positions and pay, that some striking employees lost their seniority, and that legal proceedings continued against some of the union officials.

Antiunion actions before a union is legally registered are prohibited; however, in practice, there are credible charges that the Government impeded union registration through exacting reviews of union documentation and strict interpretation of the Constitution, Labor Code, and union statutes. Under the February "Agreement on Principles and Commitments," signed by government, labor, and private sector representatives, the Government agreed to review previously denied applications for legal status among both private sector unions and agricultural and public sector associations. The Minister of Labor, whom labor had accused in 1992 of conspiring with management to frustrate union registration by informing management of potential legal challenges to a registration application, was replaced in 1993.

The International Confederation of Free Trade Unions (ICFTU) alleged in 1993 that signing the peace accords had not succeeded in checking the abuse of trade union rights, citing reports from its affiliate, FENASTRAS, of the killing of 20 trade unionists in 1992, many by death squads; other instances of death threats against trade union leaders and instances of abductions; continued denial by the Government of the registration of a union at the ADOC shoe factory; and other incidents involving antiunion discrimination and the firing of workers for trade union activities. In a report released in November, however, an ILO direct contact mission stated that no persons were being detained for trade union activities, that there had been no further searches of trade union premises, and that violence against trade unionists had declined substantiallyin the previous year.

b. *The Right to Organize and Bargain Collectively.*—The right of collective bargaining is granted in both the Constitution and the existing Labor Code, but public sector employees are not covered in either. The Labor Code grants this right only to employees in the private sector and in autonomous agencies of the Government, such as utilities and the port authority. However, both private sector unions (by law) and public sector employee associations (in practice) use the mechanism of collective bargaining extensively. Labor Code protection for agricultural workers, now inadequate, would be expanded by proposed Labor Code reforms.

The Ministry of Labor is responsible for overseeing the implementation of collective bargaining agreements and acting as conciliator in labor disputes in the private sector and autonomous government institutions. In practice, government ministers and the heads of autonomous government institutions often negotiate with labor organizations directly, relying on the Labor Ministry only for such duties as officially certifying unions. The Ministry of Labor often seeks to conciliate labor disputes through informal channels rather than attempting strictly to enforce regulations, leading to charges of bias against labor. Corruption continues to be another serious problem affecting labor courts.

The Constitution prohibits discrimination against unions. It provides that union officials at the time of their election, throughout their term, and for 1 year following their term shall not be fired, suspended for disciplinary reasons, removed, or demoted except for legal cause. This provision is generally observed in practice, but in some cases those attempting to form unions have been fired before receiving union credentials. Employers are required to rehire employees fired for any type of union activity, though this requirement is sometimes not enforced.

There are four functioning export processing zones (EPZ's) and two more under construction. Labor regulations in these zones are identical to those throughout the country. Companies operating in the EPZ's, while providing higher salaries and benefits than companies outside the EPZ's, strongly discourage organizing and in some cases have fired workers attempting to organize. The ICFTU's allegation that "all attempts to form trade unions in free trade zones have led to the dismissal of the

workers concerned," is too broad, but the point that unionization efforts encounter strong resistance in the EPZ's is valid.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor except in the case of calamity and other instances specified by law. This provision is followed in practice. The ILO Committee of Experts continued to criticize provisions in the Penal Code which allow the imposition of penalties involving compulsory labor against companies for activities related to the expression of political opinion.

d. *Minimum Age for Employment of Children.*—The Constitution prohibits the employment of children under the age of 14. Exceptions may be made only where such employment is absolutely indispensable to the sustenance of the minor and his family, most often the case with children of peasant families who traditionally work with their families during planting and harvesting seasons. Children also frequently work as vendors and general laborers in small businesses, especially in the informal sector. Parents of children in circumstances such as these often do not allow their children to complete schooling through the ninth grade as the law requires, since the labor which the children perform is considered vital to the family. Child labor is not a problem in the industrial sector. The Ministry of Labor is responsible for enforcing child labor laws.

e. *Acceptable Conditions of Work.*—In January the Government passed legislation raising the minimum wages for commercial, industrial, service, and agroindustrial employees; over the course of the year the Government increased the minimum wage on two occasions by a total of 22 percent. The new rate for industrial and service workers was about $3.50 (31 colones) per day; agricultural workers must be paid about $2.35 (20 colones) in wages, including a food allowance, per day. Despite these increases, minimum wages are generally inadequate to meet the Ministry of Economy's standard of basic necessity. An estimated 40 percent of the population lives below the poverty level. The Labor Ministry is responsible for enforcing minimum wage laws and does so effectively in the formal sector. Accurate statistics are not available for the large informal sector.

The law limits the workday to 6 hours for minors between 14 and 18 years of age and 8 hours for adults. Premium pay is mandated for longer hours. The Labor Code sets a maximum normal workweek of 44 hours, requiring overtime pay for additional work and limiting the workweek to no more than 6 days.

The Constitution and the Labor Code require employers, includingthe Government, to take steps to ensure that employees are not placed at risk in their workplaces, and prohibit the employment of persons under 18 years of age and all women in occupations considered hazardous. Nevertheless, Salvadoran health and safety regulations are outdated, and inadequate enforcement remains a problem. The Ministry of Labor attempts to enforce the applicable regulations and conducts investigations which sometimes lead to fines or other findings favoring workers. The Ministry has very limited powers to enforce compliance, however, and has suffered severe cutbacks in human resources to carry out certification and inspection duties, which severely limited its effectiveness.

GRENADA

Grenada has a parliamentary form of government, with a Governor General as titular Head of State. When no political party received a clear majority in elections held on March 13, 1990, the Governor General appointed Nicholas Brathwaite as Prime Minister, who successfully formed a majority Government around National Democratic Congress (NDC) parliamentarians. The next elections must be held by March 1995.

The 750-member Royal Grenada Police Force (RGPF) is responsible for maintaining law and order. It is controlled by and responsive to civilian government authorities.

Grenada has a small free market economy based upon agriculture and tourism. Over the past several years, economic growth dropped to 3 percent, and the country experienced persistent fiscal imbalances. This forced the Government to initiate a structural adjustment program in February 1992, aspects of which remained unpopular.

Grenadians enjoy a wide range of civil and political rights. Human rights problems included allegations of police brutality in the course of criminal investigations, incidents of domestic violence against women, and abuse of children.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution specifically prohibits torture, and there were no reported incidents of torture in 1993. The press occasionally reported individual claims of police brutality, some of which arose following the complainants' alleged attempts to resist arrest. Officers under the supervision of the Police Commissioner investigated a few complaints, but no results were released. Claims deemed valid can result in disciplinary action by the Police Commissioner, which can include dismissal from the force. No cases of police brutality were brought before the courts in 1993. Claims can also be pursued in the courts. The Police Commissioner has spoken out strongly against police use of unlawful force.

A citizen prison visitation committee formed in 1990 to monitor conditions at Grenada's Richmond Hill Prison, especially in regard to the treatment accorded Bernard Coard and accomplices convicted of the 1983 murder of Prime Minister Maurice Bishop. It last met in March 1993 and found no evidence of inhuman treatment of prisoners. The committee plans no further visits.

Flogging, a legal form of punishment, is rare but has been used recently in sex crime and theft cases.

d. *Arbitrary Arrest, Detention, or Exile.*—According to law, police have the right to detain persons on suspicion without a warrant, but formal charges must be brought within 48 hours. This time limit is adhered to in practice. If the detainee is not charged within this time, he must be released. In 1993 no one was detained for political reasons.

The law provides for a judicial determination of the legality of detention within 15 days after arrest on a criminal charge. Formal arraignment or release of the arrestee must be decided within 60 days. These procedures were generally followed. There is a functioning system of bail, although those charged with capital offenses are not eligible. Persons charged with treason may be accorded bail only upon recommendation of the Governor General.

Exile is not practiced.

e. *Denial of Fair Public Trial.*—The right to a fair public trial is provided for by law and is observed in practice. There is a presumption of innocence, and individuals are protected against self-incrimination. Police are required to explain a person's rights upon arrest, and the accused has the right to remain silent and to seek the advice of legal counsel. The lawyer has the right to be present during interrogation and may advise the accused how to respond or not to respond to questions. An accused has the right to confront his accuser.

Those arrested on criminal charges are brought before an independent judiciary; the court will appoint attorneys for indigents only in cases of murder or other capital crimes. In other criminal cases that reach the appellate stage, the court will similarly appoint a lawyer to represent the accused if he was not previously represented or reappoint the defendant's earlier counsel if the appellant can no longer afford the lawyer's services. Following a determination by a judicial hearing that there is sufficient evidence to substantiate a criminal charge, the defendant is remanded for trial. Due to the backlog of cases caused by a shortage of judges and facilities, up to 6 months can pass before those charged with serious offenses are brought to trial before the High Court. With the exception of murder and foreign-born drug suspects, most defendants are granted bail while awaiting trial.

Grenada rejoined the Organization of Eastern Caribbean States' (OECS) judicial system in 1991. By doing so, the Grenada Supreme Court, which had been instituted in 1979 as the highest judicial authority with jurisdiction over Grenadians, ceased to exist for that function. It is now the Supreme Court of Grenada and the West Indies Associated States. Under the OECS system, appeals may be made to the Privy Council in London.

There are no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—There were no reports of these types of arbitrary interference. Judicially issued warrants for searching homes are normally required by law except in cases of hot pursuit. Other exceptions are contained in the Firearms Act of 1968 and the Drug Abuse Prevention Act No. 7 of 1992, which give the police and security units legal authority to search persons and property without warrants in certain circumstances. In practice, warrants are obtained in the majority of cases before a search is conducted.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and press is provided for by the Constitution and is freely exercised. There are four weekly newspapers and several newspapers which publish irregularly. One is affiliatedwith an opposition political party, but the three most widely circulated newspapers are independent and are frequently critical of the Government. The newspapers frequently carry press releases by the opposition parties, one of which regularly provided a weekly column expressing its views.

Grenada has four radio stations. The main station is part of the Grenadian Broadcasting Corporation (GBC), a statutory body not under direct government control. Grenada's main television station is also part of the GBC. A privately owned television station began broadcasting in 1992, and a cable company began operating in the capital area with plans to expand eventually throughout the country. There is no formal policy on paid political broadcasts. Throughout 1993, however, the television news often carried reports on opposition activities.

b. *Freedom of Peaceful Assembly and Association.*—Grenadians enjoy the right to assemble for any peaceful purpose. Supporters of political parties meet frequently and hold public rallies; permits are required for the use of a public address system but not for public meetings themselves.

c. *Freedom of Religion.*—All groups enjoy freedom of religion. The Roman Catholic and Anglican faiths predominate.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There is freedom of movement within Grenada, and all citizens have the right to enter and leave the country except in special circumstances as outlined in and limited by the 1986 Act to Restrict the Freedom of Movement of Certain Persons. This law allows the Minister for National Security to restrict travel out of Grenada by any person whose aims, tendencies, or objectives include the overthrow of the democratic and parliamentary system of government; it has not been invoked in the past few years. Anyone so restricted may appeal after 3 months to an independent and impartial tribunal, presided over by an accredited lawyer chosen by the Chief Justice.

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

The Constitution provides for the right of citizens to change their government through free and fair elections to be held at least every 5 years. It provides that Parliament sit no longer than 5 years and that elections be called within 3 months of its dissolution. Grenadians held national elections in 1984 and 1990. The political system is not dominated by any particular ethnic group, nor are there any restrictions that limit participation of any elements of the population. Two of the 15 elected members of Parliament are women, as well as 2 of the 13 appointed Senators, 1 of whom is Senate president. Women account for five of the nine permanent secretaries, the highest civil service position in each Ministry; in addition, a woman is the Cabinet secretary, the highest civil service position in Government.

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

Local human rights groups operate without government restriction, and the Government cooperates with visits from international human rights organizations.

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

Women.—There is no evidence of official discrimination in health care, employment, or education. Women frequently earn less than men performing the same work; such wage differences are less marked for the more highly paid jobs. Knowledgeable women's rights activists report that violence against women in Grenada is common and that most cases of spouse abuse go unreported to police authorities. The police confirm that most cases of alleged abuse are not reported and others are settled out of court. Grenadian law stipulates a sentence of 15 years' imprisonment for a conviction of rape. Sentences for assault against a spouse vary according to the severity of the incident.

The Department of Women's Affairs circulated for review by concerned groups throughout the country model legislation on equal opportunity and treatment in employment which was proposed by the Caribbean Community Secretariat. The model legislation has since been submitted to the Ministry of Legal Affairs for appropriate redrafting. The legislation seeks to provide remedies against discrimination on the grounds of sex, marital status, and pregnancy in employment, education, and the provision of goods, services, and facilities. It also seeks to confer obligations on

spouses to maintain each other and on parents to maintain minor children. In addition, the model legislation provides for attachment of earnings in cases where a respondent fails to comply with a legal maintenance order. The Department of Women's Affairs also began a "gender education program" to better the welfare of women through economic and self-improvement programs.

Children.—The Social Welfare Division within the Ministry of Labour provides probationary and rehabilitative services to youths; day care services and social work programs to families; assistance to families wishing to adopt or foster children; and financial assistance to the three children's homes in Grenada run by private organizations. In 1991 the Government passed the "Child is a Child" Act granting equal status under the law to children born out of wedlock. This Act is particularly important in cases of inheritance rights following the death of natural . ithers.

In 1992 the Ministry of Education and the Labour Ministry's Office of Social Affairs, in association with several nongovernmental organizations (NGO's), conducted a comprehensive children awareness program which brought to light incidents of child abuse in society. Grenadian laws provide for harsh penalties against those convicted of child abuse and, in 1993, the Government passed a law disallowing the victim's alleged "consent" as a defense in cases of incest. In October the National Coalition on the Rights of the Child, comprised of government ministries and NGO's, was formed as part of a regional initiative to implement the U.N. Convention on the Rights of the Child.

People with Disabilities.—Job-seekers with disabilities are discriminated against, except for those with unique and marketable skills. The National Council for the Disabled, which receives a small amount of financial assistance from the Government, was instrumental in placing visually impaired students into community schools, which in some cases previously were reluctant to accept them. There are no accessibility ramps into public buildings for persons using wheelchairs. The Council has lobbied Government to pass a law requiring such access, and the Government is studying draft legislation to that effect. The Grenada Society of the Blind sponsors a retail outlet for wicker and handicraft items produced by disabled individuals.

Section 6. Worker Rights

a. *The Right of Association.*—Workers are free to organize independent labor unions. Labor Ministry officials estimate the percentage of the work force that is unionized to be between 20 and 25 percent. Union leaders play a significant role in the political process, and one labor leader serves in the Senate.

While workers in the private sector are free to strike at will, workers in the public sector must give advance notice. There were several incidents of industrial action including strikes in 1993, but all were short-lived and settled with the intervention of the Ministry of Labour. All unions were free of government control, and none was given government financial support. All the major unions in Grenada belong to one umbrella labor federation, the Grenada Trades Union Council (GTUC), which holds annual conventions and determines some policies for member unions. The GTUC and its unions freely affiliate with regional and international trade union groups.

b. *The Right to Organize and Bargain Collectively.*—Workers are free to organize and to participate in collective bargaining. Legislation compels employers to recognize a union that represents the majority of workers in a particular business. The law prohibits antiunion discrimination by employers against union members and organizers. If a complaint of discrimination arises, mechanisms exist for attempting to resolve it. After all avenues for resolving a complaint have been exhausted between union representatives and employers, both sides may agree to ask for the assistance of the Labour Commissioner. If the Labour Commissioner is unable to find a resolution to the impasse, the Minister of Labour may appoint an arbitration tribunal if both parties agree to abide by its ruling. While employers found guilty of antiunion discrimination are required to rehire dismissed employees, in most cases the employee accepts the option of compensation rather than return to work, citing possible further problems with the employer. No such cases took place in 1993, however.

Unions may organize and bargain anywhere in the country, including in the one export processing zone (EPZ), which is not exempted from Grenada's labor legislation. However, no EPZ firm is presently unionized; the one firm previously unionized has since shut down its Grenada-based operations.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution specifically prohibits forced labor, and no such instances were reported in 1993.

d. *Minimum Age for Employment of Children.*—The statutory minimum age for employment of children, 16 years, is enforced in the formal sector by periodic checks

made by inspectors from the Ministry of Labour. Enforcement efforts in the informal sector are lax.

e. *Acceptable Conditions of Work.*—Legislated minimum daily wage rates, most recently revised in 1990, are set for the agricultural, industrial, and commercial sectors. Minimum wages for workers vary according to profession; for farm laborers it is $4.80–5.20 (EC$13–14) per day and $31.50 (EC$85) per day for masons. Hotel worker wages vary from $148–259 (EC$400–700) per month for housekeepers to $444–556 (EC$1,200–1,500) per month for administrators. Most workers, including nonunionized ones, receive other benefits from their employers through the collective bargaining agreements reached with that firm's unionized workers, but even when these benefits are added to wages from a full-time minimum wage job, it is barely enough to provide a decent standard of living. The law does not prescribe a set number of hours as the standard workweek, except for the public sector which is expected to work a 40-hour week Monday through Friday. However, the normal workweek in all sectors seldom exceeds 40 hours, although in the commercial sector this includes Saturday morning work. Health and safety standards set by the Governmentare minimal and not effectively enforced. Laws on working conditions and their enforcement apply equally to the EPZ.

GUATEMALA

Guatemala's 1985 Constitution calls for election by universal suffrage of a one-term President, a unicameral Congress, and municipal officers; it mandates an independent judiciary and a human rights ombudsman, who is elected by and reports to Congress. Midway through his 5-year term, after rising street protests, President Jorge Serrano suspended several sections of the Constitution and dissolved Congress and the Supreme and Constitutional Courts on May 25. After extremely negative domestic and international reaction to this extraconstitutional move, Serrano was peacefully and constitutionally dismissed on June 1. Congress and the courts were called back into session, and on June 5, Congress, as prescribed by the Constitution, elected then Human Rights Ombudsman Ramiro de Leon Carpio to finish Serrano's presidential term, which ends in January 1996.

The armed forces operate with considerable institutional and legal autonomy, particularly in security and military matters. President de Leon Carpio, as Commander in Chief, replaced two Defense Ministers with officers of his own choosing. The 43,000-man army, which has responsibility for national security, has fought a leftist insurgency for more than three decades. The National Police (12,000 strong) and Treasury Police (2,000) report to the Interior Minister and share responsibility for internal security with the army. A target of frequent criticism by human rights groups, the "Hunepu" anticrime task force patrols—composed of National Police, Treasury Police, and Mobile Military Police (PMA)—were eliminated during the year. However, in December, as part of a Christmastime anticrime effort, limited joint patrols were reinstituted in some communities. The new President appointed a civilian as National Police chief in August, as well as other civilians to senior positions in the police and Ministry of Interior, and removed all military personnel from the police on August 27. Some 500,000 men serve in voluntary civil self-defense committees, commonly called Civil Defense Patrols (PAC's), some of which conduct counterinsurgency patrols in rural areas. The Human Rights Ombudsman and the Catholic Archbishop's Human Rights Office report that some PAC members were compelled to join the patrols, in violation of the Constitution. Security forces and especially PAC'S committed numerous serious human rights violations in 1993.

The agriculture-based, private sector-oriented economy was projected to grow approximately 4 percent in 1993, which would produce an increase in per capita income of about 1 percent. Inflation was expected to reach 12 percent. Guatemala has negotiated a shadow agreement with the International Monetary Fund, despite fiscal and monetary difficulties. There is a marked disparity in income distribution and poverty is pervasive, particularly in the large indigenous community.

Although there were improvements in the human rights situation in 1993, serious abuses occurred frequently. Statistics prepared by the Archbishop's Human Rights Office showed an increase in extrajudicial killings as of mid-December and a substantial increase in forced disappearances, with no improvement in other categories. Many of these violations occurred in the latter half of the year. The civil patrols, military, and police continued to commit a majority of the major violations, including extrajudicial killings, political kidnapings, and death threats. The seriousness of the continuing violations was underlined by the circulation in March of a "death

list" containing 24 names and another in October with 23 names. However, no one on either list was kidnaped or killed.

The election of President de Leon Carpio, the highly respected former human rights ombudsman, raised hopes there would be a rapid improvement in the human rights situation. The new President encouraged human rights groups and showed a willingness to investigate abuses and to make structural changes, such as dismantling the "Archivos" presidential intelligence unit and restructuring the police, including creation of a special police unit to investigate all cases of forced disappearances, extrajudicial killings, and other violations of a political nature allegedly committed by the police. Nevertheless, these changes failed to reduce the actual number of abuses allegedly committed by government forces. The 33-year-old internal insurgency continued to be a major cause of human rights violations. Both the security forces and the guerrillas committed numerous and serious human rights abuses. Guerrilla abuses included extrajudicial killings, kidnapings, forced labor recruitment, widespread use of mines and explosives in civilian areas, and the use of children in combat. Guerrilla attacks on infrastructure targets continued throughout the year.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Politically motivated killings continued in 1993, and with few exceptions the Government failed to investigate them fully or to detain and prosecute the perpetrators of extrajudicial killings. Full-year statistics from the Human Rights Ombudsman's Office listed 14 cases of extrajudicial killings, with 146 other cases under investigation. This compares with 48 confirmed extrajudicial killings in 1992, with 318 under investigation. The Archbishop's Human Rights Office reported 239 extrajudicial killings up to mid-December 1993 as compared to 204 in 1992 but did not break down the figures according to the responsible organization.

The security forces and persons associated with or protected by the army, such as the Civil Defense Patrols or military commissioners, committed a number of these killings, many of which took place in areas of guerrilla conflict. The Ombudsman, the Attorney General, and human rights groups have found evidence of killings by PAC's. PAC leaders are feared in many rural communities. They enjoy army backing and often immunity from prosecution. Likewise, members of the security forces are rarely held accountable for human rights violations.

Civil patrols continued to be especially responsible for human rights violations, including the killing of human rights activists. PAC's threatened and killed members of the Runujel Junam Council of Ethnic Communities (CERJ), a rural-based human rights organization dedicated mainly to opposing involuntary service in PAC's. Tomas Lares Cipriano, a CERJ and United Peasants Committee (CUC) member in Joyabaj, was killed on April 30 by PAC members, according to family members and witnesses.

Ten persons, from two separate families, took refuge in the Santa Cruz del Quiche CERJ office on June 10 after being threatened with death for not participating in PAC's and for being CERJ members. On October 14, 3 of the 10 left the CERJ offices under police protection and resettled in a town without a PAC. The other seven returned to their original community in early January. Charges against CERJ leader Amilcar Mendez for allegedly providing explosives to guerrillas in October 1992 were dropped in March. Captain Anibal Roberto Landaveri, Commander of the Chiul, Quiche, stockade, was arrested in May for having three CERJ members beaten on his base. He was dismissed from the army and tried for illegal detention, abuse of authority, coercion, and causing injuries. In addition to being dismissed, he was found guilty and sentenced to 2½ years in prison and payment of damages to those harmed. However, the sentence was suspended by the military court, which has the discretion to do so when a light sentence is imposed.

On August 3, Huehuetenango PAC members fired on marchers demanding the dissolution of the civil patrols, killing Juan Chonay Pablo and wounding two others. Five PAC members have been questioned by the authorities for Chonay's murder, with one still remaining in jail. Ten arrest warrants for other PAC members remain outstanding. Witnesses subsequently reported receiving threats from PAC members. PAC leader Efrain Domingo Morales, from the town of Xemal in the same area, was murdered by unknown persons in mid-September. A surviving family member reported that PAC members killed two peasants from Xemal, Colotenango, on September 26.

Former Corporal Nicolas Gutierrez Cruz, convicted in the January 17, 1992, killing of four persons in Ciudad Peronia, exhausted his legal appeals on July 23 when

the Constitutional Court denied his request to void his death sentence. In early October, President de Leon Carpio commuted his sentence to 30 years, the maximum legally possible. A fellow ex-soldier convicted in the killings escaped on May 9, 1992; in May 1993, an appellate court sentenced an army enlisted man to 2 years in prison for negligence in allowing the escape. On March 19, the then Human Rights Ombudsman de Leon Carpio accused army troops of responsibility for the August 31, 1992, kidnaping, torture, and murder of Huehuetenango peasant Lucas Perez Tadeo. Although the army promised a full investigation, no results were reported by year's end.

On May 1, civil patrol members in Jocopilas surrounded a house and killed 11 inhabitants (as well as an unborn child). Many of the 11 were known as criminals in the community and, the day of their deaths, are said to have robbed one family and raped three women. Police arrived prior to the killings but left after being intimidated by the local PAC.

On the Government's appeal of an earlier acquittal, Quiche PAC chiefs Manuel Perebal Ajtzalam and Manuel Leon Lares were sentenced to 30 years in prison for the February 17, 1991, killing of Juan Perebal Xirum and his son and the injuring of another son. Those attacked had testified against Perebal in the case of Sebastian Velasquez Mejia, a community leader opposed to the PAC's who was kidnaped and later found dead.

Persons associated with the security forces were responsible for vigilante killings. According to the Casa Alianza, an organization that fosters protection of the human rights of street children, street children Henry Yubani Alvarez and Francisco Tziac were shot in downtown Guatemala City on April 17 and 22. Casa Alianza believes that a private security guard killed Alvarez and off-duty military commissioners wounded Tziac, both shot possibly due to petty thievery. On May 11, a congressional bodyguard shot a student protesting at the Congress. He died a day later; the bodyguard who allegedly killed him remains a fugitive.

There was some progress in certain past high-profile cases. Former government security agent Noel de Jesus Beteta Alvarez was sentenced in February to 30 years in prison for the 1990 murder of Guatemalan anthropologist Myrna Mack Chang and the unrelated beating of a minor. The conviction is now being appealed, with plaintiff Helen Mack also seeking prosecution of the alleged military "intellectual authors" of the crime. On September 1, Myrna Mack's former workplace was broken into and death threats left against Helen Mack. On September 23, Beteta briefly escaped from jail but was recaptured 5 hours later and charged in the escape.

On May 11, an appellate court sentenced Captain Hugo Contreras to 20 years for planning the 1990 kidnaping that led to the death of U.S. citizen Michael Devine and confirmed the 30-year sentences for six enlisted men. After hearing the verdict, however, Contreras escaped from military custody and remains at large. While the circumstances of his escape suggested complicity by the military, the only punishment was a 2-year suspended sentence given to an enlisted man for not being at his post when Contreras escaped. Senior officers accused of covering up the case have not been brought to trial.

On August 18, an appeals court sentenced 22 former police officers, who formed part of a "Hunapu" patrol, to 30 years in prison for the April 10, 1992, death of university student Julio Rigoberto Cu Quim and for injuring six other students. Earlier, on July 22, seven PMA members of the same patrol were given sentences of 14 years (4 commutable) for the crime.

There was no progress in resolving numerous other cases of past extrajudicial killings, including the 1988 "white van" case, the1989 disappearances and murders of university students, the 1990 Hector Oqueli Colindres and Gilda Flores killings, the 1990 disappearance of Maria Tiu Tojin and her daughter, the 1991 murder of police detective Jose Luis Merida Escobar, the 1991 disappearance of Diego Domingo Martin, or past kidnapings and murders of various CERJ members. On May 5, an appeals court upheld a lower court decision to dismiss charges against six military defendants for the 1991 "Traileros" killings in Taxisco. The decision was appealed. The Government's frequent inability to control or sanction those responsible for human rights offenses is a major impediment to human rights progress.

b. *Disappearance.*—The Archbishop's Human Rights Office reported 46 forced disappearances during 1993, as compared with 11 in 1992. Seventeen were either labeled or presumed to be political in nature. Reports linked many political disappearances to persons connected with the armed forces. The Ombudsman's Office listed 2 cases of forced disappearances, with 29 others under investigation at year's end. This compares with the Ombudman's 1992 statistics of 10 confirmed forced disappearances and 62 cases still under investigation. The Government did not identify or prosecute the perpetrators of any of these disappearances.

In August the wife of guerrilla Efrain Bamaca claimed he was being held in a clandestine prison after results of an exhumation of his supposed grave proved negative. The army denied this, though it has admitted in the past to housing former guerrillas who cooperate with the armed forces on military bases. One of these ex-guerrillas, Angel Osorio, was killed on August 19 by members of the Guatemala National Revolutionary Unity (URNG) guerrilla coalition when he was stopped at a guerrilla roadblock after leaving a Quiche military base to visit his family.

Guerrilla forces kidnaped San Marcos PAC members Margarito Lopez and Obdulio Zapeta on August 7 and Diego Chel Matom, an army enlisted man riding a bus in Quiche 3 days later. In early December, the press reported that 10 persons dressed in the manner of URNG guerrillas approached Ramona Munoz and Maritza Gil as they were working on their Santa Rose farm and took them to nearby mountains under threat of death. The whereabouts of all these persons were unknown as of year's end.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution protects the integrity and security of the person. However, as in past years, many bodies were found throughout Guatemala bearing signs of severe disfigurement or postmortem mutilation. The Human Rights Ombudsman's Office listed seven cases of torture in 1993. The Archbishop's Human Rights Office listed nine cases of torture through mid-December. In one case, a male student was picked up by three unidentified men on March 27, beaten unconscious, held for 3 days, and asked about student leaders. In April a female victim was also beaten unconscious but apparently was not asked any questions.

There were other credible reports of mistreatment by security forces, including use of excessive force by police at the time of arrest and of abusive treatment of persons in rural areas by the army, Civil Defense Patrols, military commissioners, and police. The Government often failed to investigate or take any other action in response to such reports. Although action was rarely taken, cases of rape traced to individual soldiers were reported.

Casa Alianza, the organization dedicated to street children, reported in March that street child Julio Cesar Reyes was picked up by two persons he recognized as policemen and burned on his arm 29 times with a cigarette. On May 23, a street child reported having acid thrown at him by the police. There were numerous other reports of policemen beating or illegally detaining street children; the authorities rarely took action in any of these instances.

d. *Arbitrary Arrest, Detention, or Exile.*—Despite legal safeguards, there were frequent credible reports of arbitrary arrest by the security forces, incommunicado detention, and failure to adhere to the prescribed time limits for legal procedures. A court-issued arrest warrant is required unless a person is caught in the act of committing a crime. Police may not detain a suspect for over 6 hours without bringing him before a judge. The law provides for bail,access to lawyers, and limits to 20 days the time anyone may be held. After that period, a detainee must be charged or freed, and the authorities must produce detainees on court request.

Some persons detained illegally reported having been held at safe houses allegedly operated by security forces. Those responsible for illegal detentions routinely ignore writs of habeas corpus. The Archbishop's Human Rights Office charged that prisoners are sometimes not released in a timely fashion after completing their sentences due to the failure of judges to issue the necessary court order.

Investigations during the Serrano presidency into the activities of former Izabal department governor Lilian Vasquez de Guzman and alleged corruption by former Health Minister Miguel Montepeque appeared politically motivated. Montepeque was subsequently cleared of charges; Vasquez de Guzman went into self-imposed temporary exile in mid-February. The problem of politically motivated investigations lessened after the accession of de Leon Carpio to the presidency.

Exile is prohibited under the Constitution and is not practiced.

e. *Denial of Fair Public Trial.*—The judicial system is ineffective and often unable to ensure a fair trial (see below). The Constitution provides for an independent judiciary composed of a Constitutional Court, a Supreme Court, appeals courts, and several courts of special jurisdiction, such as labor courts. However, military courts have jurisdiction over military personnel, including military commissioners who commit crimes while on official business, thus limiting the ability of civil courts to prosecute persons under military control in human rights abuse cases. PAC members are civilians and not under military jurisdiction.

Civilian trials are public after the first 15 days, which are dedicated to an initial investigative phase that is closed. Defendants have the right to be present at trials and to legal representation. An appeals court automatically reviews convictions. The Criminal Procedure Code is being changed to introduce oral proceedings (in both Spanish and indigenous languages) open to the public and to establish a viable pub-

lic defender program. To allow more time for training and compliance, however, in December the effective date of the new Criminal Procedure Code was postponed until July 1994.

Most human rights violations are not investigated; security force personnel are reluctant to investigate cases involving colleagues. Police are also relatively few in number and lack resources and training. Judges are susceptible to intimidation and corruption and suffer from low pay, bad working conditions, and low morale. The Supreme Court and some lower court judges came under public pressure to resign for corruption and politicization of the legal system.

Some judges succeeded in being excused from hearing prominent cases by alleging they had received death threats. A total of 12 different judges were excused from the Myrna Mack Chang case, for example. The appeals court judges who heard the Mack, Devine, and "Traileros" cases reported having received threats in 1993. In addition, officials from the Attorney General's and Human Rights Ombudsman's offices, including the Ombudsman himself, have received threats.

Charges continue to be made publicly that the Supreme Court pressures lower court judges to decide cases in line with its wishes. In January the Constitutional Court ruled that the Supreme Court practice of arbitrarily transferring justices was unconstitutional, limiting one means of interfering in lower court cases.

There are no known political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of home, correspondence, and private documents, but these provisions are not always respected. Elements of the security forces continue to monitor private communications. Many human rights monitors reported receiving threats in the form of surveillance, telephone calls, and anonymous letters.

On March 26, the Guatemalan postal workers union and the Human Rights Ombudsman exposed a secret government mail interception unit located at the central post office. The Ombudsman attributed responsibility for the letter-opening operation to the presidential intelligence unit known as "Archivos," which was later disbanded.

Officials enforcing the military draft continued to enter homes and places of business without legally required court orders. The army attempted to curb such abuses in Quiche by setting up a draft board consisting of the zone military commander, the local representative of the Human Rights Ombudsman's office, and other civilian leaders. Under recruitment practices also adopted in other departments, potential draftees receive three induction notices, after which they are arrested if they do not report for enlistment. Under Guatemalan law, such arrests must be effected pursuant to a court order.

Credible reports of forced recruitment continued, however, particularly in late January. On July 27, in what was said to be the first case of its kind outside a city, Jalapa peasant Juan Engel Morales Lima filed suit claiming he was a victim of forced recruitment. In September Alvaro Enrique Madrid Matta was released from the army due to his being a minor after the Human Rights Ombudsman filed suit on September 14, asserting he had been forcibly recruited in August.

The Constitution requires that PAC service be voluntary. However, army officers, military commissioners, and PAC leaders often pressure men in areas of conflict to become PAC members. There were credible reports that some who refused to serve were killed or suffered other abuses.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Guatemala's armed internal conflict entered its 33rd year in 1993 and continued to be a major cause of human rights violations by both government and guerrilla forces. After a promising first half of the year, peace talks collapsed in early May. Human rights issues and the timing of a proposed cease-fire were primary areas of disagreement. The de Leon Carpio Government sought to renew the peace talks under a format allowing greater participation by other groups in Guatemalan society. Talks resumed under U.N. auspices in January 1994.

Communities of People in Resistance (CPR) claimed army harassment throughout the year, including late evening helicopter overflights and restriction of commerce. On February 27, Episcopal Conference Secretary Bishop Ramazzini announced that some 500 Guatemalans had fled to Mexico to avoid army operations in Cuarto Pueblo, Quiche. They later returned. On August 23, two former PAC members stated that PAC leaders and a military officer had forced them earlier in the year to harass a CPR. In September President de Leon Carpio met with a CPR delegation to discuss their complaints. CPR leaders announced the intention of their communities to live openly, establishing permanent settlements in 1994.

Bombings conducted by unknown perpetrators continued, with targets including former President Serrano's Solidarity Action Movement party headquarters and the

headquarters of the Christian Democratic Party. Four banks were also bombed, and numerous rural electrical towers were blown up in January and February. Further bombings occurred in September, apparently tied to a political struggle involving efforts to remove allegedly corrupt Congressmen and Supreme Court officials from office. Commercial institutions, Christian Democratic Party headquarters, the Guatemalan Jurists Association, and the offices of the Mutual Support Group (GAM—a human rights group active in the removal effort), were targets. Shots also were fired near GAM leader Nineth Montenegro de Garcia's home on September 11; some congressional deputies and the Supreme Court president also reported death threats. No one was apprehended for these attacks and threats.

Guerrilla forces continued to recruit children into their ranks. Government troops found a 10-year-old child guerrilla after an armed engagement near Raxhuja, Alta Verapaz, on March 9. The wounded child was evacuated to a Guatemala City military hospital. In another instance, on June 17, 13-year-old Mario Ixcal was captured near La Libertad, Peten, after being wounded in an army-guerrilla clash. Treated and released to the Ombudsman's office. Ixcal said his URNG unit contained two other young boys. Documented cases of civilians being injured by guerrilla mines also occurred in 1993.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of expression. However, radio and television station owners charge that licensing and renewal procedures have been used to threaten stations critical of the Government, security forces, or powerful individuals. When Serrano was President, newspapers also complained about government interference, especially efforts to silence criticism of the President, his family, and alleged wrongdoing by security forces. On February 4, newspaper columnist Marta Altoaguirre's father's automobile was attacked by a group of heavily armed men. Although neither her father nor driver were injured, Altoaguirre, an outspoken critic of then President Serrano, characterized the attack as an effort to intimidate her.

While journalists assert that they operate more freely under the de Leon administration than they have at any other time in recent history, threats and attacks on journalists continued. On July 3, Jorge Carpio Nicolle, El Grafico publisher and a political party leader, was shot and killed by a group of armed men while traveling along a highway in Quetzaltenango. On December 24, Victor Manuel de la Cruz, a reporter for Radio Sonora, was shot and subsequently died in Guatemala City. Both cases remained unsolved at year's end, although the Government claims motivation for the attacks was criminal, not political.

On August 1, unknown individuals fired on the offices of the daily newspaper Siglo XXI. Despite President de Leon's personal interest, this case also remained unsolved at year's end. Five days later, three police officers threatened two journalists covering a student disturbance. The new police director disciplined the three officers, and one is currently awaiting trial for this threat. In mid-August, a television journalist who interviewed two senior URNG officials received threats.

On October 8, Oscar Masaya, director of a cable television news program, was severely beaten in Guatemala City. On October 28, 10 journalists were beaten by unknown individuals when they attempted to cover a press conference being given by activists occupying the Congress. During November the weekly Cronica reported receiving a threat that it should pay protection money to an alleged URNG representative. On November 25, newspaper editor Carlos Rigalt Cervantes was shot and pursued by persons in a car that moments earlier had struck the auto he was driving. A number of journalists, including the director of Tinamit magazine, also reported receiving death threats throughout the year. Several were included on a 24-person "death list" that appeared in late March or on a separate list that appeared in early October.

Newspapers, magazines, and radio and television stations were subjected to censorship when President Serrano announced his May 25 extraconstitutional actions. Radio and television stations also were forced to broadcast standardized government programming for extended periods. Security forces seized several thousand copies of the Cronica magazine issue reporting Serrano's actions, which were found burned by a roadside in late July. A number of journalists refused to cooperate with authorities during the coup; they were not harmed as censorship quickly broke down and a free press returned after Serrano's fall.

Despite harassment, the news media reported all major human rights stories and publicized communiques from the URNG, leftist groups, and others opposed to the Government or its policies. Both major press associations denounced incidents restricting freedom of the press and vowed to continue coverage of sensitive topics. Journalists admit, however, that self-censorship stemming from fear of reprisal con-

tinues to impede full investigative reporting on a variety of topics, including alleged government human rights violations, corruption of government officials and influential politicians, aspects of narcotics trafficking, and issues affecting the economic interests of powerful individuals.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution guarantees the right of peaceful assembly and association, but authorities banned rallies and broke up a demonstration following Serrano's May 25 coup. Prior to the coup, there was a plethora of demonstrations, some involving violence between police and marchers. Some demonstrators also claimed later harassment by security forces in retribution for their participation in the marches. Street demonstrations were a factor in focusing public disapproval on Serrano's actions. With his exit from office, constitutional guarantees of peaceful assembly and association were restored.

Freedom of political association is guaranteed under the Constitution, although organizations are nominally required to obtain legal status, a cumbersome and expensive procedure. In mid-December, the Government announced a streamlining of these procedures.

c. *Freedom of Religion.*—No state religion exists. Religious freedom is constitutionallyguaranteed and is respected in practice. Religious personnel are sometimes threatened for political reasons. About 70 per cent of the population is nominally Catholic, but many other faiths operate freely, especially evangelical Protestantism.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government does not restrict foreign travel, nor does it revoke citizenship for political reasons. Movement inside the country was unrestricted except where the army and PAC's limited travel in some areas of conflict. Guerrillas continued to establish roadblocks, assault private citizens to demand "war taxes," attack and drain petroleum trucks, and limit travel in certain rural areas.

Repatriation of refugees continued. By the end of 1993, 5,135 refugees had been repatriated to Guatemala In December a large group of approximately 1,300 refugees returned to a conflict-torn zone that was originally their home.

On August 25, a representative of the Guatemalan refugee community in Mexico, Joaquin Jimenez Bautista, was beaten by a crowd including PAC members in Todos Santos, Huehuetenango. Jimenez had returned to Guatemala on August 17 as part of a refugee group searching for resettlement sites. On the day of the beating, he had left the group, returning for a visit to his former village. Crowd members later formally charged that Jimenez was a known guerrilla, who participated in murders in that town in the 1980's. Jimenez was briefly detained by police after a military patrol prevented the mob from lynching him. Jimenez was released by order of the Minister of Government and returned to Mexico on August 26.

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

Guatemalans have the right to change their government by peaceful and democratic means. Universal suffrage by secret ballot exists for those 18 years of age and older; there are no property or literacy requirements, but members of the armed forces and police may not vote. The last national elections, which international observers found free and fair, were held in January 1991.

Following the removal of President Serrano and Vice President Espina, Ramiro de Leon Carpio was elected President by a congressional vote and sworn in on June 6, as prescribed by the Constitution. Congress elected Arturo Herbruger, who was head of Guatemala's independent Supreme Electoral Tribunal until retiring in early June, as Vice President on June 18.

Several women hold prominent political positions, including three Cabinet posts. Six of 116 members of Congress are female; 2 women are Supreme Court justices. A few women also hold important positions in political parties. Of the over 300 municipalities in Guatemala, women serve as mayors in only 5 (there had been no female mayors prior to the May elections in 276 small municipalities). There are no legal impediments to women's participation in politics, but females are underrepresented in the political arena. As of March 1990, 60 percent of registered voters were men and 40 percent women, despite women being slightly more numerous than men in the general population.

Indigenous people enjoy equal rights under the Constitution, and some have attained positions as Congressmen, army officers (including one general), government officials, and judges. Nevertheless, pervasive discrimination (see Section 5) limits opportunities for indigenous people to assume prominent roles in politics.

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

Local human rights groups are permitted to operate, but members suffered threats and violence from security forces and PAC's. A greater tolerance for their activity exists since the de Leon administration took office. As noted in Section 1.a., members of the human rights organization CERJ were killed and threatened, and CERJ's Guatemala City office was broken into on May 8. CONAVIGUA, an indigenous widows' organization prominent in the advocacy of women's and human rights issues, also received threats. Prior to the midyear change in administrations, President Serrano and members of his Cabinet criticized both local and international human rights groups, accusing them of intentionally distorting Guatemala's human rights record for political purposes. High-ranking government officials working in the fields of human rights and jurisprudence complained publicly and privately of receiving threats stemming from their interest in resolving cases related to human rights violations, official corruption, and drug trafficking.

Relations between the executive branch and the Ombudsman's office were tense at times in the first half of the year, though, after the election of de Leon Carpio as President, matters improved considerably. The Ombudsman's office continued to enjoy widespread public support and respect; Congress elected Jorge Mario Garcia Laguardia as the new Human Rights Ombudsman to replace de Leon Carpio. The new Government made clear its willingness and commitment to receive international and domestic human rights groups. Senior officials met numerous foreign and international officials and activists.

The Peace Brigades, an international human rights monitoring organization, was unable to obtain government recognition despite persistent efforts. The absence of legal status did not, however, prevent Peace Brigades or other human rights organizations from operating openly.

On June 17, union activist Elizabeth Recinos was kidnaped, alongwith a companion. Though the companion was quickly released, Recinos was held for 4 days, drugged, and beaten. President de Leon condemned the kidnaping, and the police conducted an investigation, though no arrests were made. The police initially labeled this a "self-kidnaping," although there were more credible claims that the action was meant as a threat to unions and human rights groups. On July 11, union official Walter Manuel Najera Molina was kidnaped and interrogated about union activities for 3 hours by four armed men, during which time he was beaten. During his questioning, Najera was asked about various political and human rights leaders, whom his captives linked to the guerrillas.

On September 1, a member of a group advocating a purge of alleged corrupt congressional and Supreme Court officials, Olga Marina Ruano Cruz, was abducted and beaten before being released a day later.

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

Women.—Despite legal protection, women face job discrimination and on average receive significantly lower pay than men. They are primarily employed in low wage jobs in the textile industry, agriculture, retail business, and the public sector. A mid–1991 U.N. study reported that women, although slightly more than half the total population, make up only 24 percent of the economically active population. More working women than men are employed in the informal sector of the economy, where pay and benefits are generally low. A 1989 survey reported that in Guatemala City women are underrepresented in high-income categories and overrepresented among poorly paid workers.

The Constitution asserts the principle of equality between the sexes. Nonetheless, not all domestic laws have been modified to take into account this constitutional provision or to reflectthe numerous treaties bearing on the rights of women to which Guatemala has adhered. (Provisions of such treaties take precedence over domestic law.) In some cases, laws remain discriminatory against women, such as the Penal Code's provisions on adultery. Only women may be charged with adultery, while men fall under a different statute, which is more limited, makes it more difficult to prove, and carries a lesser penalty.

CONAVIGUA reported that violence against women, including domestic violence, remains common but receives little attention. There is no specific law against domestic violence, although it is considered to fall under other statutes. Criminal sexual violence often goes unreported by victims, and relativelyfew rape cases come to court. The Ombudsman's office has only recently begun collecting statistics on this problem.

Children.—When signing the U.N. Convention on the Rights of the Child, the Government stated its commitment to children's human rights and welfare and

pledged to revise its laws in line with the Convention. The Human Rights Ombudsman's office, along with a commission of 25 governmental and nongovernmental organizations (NGO's), was revising the current Code but at year's end had not completed the task.

The abuse of street children (see Section 1.c.) is a serious problem in major cities. Estimates of street children range between 1,500 and 5,000, with the majority of these youths concentrated in Guatemala City. These children are often recruited into thievery or prostitution rings. The Government and a number of NGO's have youth centers, but the funds devoted to them are inadequate for the problem. In August the Government opened a school in San Jose Pinula for the rehabilitation of street children.

An accord between Casa Alianza and the Attorney General's officewas not renewed in 1993 due to problems involving the suspensionof the then Attorney General. On August 16, the new civilian police director met with Casa Alianza as one of his first publicacts and expressed his commitment to the rights of street children and his intention to punish police officers and others who abuse them. Casa Alianza announced after the visit that it and the police will coordinate programs to combat street children's drug addiction and abuse of the children. The policedirector also assumed personal responsibility for the Department's Minors' Division, and the Ministry of Government established a separate division to handle street children matters.

Indigenous People.—Indigenous people comprise one-half of the population but remain largely outside the country's political, economic, social, and cultural mainstream. Indigenous people suffered most of the serious human rights abuses described throughout this report. Rural indigenous men were more likely than urban dwellers to be drafted by the army or forcibly recruited by either the army or guerrilla groups. Although indigenous people are accorded equal rights by the Constitution, in practice they have only minimal participation in decisions affecting their lands, culture, traditions, and allocation of natural resources.

Rural indigenous people have limited educational opportunities and thus have limited employment opportunities. Illiteracy is prevalent in indigenous communities. Many indigenous people do not speak Spanish. Linguistic barriers hinder interaction with the Government and limit access to public services, including the judiciary, because few officials speak indigenous languages. Indigenous persons arrested for crimes are often at a disadvantage due to their lack of Spanish. The Public Defender's Office is charged with providing judicial translating services but is not sufficiently staffed to cope with the problem. Under the new Penal Code, the Government will be required to provide translating services to all in need.

People with Disabilities.—The Constitution provides that the State should protect disabled persons. Nonetheless, physically disabled persons are discriminated against in employment practices, and few resources are devoted to combat this problem or otherwise to assist people with disabilities. There is no legislation mandating accessibility for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution and the 1947 Labor Code, as amended, provide workers freedom of association and the right to form and join trade unions. The Labor Code was amended in late 1992 to facilitate freedom of association, to strengthen the rights of working women, to increase penalties for violations of labor laws, and to enhance the role of the Labor Ministry and labor courts in enforcing them. All workers have the right to form or join unions, including public sector employees, with the exception of members of security forces. In February a decree interpreting "essential services" in such a way as to restrict organizing public sector workers was withdrawn, following protests by public sector employees and the Minister of Labor. After national police officers were unsuccessful in their attempts to form a trade union or association during most of the year, the new Director opened a dialog with representatives of this group. Between 5 and 8 percent of the work force is organized. The 890 unions in the country are independent of government and political party domination.

The Labor Code amendments simplified the process for unions to obtain legal status, which had been criticised as excessively cumbersome, by eliminating a number of provisions, including one that required the nation's President to sign the final papers. Complaints by trade union leaders about continuing problems with the recognition process, plus concerns expressed by the International Labor Organization (ILO) Committee of Experts, prompted the new Minister of Labor to seek revisions to this procedure. In November the Labor Ministry issued revised internal regulations covering the approval of new trade unions. This reduced the number of steps needed within the Ministry to grant approval, established strict timetables for con-

sideration of union applications, and made clear that noncompliance with this timetable could lead to dismissal of guilty bureaucrats.

Experience with these new regulations during the last 2 months of 1993 seems to indicate they helped accelerate the approval procedure. For example, the application by workers at a bottling company in La Mariposa received final approval in a record 5 weeks. During the last half of 1993, most of the backlog of union applications was eliminated and several previously controversial union applications were approved, such as the union representing Coca-Cola workers in Puerto Barrios, several unions representing "maquila" (drawback, or in-bond export) workers, and the long-pending application by the union representing workers in the Bank of the Army (Banco del Ejercito).

Workers have the right to strike, but Labor Code procedures make legal strikes cumbersome. The ILO Committee of Experts criticized the requirement that two-thirds of the workers vote to approve a strike and the prohibition of strikes by agricultural workers at harvest time, as well as those deemed by the Government to affect the national economy seriously. The few strikes that did occur were generally called without legal authorization, and in practice the Government made no effort to intervene on the basis of illegality. Nonetheless, the lack of legal sanction for a strike can be used as a threat against strikers. Organized labor's structural weaknesses, a reluctance to organize forcefully, the paucity of membership funds, and a poor overall economic situation with high unemployment and underemployment limit the duration of virtually all strikes.

The law protects workers from retribution for forming and participating in trade union activities, but compliance with the law varies. While some employers accept unionization, many employers routinely attempt to circumvent Labor Code provisions in order to resist union activities, which many view as exceedingly confrontational and disruptive. Enforcement of the right to form and participate in trade union activities is further hindered by an incompetent legal system and the inadequate level of penalties provided by law for violations. Fines for violating the Labor Code were increased when the Code was amended in 1992.

Trade union leaders and individual workers reported that workers were threatened with the loss of their jobs or physical harm for their interest in forming a union. The International Confederation of Free Trade Unions (ICFTU) alleged that a wave of illegal and arbitrary mass firings and intimidation took place at the beginning of the year, including the dismissal of 515 union members at the State Forest and Wildlife Office and the firing of 25 workers from the National Agrarian Reform Institute for joining a union.

One union leader was discharged in late 1992 by a state-owned enterprise for participating in a seminar sponsored by the American Federation of Labor-Congress of Industrial Organizations despite clear contract language that would permit such training. Although a lower labor court acted quickly and ordered the company to reinstate this leader, there was no final action on his case during the year. This case was unusual because union leaders and other industrial relations observers agree that labor courts are generally slow to hear complaints, as well as to issue decisions related to complaints by workers and unionists that their rights to form and join trade unions are not protected.

Trade union leaders and members were among those subjected to a variety of abuses, such as threats, assassination attempts, kidnapings, and physical harm (see Section 4). A number of trade union officials or members were kidnaped during the year. They were generally questioned about the activities of well-known union leaders, often physically abused (but not killed), and then released. Since many of these incidents happened during the period just after Ramiro de Leon Carpio became President, these attacks seemed intended as a warning to trade unionists and other leaders about their increased exposure in political affairs.

Public sector union leaders, as well as unionists in the high-profile maquila sector, also reported receiving threats against themselves and their families, usually coinciding with union demands for improved benefits. The ICFTU charged that many trade unionists were forced into or sought exile.

By law, union leaders may serve only one term in a particular union office, but, by rotating union positions, the same persons can stay on union executive boards for extended periods of time. The Constitution and the 1992 Code amendments protect the right of political participation for individuals, including trade union leaders. During 1993 trade union leaders became more involved in national political affairs, particularly during the political turmoil following the resignation of former president Serrano and the move to purge Congress and the Supreme Court.

Unions may and do form federations and confederations and join international organizations. With very few exceptions, trade unions depend on assistance received from international contacts.

An active "solidarity" movement claimed approximately 100,000 members in over 350 companies. Unions may legally continue to operate in workplaces which have solidarity associations, and workers have the right to choose between the two or belong to both. The Government views these associations as civic organizations which need not interfere with the functioning of trade unions, since the amended Labor Code stipulates that trade unions have the exclusive right to bargain collectively over work conditions on behalf of workers. Unionists charge, however, that solidarity associations are promoted by management to avoid the formation of trade unions or to rival existing labor unions. There are credible reports that, at times, democratic principles are not adhered to in the formation and management of some of these associations, and workers are unable to participate fully and freely in decisionmaking. Similar credible charges are made against some trade union organizations.

At the request of trade union leaders, the independent Human Rights Ombudsman, through his Office for Economic and Social Issues, receives complaints related to trade union activities. Union leaders and workers filed a number of complaints with the Ombudsman during the year, but no results were apparent by year's end. In June members of the ILO Committee on the Application of Conventions noted the serious situation of violence and insecurity that exists in Guatemala, including murders and abductions "with the participation of the army and death squads," as well as the "difficult transition towards democracy" under way in the country and asked for "total and unconditional respect" by the new Government to their observations.

b. *The Right to Organize and Bargain Collectively.*—Workers have the right to organize and bargain collectively but are often denied this right by antiunion actions of employers. The practice of collective bargaining is limited, moreover, by the weak structure of the union movement, the lack of experience with this practice, and by the preference of management in many cases to avoid formal ties with trade unions. While some well-written collective contracts are honored by both management and the unions, other contracts were openly ignored and violated by both parties. Most workers, even those organized by trade unions, do not have collective contracts to cover their wages and working conditions. Wages received by the bulk of the work force tend to be the minimum wages established by a bipartite commission, which operates under the guidance of the Ministry of Labor.

Workers cannot be dismissed for participating in the formation of a trade union; complaints in this regard must be filed with the labor inspectors for resolution. The Labor Code provides for the right of employers to fire workers for cause and permits workers to appeal their dismissal to the labor courts but does not require the reinstatement of any worker fired without cause. The revised Code prohibits employers from firing workers for union organizing and protects them for 60 days following the official publication of approval of the union. It also prohibits employers from firing any member of the executive committee of a union and protects them for an additional 12 months after they are no longer on the executive committee. If a member is fired for cause, this can only be made effective after a trial and a court resolution has been issued.

Labor courts responsible for enforcing labor laws continued generally to be ineffective. Efforts to restructure and modernize the labor court system made no headway. A heavy backlog of labor cases continued to clog the courts.

The scarcity of labor inspectors, the lack of adequate training and resources, and structural weaknesses in the labor court system resulted in only minimal enforcement of the Labor Code. The Ministry of Labor hired 37 new labor inspectors in mid-September and provided them with training and resources to carry out their functions. Some were assigned to rural areas to give greater attention to the lack of protection of worker rights for rural workers. In the second half of the year, the Ministry of Labor significantly stepped up its inspections and the number of cases it filed in the courts for failure to comply with the labor law.

Labor laws and regulations apply throughout the country, including in the few export processing zones (EPZ's). The laws governing EPZ's are not discriminatory on the subject of organizing trade unions or collective bargaining. While union leaders often blame employer pressures and unofficial restricted access to the EPZ's for their virtual inability to organize workers in these zones, labor conditions in these zones are no different from those found outside the zones.

Workers and trade union leaders charge that all workers, including those in EPZ's, receive low wages, work long hours without legally required overtime pay, and toil under poor working conditions. While Labor Ministry inspectors filed numerous complaints before the labor courts on these charges, few of these cases were resolved due to inefficiencies within the court system, corruption and political chicanery, and legal maneuvering to prolong the hearing process.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution bars forced or compulsory labor, and the practice does not exist. Human rights and indigenous groups continue to charge that coerced participation, particularly of indigenous peoples, in the PAC's violates prohibitions against forced labor. There were credible reports of isolated instances of unpaid PAC members being used to provide free manual labor, but no systematic pattern of such practice was established.

d. *Minimum Age for the Employment of Children.*—Although the Constitution bars employment of minors under the age of 14, children below this age are regularly employed in the formal and informal sectors of the economy. Laws governing the employment of minors are not effectively enforced, due to the shortage of qualified labor inspectors and structural weaknesses in the labor court system. Only 5,000 minors have legal permission from the Labor Ministry to work. Thousands working without legal permission are open to exploitation, generally receiving no social benefits, no social insurance, no pension or vacations, and no severance pay and are paid below the minimum wage level. The Labor Ministry has a program to educate minors, their parents, and employers on the rights of minors in the labor market. Economic necessity, however, forces most families to have their children seek some type of employment to supplement the family income.

The Constitution provides for compulsory education for all children up to the age of 12 or to the sixth grade. The statistics on illiteracy, however, clearly demonstrate this law is not enforced. The national illiteracy rate is 52 percent, with rural areas showing a rate of 85 percent. The bulk of those who cannot read or write are women, particularly indigenous women. Child labor is largely confined to small or family-type enterprises, to agricultural work, and to the informal sectors of the economy. There are no export industries in which child labor is a significant factor.

e. *Acceptable Conditions of Work.*—Minimum wages are set by law. Due to a variety of factors, most importantly the oversupply of labor and the limited demand for it, the minimum wage for most unskilled and semiskilled workers is the prevailing wage ceiling and not the more commonly accepted wage floor. Widespread, credible reports indicated the minimum wage is commonly, if illegally, not paid to significant numbers of rural and urban workers.

The minimum wage was last increased in late 1991, when it was raised by 78.5 percent. The minimum wage for commercial and industrial workers is $2.42 (14 quetzals) for an 8-hour workday, including a required hourly bonus. The minimum wage for farm workers is $2.00 (11.60 quetzals) per day, including a mandatory bonus. This minimum wage does not provide a decent standard of living; government statistics indicate that it should be at least three times higher than the current level. An estimated 80 percent of the population lives below the Guatemalan poverty line, including approximately 70 percent of those employed. A bilateral committee representing labor and management is named each year to make recommendations for increases in the minimum wage. In the event that agreement is not possible, the Government may decree such increases.

The legal workday is 8 hours and the workweek is 44 hours, but a tradition of much longer hours remains in place due to economic conditions. The amended Labor Code continues to require a weekly rest period of at least 24 hours. Trade union leaders and human rights groups charge that workers are commonly forced to work overtime, often without premium pay, or given drugs to help them work longer in order to meet work requirements. Labor inspectors report that numerous instances were uncovered of such abuses, but corruption and inefficiencies in the labor court system inhibit adequate enforcement of the law.

Occupational health and safety standards are inadequate. As with other aspects of the labor law, enforcement of standards that do exist is also generally inadequate. Workers have the legal right to remove themselves from dangerous workplace situations, and the law provides them with protection for their continued employment. However, few workers are willing to jeopardize their jobs by complaining about unsafe working conditions. Training courses for labor inspectors in health and safety standards were provided, but this area is not perceived as a high priority for the resource-poor ministry. Legislation requiring companies with more than 50 employees to provide on-site medical facilities for their workers is not effectively enforced, even though many large employers do provide such facilities.

GUYANA

The Co-operative Republic of Guyana, a member of the Commonwealth of Nations and the Caribbean Community (CARICOM), is a small, multiracial developing nation with a unicameral Parliament chosen by direct election in a multiparty political

system. Dr. Cheddi Jagan, leader of the party obtaining a plurality of seats in Parliament, was sworn in as Executive President on October 9, 1992. The President appoints a Prime Minister and other ministers. There was general agreement among international observers that the 1992 elections were free and fair.

Security forces are comprised of the Guyana Defense Force (GDF) and the Guyana Police Force (GPF). The latter has primary responsibility for maintaining law and order throughout Guyana. The police and security forces are subordinate to the civilian government. Guyanese social and political life is strongly influenced by the presence of two main ethnic groups, the Afro-Guyanese and the Indo-Guyanese. Urban Afro-Guyanese dominate the opposition People's National Congress (PNC), the civil service, and the security forces; Indo-Guyanese predominate in the agricultural and business sectors and in the ruling People's Progressive Party (PPP).

Guyana's economy depends on agriculture and mining, with sugar, rice, bauxite, and gold being the major export earners. Despite an estimated growth rate of 8.2 percent in 1993, Guyana's per capita gross domestic product was only about $465 in 1992. The economy suffers from high external debt, shortages of skilled labor, and a deteriorating infrastructure.

Human rights problems in Guyana in 1993 continued to include extrajudicial killings by police, and police rape and other abuse of detainees and prisoners. Police generally were able to commit these abuses with impunity. Societal violence against women and children, and discrimination against the indigenous Amerindians continued. There were still limitations on workers' rights, but political control of union activity diminished somewhat.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—No political killings are known to have occurred in recent years.

There were credible allegations that police are responsible for deliberate, illegal executions. In most instances, there was a failure to investigate and prosecute the responsible police officers. On September 5, two police officers shot and killed Ricky Samaroo and Joseph "Dingo" Persaud in Georgetown. Persaud had earlier been a witness in a civil case against police officers accused of murdering a suspect, Michael Teekah, in 1988. Another witness against police in the same case reported that six police officers threatened to kill him and Persaud. Two days after the killings, the police department bestowed cash awards on the two policemen responsible for the deaths of Persaud and Samaroo. The police claimed an investigation was being conducted but have ignored the Guyana Human Rights Association's (GHRA) inquiries into its progress.

On June 4, Frank Wilson was shot and killed at the police station where he had worked as a laborer for 12 years. Police claim Wilson committed suicide, but his family believed he was murdered. Authorities ignored the family's calls for an investigation into the death.

Seven inmates escaped from the Mazaruni prison in July. Police shot three of the escaped prisoners, killing two, during operations to recapture them.

b. *Disappearance.*—There were no reports of politically motivated disappearances, clandestine detentions, or abductions.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the Constitution prohibits torture, the GHRA and the press reported a rising number of incidents of police brutality.

On occasion, confessions have been thrown out of court on the grounds that they were coerced. There were also credible reports of police officers involved in criminal activity, including extortion, intimidation, and assault, although the number of such charges declined since 1991. The independent newspaper Stabroek News, in an October 19 editorial entitled "Business as Usual," stated, "short on skills and resources, the cops have maintained their now traditional routine of beating and harassment to persuade suspects to talk. In the process, the guilty and the not guilty confess, and these 'confessions' become the focal point of the vast majority of cases at the criminal assizes."

In July a police detective was demoted and transferred from the Criminal Investigation Department (CID) after being accused of brutality. Also in July, the head of CID, who was also accused of brutality, resigned from the police force after being transferred to the administrative section. In August legal counsel for five men accused of smuggling cocaine into Guyana claimed in court that police beat his clients to gain confessions, but he offered no independent evidence to support this claim. Citizens complained that members of the Special Police Impact Group beat them with rifle butts for no other reason than being out on the streets late at night.

Eleven Angolans who entered Guyana illegally from Brazil were detained in police custody for several months while their applications for political asylum were considered. The African Cultural and Development Association (ACDA) claimed police beat four of the Angolans after they went on a hunger strike. The Commissioner of Police claimed that the four had damaged police property by throwing chairs around and "got physical" with police while being moved from one location to another.

The Amerindian Peoples Association (APA) charged that there is a systematic pattern of abuse of Amerindians, particularly abuse of Amerindian women by police and soldiers stationed in interior communities. In September the Minister of Home Affairs received a report that police in the Orealla Amerindian reservation were arresting Amerindian women on false charges and sexually assaulting them in the jail. The APA said that all the policemen were transferred out of the reservation but complained that no investigation was carried out and no criminal charges were filed against any of the policemen.

There is no independent body charged with looking into complaints of police brutality or abuse. The Ombudsman lacks the authority to look into allegations of police misconduct. Such cases are heard by the Police Complaints Authority (PCA). The PCA has no power to interview police officers or witnesses, must rely on material submitted by the police, and must refer cases of alleged abuse to the Commissioner of Police. Investigations of such charges are perfunctory and rarely result in serious disciplinary action. Officers charged as a result of complaints to the PCA are routinely suspended for a few days and sometimes fined but are rarely jailed. In essence, the police force is responsible for investigating itself and failed to do so effectively.

Prisons continued to be severely overcrowded. According to the Ombudsman, Guyana had 267 prison inmates per 100,000 population in 1992. The GHRA cited poor diet, inadequate medical attention, underpaid and poorly trained staff, and lengthy trial delays as problems facing the prison system. The Ombudsman reported receiving 33 complaints from prisoners in 1992. Prisoners complained of prison conditions, unreasonable charges, mail delays, and censorship. Suraj Persaud, a teenage boy, was beaten to death in Brickdam jail in Georgetown. The GHRA complained to Police Commissioner Laurie Lewis that fellow youthful prisoners beat Persaud over a period of several days with no attempt by police to intervene. Lewis did not respond to the GHRA complaint. All letters sent by prisoners to the Ombudsman are opened by prison officials. The GHRA applied to have one of its members named to the prison visiting committee but received no response from the Government. The Government also failed to appoint a GHRA member to the new prison advisory committee charged with recommending ways to reform the prison system. According to the GHRA, all women prisoners in Guyana are held in one prison. The facility's isolated location and lack of adequate staff make it difficult for family members to visit. There were credible allegations that female detainees were sexually abused by the police.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution provides that no person may be deprived of personal liberty except as authorized by law and requires judicial determination of the legality of detention, a mandate that was generally respected in practice in 1993.

Arrest does not require a warrant issued by a court official, only an assessment of guilt by the police officer. The law requires that a person arrested and held for more than 24 hours be brought before a court to be charged. Chief Magistrate K. Juman Yassin publicly complained that suspects are often detained for more than 24 hours but never charged. Bail is generally available except in capital cases. In narcotics cases, magistrates have some discretion in granting bail before trial but must send all persons convicted on narcotics charges to custody, even if an appeal is pending.

Exile is not practiced.

e. *Denial of Fair Public Trail*

The Constitution provides that anyone charged with a criminal offense has the right to a hearing by a court of law, and this right is respected in practice. Guyana has a functioning bail system. Defendants are granted public trials, and appeal may be made to higher courts.

There are no political prisoners or special courts for political security cases. Several persons charged in an alleged coup plot, held since 1990, were released from custody without trial in 1993.

In the past, some members of the opposition to the previous PNC governments expressed concern over court rulings in libel suits brought by government officials as well as other governmental use of the courts to harass political opponents. The judiciary now exerts greater independence due to the freer political atmosphere

which has developed in the country since 1985. The present Government made no attempt to use the courts to intimidate the opposition.

Delays in judicial proceedings are often caused by shortages of trained court administrative personnel and magistrates, inadequate resources, low salary levels, and the slowness of police in getting cases ready for trial. The inefficiency of the judicial system is so great as to undermine due process. Prisoners are often detained 3 or 4 years awaiting trial. Appeals of some murder cases have been delayed for several years. Postponements are routinely granted to both the defense and the prosecution. In a recent session of the Court of Appeals, eight criminal appeals were dismissed for lack of prosecution. The defendants had served their full sentences (3 years on the average) and had been released from prison before the appeal could be heard. The Chief Magistrate reported that it is not uncommon for defendants to be incarcerated for 2 to 3 years pending trial.

Although the laws of Guyana recognize the right to legal counsel, in practice, with the exception of capital crimes, it has been limited to those who can afford to pay. A small groups of lawyers is working to begin a Legal Aid clinic. The Government has provided a small cash grant for the clinic as well as the services of a lawyer from the Attorney General's office. The clinic is expected to open early in 1994 after the Government provides office space. Due to resource constraints, the clinic initially will limit its activities to certain types of civil cases in Georgetown. Apart from these efforts, virtually no lawyers work pro bono in criminal cases. Defendants in murder cases are assigned an attorney by the court. The Guyana Association of Women Lawyers provides free legal services for civil cases only.

i. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Government generally respects the right to privacy, although some politicians claimed instances of surveillance by the previous PNC government of political meetings and rallies. (Uniformed police officers routinely monitor such rallies.) The laws requiring judicially issued warrants for searches were generally respected in 1993.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitutional provision for freedom of speech is generally respected, and Guyanese freely criticize their government and its policies. The Government generally ignored often savage ad hominem attacks or President Jagan and his Government by the opposition PNC newspaper New Nation. However, a businessman was pressured by a government official to withdraw advertising from the paper, and there were credible charges that foreign investors were pressured to cancel contracts with consultants who were former PNC government officials. President Jagan and members of his Government criticized the independent daily newspaper Stabroek News for what they considered unfair and inaccurate reporting but took no action against the paper.

The government-owned Guyana Television and the two radio stations controlled by the government-owned Guyana Broadcasting Corporation offer relatively evenhanded reporting of local events. Guyana has no private radio stations but does have six private television stations in Georgetown, and several more in outlying towns. Two of the private television stations offer frequent public affairs programming which is often critical of the Government, and they began to produce Guyana's first independent newscasts in 1993.

In past years, the Government exercised varying degrees of control over the media through ownership of what had been the country's only daily newspaper (the Guyana Chronicle), the communications agency, the two radio stations, and the issuance of import licenses for newsprint and printing presses. The Minister of Information stated that the Government will not privatize the state-owned media, but the Government's role in the media nonetheless declined greatly due to the increased availability of other newspapers and the rapid growth of television. In 1993 the independent Stabroek News expanded publication to seven times a week and added a weekly regional edition. Independent and opposition newspapers frequently criticize the Government in editorials and satirize it in cartoons.

There were no restrictions on academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Public Order Act requires police permits for mass political meetings. The Police Commissioner has the authority to refuse permission for a public meeting at his discretion and without explanation. There was no evidence that he used this authority for political purposes in 1993. Political parties and other groups held public meetings and rallies throughout the country without hindrance.

c. *Freedom of Religion.*—Guyanese practice a wide variety of religions, the major faiths being Christianity, Hinduism, and Islam. The Constitution provides for freedom of religion, and members of all faiths are allowed to worship freely. There are no restrictions on foreign religious groups proselytizing in Guyana.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of movement within Guyana. Travel to Amerindian areas requires government permission, the result of a law dating from colonial times designed to protect the indigenous peoples from exploitation. Prior to the 1992 elections, the GHRA, opposition politicians, and some clergy contended that permits were sometimes denied to missionaries and non-PNC politicians, and that the regulations were used to maintain PNC influence among the Amerindians. In practice, however, most people travel throughout these areas without regard to the formality of a permit. Guyanese are free to travel abroad, to emigrate, and to return.

Guyana did not generate political refugees in 1993. Eleven Angolans and one or two other Africans who entered Guyana from Brazil applied for political asylum. On the advice of the United Nations High Commissioner for Refugees, most of the applications were ultimately approved.

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

Guyana has a unicameral Parliament which is chosen by direct election in a multiparty political system based on proportional representation. The leader of the party which obtains a plurality of seats in Parliament during national elections is sworn in as Executive President. The President appoints a Cabinet, headed by a Prime Minister, which together with the President exercises executive power.

Guyanese are free to join or support political parties of their choice. The 1992 general election, considered free and fair if not entirely unflawed by foreign observers, brought the major opposition party to power while turning the then governing party into the main opposition. Despite constitutional provisions, elections were still not held on schedule or in a consistent manner. The general election was delayed from 1990 to October 1992; municipal elections, scheduled for December 1992, had not been held by the end of 1993.

No progress was made on reforming or replacing the Constitution, which grants an inordinate amount of power to the President. Constitutional reform requires a two-thirds majority in Parliament, which could only be achieved through the cooperation of the ruling party and the opposition. Only one constitutional amendment was proposed during the 1993 parliamentary session, to change the composition of the National Elections Commission, and this was eventually agreed to after extended negotiations among the four parties represented in Parliament.

There are no legal impediments to women or minorities participating in the political process, but historically neither women nor Amerindians were encouraged to participate, other than by voting. Any Guyanese citizen 18 years or older can register to vote, and about 80 percent of those registered cast votes in the 1992 election. President Jagan's Cabinet includes two women, two persons of Portuguese descent, one of Chinese origin, eight of East Indian extraction, four Afro-Guyanese, and one Amerindian. The new 65-member Parliament includes 13 women and 8 Amerindians, representing both major parties.

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

The Guyana Human Rights Association, the most active local human rights group, functioned without government interference in 1993. The GHRA is a nongovernmental organization formed in 1979 with the participation of trade unions, professional organizations, various ethnic groups, and churches. It issues periodic press releases and publishes an annual report on human rights in Guyana. The Government made no public statements in response to either GHRA or foreign human rights reports. The GHRA received no threats in 1993.

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

Women.—In principle, the Constitution prohibits discrimination on the basis of sex and commits the Government to ensure equal pay for equal work. However, a 1988 government-sponsored constitutional amendment rendered the equal pay provision unenforceable except in cases in which equal pay for equal work is provided for by specific statute. No such statutes have been enacted.

The 1990 Equal Rights Act was meant to end sex discrimination, but the failure to include a specific definition of discrimination rendered the Act unenforceable. There is no legal protection against widespread sexual harassment in the workplace, and dismissal on the grounds of pregnancy is common and not illegal.

Other legislation passed by the Parliament in 1990 protects women's property rights under common law marriage, entitling a woman who separates or divorces to one-half of the couple's property if she had been working and one-third of the

property if she had been a housewife. However, divorce by consent remains illegal, and there are unequal provisions regarding adultery as grounds for divorce. The legislation also gave authority to the courts to overturn a man's will in the event it did not provide for the wife.

Violence against women and children, including domestic violence, is a significant problem. Wife beating, rape, and incest are common, but lawyers say their clients very rarely report such crimes to the authorities. Victims of such abuse who do seek redress from the police and the courts often suffer social retribution and additional harassment from the authorities charged with pursuing their claims. Because of their economic circumstances and the lack of any family shelters or other place of solace, victims of domestic violence are often trapped in their homes with their abusers. The National Women's Rights Campaign (NWRC) presented a draft bill on domestic violence to the Government in September which the Ministry of Labour, Human Services, and Social Security promised to table in Parliament in 1994.

There are few organizations, other than those sponsored by political parties, that focus primarily on women's rights. Two exceptions are the Guyana chapter of the Caribbean Association for Feminist Research and Action (CAFRA) and the NWRC which opened a counseling center for victims of violent relationships in early 1993.

Children.—A 1992 U.N. Children's Fund (UNICEF) report on children and women in Guyana stated that "the rights of children and women to survival and development, to protection, and to participationhave not been adequately met." An estimated 65 to 86 percent of the population of Guyana lives in poverty, and children are more severely affected than any other group. The severe deterioration of the public education and health care systems has stunted children's futures and often cut short their lives. For many children, health care has become unaffordable. Children are often denied access to education because their families cannot afford school fees, or because their families need the children to contribute to running the household by working or providing child care for other children.

The worst effects on children's lives come from migration. Over 3 percent of Guyana's population emigrates every year in search of a brighter economic future. As parents migrate they often leave behind their children to be raised by other family members, friends, or by other children. Nearly 1 percent of Guyana's households are headed by children under the age of 14.

The administration of justice for children is characterized by a punitive legal system which does not take into account the needs of children fleeing sexual, physical, or emotional abuse. The 1992 UNICEF report stated that the "human rights of children in institutions are essentially violated . . . . Children are being detained in inhospitable prison conditions for as much as 6 months without trial and without being allowed to go to school. Children have been picked up from the streets and detained in an institution without being taken to court and without the consent of their families. Within both public and private institutions children report being beaten and sexually and emotionally molested."

First Lady Janet Jagan and several ministers of government are strongly committed to children's human rights and welfare. In July the National Committee for the Survival, Protection, and Development of Children held its first meeting, chaired by Mrs. Jagan. The Committee is drafting a national program for action on children, but the Government's ability to improve the situation of children will be severely constrained by the lack of resources available to the State.

Indigenous People.—Guyana has a small indigenous Amerindian population, composed of nine tribal groups, most living in reservations and villages in remote parts of the interior. Their standard of living is much lower than that of most Guyanese, and their ability to participate in decisions affecting their lands, cultures, traditions, and the allocation of natural resources is virtually nil.

Amerindian life is regulated by the Amerindian Act, legislation dating from colonial times designed to protect the indigenous peoples from exploitation. The Act gives the Government the power to determine who is an Amerindian and what is an Amerindian community. Additionally, the Act gives the Government the power to appoint Amerindian leaders and to cancel or annul any decisions made by Amerindian councils. Both individuals and Amerindian groups remain free to criticize the Government. Although many actively and openly oppose government policies, their influence on government policy was negligible. The Amerindian Act also prohibits the sale of alcohol to Amerindians and requires government permission before any Amerindian can accept formal employment. In December Parliament approved a motion to "appoint a Special Select Committee to study the Amerindian Act and to make recommendations for its revision along democratic lines to enlarge the self-determination of Amerindians." The motion passed with the unanimous support of all four parties represented in Parliament.

In 1992 the Government distributed land titles to some Amerindian communities. The APA charged that the titles were distributed just before the elections in an attempt to win votes and criticized the allocations because they were smaller than recommended by the Government Lands Commission in 1968 and did not include mineral rights.

The Government still holds title to 90 percent of the land claimed by Amerindians and, through the Amerindian Act, retains the ability to repossess the land titles already distributed if it determines that it is in the Amerindians' interest. Several large leases and concessions were granted, allowing mining and timber companies to operate on traditional Amerindian lands, often under contracts and terms never made public. Amerindians displaced by timber and mining operations in such cases have no legal recourse.

In 1993 the foreign-owned Barama company began timber operations on 4.2 million acres of primary tropical forest where five Amerindian communities are located. Of the 1,200 Amerindians living within the Barama concession, only 550 live in government-recognized Amerindian villages. The rest are scattered along the rivers and have no legal protection for their homesteads. The APA claimed that the traditional hunting, fishing, and farming lands of the Amerindian communities are being destroyed and that nine families living inside the Barama concession have been removed from their land. The APA also claimed that Barama was denying Amerindians access to their traditional forest paths and waterways within the Barama concession. Barama officials denied these claims, saying that a total of four families relocated voluntarily to new housing built at Barama's expense. Barama further claimed that it respected the boundaries of Amerindian communities and that environmental damage in these areas was often caused by gold miners operating without supervision in the region.

In late 1992, the new Government appointed an Amerindian to the new position of Minister of Amerindian Affairs. The Minister considers himself a liaison between Amerindians and the Government. However, as a junior minister in the Ministry of Public Works, Communications, and Regional Development, he has no staff and no separate budget. The APA and the Guyanese Organization of Indigenous Peoples complained that he is consequently ineffective in the position.

National/Racial/Ethnic Minorities.—The Constitution provides fundamental rights for all persons in Guyana regardless of race, sex, religion, or national origin. Guyanese society and political life continue to be influenced by longstanding ethnic tensions, primarily between Guyanese of African and East Indian descent. The civil service and defense and police forces are overwhelmingly staffed by Afro-Guyanese. This is largely the result of historical circumstances and does not reflect a deliberate policy of the present Government. Recruitment efforts targeted at Indo-Guyanese candidates for the uniformed services generally have met with an unenthusiastic response, with most qualified Indo-Guyanese candidates opting for a business or professional career over military, police, or public service.

People with Disabilities.—Guyana has several special schools and training centers for the disabled, but like the rest of the educational system these are understaffed and in severe disrepair. The disabled generally are considered unemployable because of the lack of appropriate infrastructure to provide accessibility in both public and private facilities. There is no law mandating provision of access for people with disabilities.

Section 6. Worker Rights

a. *The Right of Association.*—The right of association is provided for in the Constitution, which specifically enumerates a worker's right to "form or belong to trade unions." Employers are not required by law to recognize a union in the workplace, even if a large majority of workers have indicated their desire to be represented by a union. The Minister of Labour sent a new trade union recognition bill to the Attorney General for comment, but it had not been laid before Parliament by the end of the year.

Most union members work in the public sector and in state-owned enterprises, although in 1993 unions gained recognition in several of Guyana's newly privatized industries. Organized labor in Guyana freely associates in one major national federation, the Guyana Trades Union Congress (TUC), composed of 22 unions. From 1988 to 1993, six unions suspended their involvement in the TUC and formed the Federation of Independent Trades Unions of Guyana (FITUG) to protest longstanding political control of the TUC by the PNC. After long negotiations with the FITUG unions, the TUC adopted democratic reforms to its constitution in February 1993. The FITUG unions returned to the TUC at a special conference in September during which a FITUG member was elected president in the TUC's first free elections since the mid–1970s.

There is a tradition of close ties between Guyana's trade union movement and political parties, particularly the PNC which controlled the Government (and thus public sector employment) for 28 years until 1992. Historically, the two major political parties wielded significant influence over the leadership of a number of unions, and trade union officials often served in dual roles as party officials. President Cheddi Jagan is on leave as honorary president of Guyana's largest union, the Guyana Agricultural and General Workers' Union, and former President Hoyte is president general of the Guyana Labour Union. Several other unions in the TUC are formally affiliated with the PNC, and several FITUG unions have close ties with other political parties.

Workers have a generally recognized right to strike, but public employees providing essential services are normally forbidden to strike (a procedure exists for the review of their grievances by a tribunal appointed by the Minister of Labour). When four public sector unions called a "work to rule" by government employees to protest delays in wage negotiations, President Jagan said, "they have a right to strike, but they must strike responsibly." Unions representing the water works, the state-owned radio stations, and the telephone company called short strikes or "work to rule" actions. In October the union representing workers at the state-owned electricity company called a strike which lasted 7 days after the Prime Minister forbade management from signing a wage agreement that had been negotiated with the union.

Unions representing workers in the sugar, bauxite, timber, and seafood industries also staged short strikes. Most of these strikes were called to support negotiations for higher wages or better working conditions, although a significant number of strikes were the result of interunion recognition battles. Labor disputes are frequently settled through consultation and dialog without resorting to strikes or other industrial action. Unions and their federations freely maintain relations with recognized Caribbean and international trade union and professional groups. All three of the major international labor federations have affiliates in Guyana.

b. *The Right to Organize and Bargain Collectively.*—Public and private sector employees possess and utilize the generally accepted right to organize and to bargain collectively. The Ministry of Labour certifies all collective bargaining agreements and has never refused to do so. This right is not codified, however, and employers are not legally required to recognize unions or bargain with them. For two decades the TUC's traditional ties (through PNC-affiliated unions) to the former PNC-controlled government limited the unions' ability to negotiate effectively on behalf of workers in both the private and public sectors.

In 1993 the new Government repealed a regulation requiring the Government and all public corporations to engage in collective bargaining only with the TUC and not with individual unions. The result of that regulation had been that salaries and working conditions in the Government and public sector enterprises were dictated by the Government. However, unions complained about a new regulation that all wage settlements with the Government or public corporations had to be approved by the Ministry of Finance.

The Chief Labour Officer and the staff of the Ministry of Labour provide consultation, enforcement, and conciliation services. In 1993, 47 collective bargaining agreements were concluded and certified by the Ministry of Labour, up from 26 the year before. The Ministry has a backlog of cases, and insufficient manpower and transportation severely limit the Ministry's ability to carry out its functions.

The Ministry of Labour documented no cases of antiunion discrimination during 1993. However, union leaders make credible charges that workers attempting to unionize workplaces are harassed and intimidated and that the Ministry does not expeditiously investigate complaints that employers are dismissing workers when confronted with union organizing efforts. A foreign-owned timber company fired workers who went on strike to protest supposed delays by the Ministry of Labour in holding a recognition poll between rival PNC and PPP unions, but the company later rehired all employees who returned to work. There is no legal mechanism to require employers found guilty of antiunion discrimination to rehire employees fired for union activities.

Guyana has no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, and there is no indication that it exists.

d. *Minimum Age of Employment of Children.*—Minimum age laws are set out in the Factories Act and the Employment of Young Persons and Children Act. Legally, no person under 14 years of age may be employed in any industrial undertaking, and no person under 16 may be employed at night, except under regulated circumstances. The terms "industry" and "factory" as used in the law have been interpreted by the Ministry of Labour to encompass nearly all workplaces except offices

and retail shops. According to the law, children under age 14 may be employed only in enterprises in which members of the same family are employed. The local economic situation has forced more and more young children into the work force, however, and it is common throughout the country to see very young children engaged in street trading. While cognizant of the situation, the Ministry of Labour does not employ sufficient inspectors to enforce existing laws effectively.

e. *Acceptable Conditions of Work.*—The Government establishes a public sector minimum wage which was $1.35 per day as of July 1, 1993. The Labour Act and the Wages Councils Act allow the Labour Ministry to set minimum wages for various categories of private employers. In November official minimum wages were raised by over 400 percent; the minimum wage for unskilled workers was set at $0.17 per hour. Both the legal minimum wage for the private sector and the public sector minimum wage are currently insufficient to provide a decent standard of living for a family.

Hours of employment are set under the Shops Act and the Factories Act and vary by industry and sector. In general, work in excess of an 8-hour day and a 44-hour week requires payment of an overtime rate. The law does not provide for at least one 24-hour rest period.

The Factories Act sets forth workplace safety and health standards. The Occupational Health and Safety Division of the Ministry of Labour is charged with conducting factory inspections and investigating complaints of substandard workplace and conditions. As with its other responsibilities, inadequate resources prevented the Ministry from effectively carrying out this function. Workers cannot remove themselves from dangerous work situations without jeopardy to continued employment.

HAITI

The Haitian military has effectively ruled the country since its unconstitutional, violent overthrow and expulsion of President Jean-Bertrand Aristide in September 1991. From January to August, Haiti was ruled by an unconstitutional de facto regime, the second since the coup. On July 3 the military high command signed an agreement with President Aristide on Governors Island, New York to restore constitutional order. Pursuant to the accord, on August 30, Prime Minister Robert Malval, appointed by President Aristide, was sworn in to office. The military high command failed to respect the provisions of the Governors Island accord which delayed full implementation by the end of the year. Malval held de jure power throughout this period but was unable to effect full control of the Government, and actual power remained in the hands of the military and its supporters. Ministers in the Malval Government were often prevented from carrying out their duties by threats, violence, and other forms of intimidation. On October 14, Justice Minister Guy Malary was killed in downtown Port-au-Prince. Although the killers had not been identified by year's end, there is strong reason to believe they were supporters of the military. Prime Minister Malval resigned on December 15, in keeping with his announced intentions, but stayed on as acting Prime Minister pending appointment of a replacement.

The Haitian armed forces, which have considerable legal and institutional autonomy, are responsible for law enforcement and public security. The police, all of whom are stationed in Port-au-Prince, are an integral part of the armed forces. In both urban and rural areas, armed forces units serve as police, despite a constitutional requirement to separate these two bodies. Paramilitary personnel in civilian clothes (known as "attaches" in the city or "section chiefs" and "adjoints" in rural areas) conduct most of the intimidation and violent repression for both the police and the army. Military, police, and paramilitary personnel committed numerous serious human rights violations with impunity in 1993.

The Haitian economy is characterized by severe overpopulation vis-a-vis ever dwindling arable land due to environmental devastation, high infant mortality, a heavy dependence on imports and foreign assistance, a predominantly rural population living on rapidly eroding land, wide disparities of income, and a small manufacturing base. While never strong, the economy declined in recent years, owing to political instability and government mismanagement. That decline continued in 1993 and was intensified by the Organization of American States' (OAS) trade embargo and the United Nations' fuel embargo, as well as the suspension of all but international humanitarian assistance following the 1991 coup.

Haitians suffered frequent human rights abuses throughout 1993, including political and extrajudicial killings by the security forces and their allies, disappearances, beatings and other mistreatment of detainees and prisoners, arbitrary arrest and

detention, executive interference with the judicial process, and continued infringement of the rights of citizens to change their government. More than 200 civilian human rights observers from the United Nations and the OAS were deployed throughout the country from February through October when they were withdrawn due to perceived threats and intimidation. Their presence temporarily helped curb political violence and human rights violations, but indiscriminate violence remained substantial, especially in rural areas, where two-thirds of Haitians live. There was a substantial increase in crimes of violence, including politically motivated killings, beginning in July and August, as tensions rose over the Governors Island accords and military efforts to derail their implementation. Most of the violence is directed at stopping the transition to democracy.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Levels of violence were high throughout 1993 and were exacerbated by the manifest unwillingness of the military and de facto government to respect human rights, curb extrajudicial killings, and pursue criminal justice. Until its withdrawal in October, the wide-scale presence throughout Haiti of the U.N./OAS International Civilian Mission (ICM) human rights observers helped prevent even greater violence.

The ICM began formally collecting and publishing data on human rights abuses in June, and the mission registered over 100 homicide cases from June to September. It is difficult to assess the actual number of political and extrajudicial killings, because judicial authorities rarely conducted criminal investigations into any unexplained deaths, including violent ones such as murder, whether political or not. For example, the ICM registered a disturbing increase in killings in Port-au-Prince and environs in July and August. According to the ICM, the number of murders in the city climbed from 5 in May and 9 in June to 67 for the combined months of July and August. Of these 67 killings, ICM officials believe at least 7 may have been politically motivated. The ICM registered three deaths in official custody from suspected unnatural causes from May to August, but informed observers believed the number of such deaths was significantly higher. Some local groups published much higher estimates, but their methodology was not as careful as the ICM's and their figures could not be verified.

No serious investigation of these killings was undertaken by judicial or military authorities. The Haitian army general staff, under strong pressure from the ICM, transferred a few army officers for repeated abuses and dismissed one officer on human rights grounds in 1993. As a general pattern, however, the military avoided disciplining even flagrant abusers. An army corporal accused of the August murder of a peasant in the Central Plateau was transferred to a nearby department. Although initially described by military authorities as "under arrest and investigation," the soldier was, in fact, loosely confined to barracks, and there was little indication of any "ongoing" investigation.

Elements of the military and their unpaid deputies, or "attaches," continued their vigilante actions, particularly in Port-au-Prince. There was strong evidence of systematic complicity between city police and criminal and vigilante gangs. Attache violence resulted in at least one death and numerous injuries at a September 8 city hall ceremony to mark the return of Port-au-Prince's pro-Aristide mayor, ousted following the coup. Several days later, armed civilians attacked Aristide supporters during a church service, killing prominent pro-Aristide activist Antoine Izmery and one other person. Justice Minister Guy Malary was similarly murdered in public on October 14. No investigation or arrests have been made in either case.

One homicide case with political implications was investigated by judicial authorities during the year: the July 1991 torture and murder of five youths while in police custody. Following the arrest of the policeman accused of the murder, President Aristide publicly praised him in a September 11, 1991, speech. A Port-au-Prince magistrate determined in July, despite compelling evidence to the contrary, that "reasonable doubt" existed concerning the guilt of the accused policeman and dropped all charges.

b. *Disappearance.*—Haitian human rights advocates point out that, because many Aristide activists remained in hiding, it was difficult to verify reports of disappearances. The ICM recorded 1 reported disappearance between February and May, then 10 in June. There were eight abduction and subsequent release cases and five disappearances in July and August. Historically, the "disappeared" in Haiti are either never found or found murdered. Increased political tension in the latter half of the year may have altered and exacerbated patterns of violent intimidation.

The bullet-riddled body of a relative of a local journalist was discovered July 13 on the coastal road north of Port-au-Prince. The journalist had photographed soldiers pistol-whipping their way to the front of a gas line during the U.N./OAS fuel embargo. After an independent local daily published the photo, the reporter was arrested and beaten and family members were harassed, leading to the disappearance and murder of the journalist's cousin. Criminal elements associated with Port-au-Prince's 22nd police company were suspected of involvement in the crime; the Government took no action to investigate or prosecute.

c. *Torture and Other Cruel, Inhumane, or Degrading Treatment or Punishment.*—The Constitution guarantees each citizen the right to life, health, respect of the human person, and individual liberty. In addition the Constitution prohibits unnecessary force or restraint, psychological pressure, or physical brutality. These constitutional protections were largely ignored, and ill-treatment remained widespread, particularly the threat of physical violence used by police and soldiers to extort money from detainees and their families. Brutal beatings with fists and clubs, torture, and other cruel treatment of detainees were common. In June a pregnant woman arrested for theft in the southern town of Jeremie was beaten so badly that she lost her child.

Three labor leaders arrested and beaten in April were held at the Port-au-Prince military hospital for several days following their legal release. They were probably detained and treated at the military hospital because the extent of their injuries would have aroused local and international outrage had they been released immediately.

Prison conditions are abysmal. Detainees regularly have no access to legal counsel and continue to suffer from a lack of the most basic hygienic facilities as well as inadequate food and health care. Children are regularly detained together with adults in violation of the rule that children should be detained separately. The 1987 Constitution calls for prisons to be administered by the Ministry of Justice. The army continues to control them, although the military authorities have asked to be relieved of responsibility for prison administration. The ICM attempted to monitor prison conditions throughout the country and to prepare registers of all prisoners but periodically was denied access to prisoners.

d. *Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention remain among the most persistent human rights abuses in Haiti. The ICM recorded more than 300 cases of arbitrary arrest from June to August. According to the Constitution, a person may be arrested only if apprehended during the commission of a crime or if a judicial warrant has been issued and must be brought before a judge within 48 hours of arrest. In practice, however, arbitrary arrest and detention as well as interrogation without legal counsel present are common and are frequently used by soldiers and provincial officials to intimidate and extort money from the populace. The frequency of this practice makes it difficult to determine the number of arrests on purely political grounds.

The Constitution calls for the separation of the police from the military, with the civilian police under Justice Ministry authority. One goal of the Governors Island accord was passage of enabling legislation aimed at finally separating the police from the army. On the basis of this legislation and with U.N.-sponsored training and assistance for the new police force, a new rural police force was to be deployed to the provinces to replace the infamous "section chiefs," a form of local constabulary in rural areas who are responsible for numerous arbitrary arrests. Section chiefs commonly obtained their positions by bribing the military commanders who appoint them, recouping their "investment" in turn by accepting money from individuals called attaches or adjoints who also extort money from the peasant population under threat of arbitrary arrests and beatings.

Politically active clergy were frequently victims of arbitrary arrest and harassment by the military and the paramilitary attaches, as part of a more general intimidation campaign against Aristide sympathizers, particularly in the countryside. In February pro-Aristide bishop Willy Romelus was attacked by civilians after giving a funeral mass at the Port-au-Prince cathedral. The bishop was escorted from the cathedral site by U.N./OAS civilian observers. Arrests and harassment of journalists are frequent and form part of an overall pattern of government and military intimidation of the media.

Two American citizens were illegally detained in 1993, at the behest of relatives, in cases involving family land disputes. One American citizen was illegally detained for "lack of respect to a uniformed police officer on duty."

e. *Denial of Fair Public Trial.*—This right is widely and severely abridged. The Constitution provides for an independent judiciary and the right to a fair public trial. It expressly denies police and judicial authorities the right to interrogate persons charged with a crime unless the suspect has legal counsel present or waives

this right. Nevertheless, interrogation without legal counsel present is the norm, and the use of beatings and torture to extract confessions is widespread. Moreover, contempt for the judiciary dating back to the Duvalier regime rendered it a vestigial branch of government, understaffed, poorly trained, and inadequately compensated. Seven years after the Duvaliers' fall, the judicial branch's lamentable state has not improved. All governments since 1986 have continued the practice of appointing and removing judges at will and of exerting political influence at every stage of the judicial process.

The Code of Criminal Procedure does not clearly assign responsibility to investigate crimes, and there are no penalties for delay or inaction. Authority to prosecute is divided among police, prosecutors, and investigating magistrates. Overlapping authority invites the abdication of responsibility and encourages tacit complicity in widespread corruption.

The Code also stipulates two criminal court sessions per year to try all major crimes requiring a jury trial. These sessions usually last only 2 weeks, and in some years only one session is held. Failure to reform the Code has resulted in a huge backlog, with detainees sometimes waiting years in pretrial detention for a court date. A U.S. citizen charged with murder (he was 15 years old at the time he was alleged to have committed the crime) has been detained for more than 2 years awaiting trial. Taking the month of April as an example, the Port-au-Prince metropolitan military announced total arrests for the month to have been 1,018. Some 212 prisoners were released in April, with 90 referred to the public prosecutors' office for possible charges. During the same month, the Chamber of Deputies' Justice Committee counted 700 prisoners at the National Penitentiary, including about 250 military prisoners. Fewer than 100 of the total penitentiary population were actually serving sentences. The rest were accused persons held without bail. If the accused is ultimately tried and found innocent, he has no recourse against the Government for time already served.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Throughout 1993 there were many credible reports of soldiers and other armed persons entering private homes for illegal purposes. Similar arbitrary searches were equally common in the provinces, with clergy suspected of pro-Aristide sympathies a particular target. In addition, armed urban bandits called "zenglendos" violently raided entire neighborhoods of Port-au-Prince, confident that the police, with whom they are alleged to have strong ties, would not intervene.

Police roadblocks were also used frequently to conduct illegal searches, especially during periods of real or perceived political tension. In January police beat and held at gunpoint a foreign missionary at a police roadblock for having in his possession weekly newspapers, sold openly in Port-au-Prince, which mentioned President Aristide. Police shot and wounded another foreigner in February for accidentally running a roadblock. The discovery of pro-Aristide posters or literature during a police search of a house or vehicle frequently resulted in illegal arrest. There were credible reports that police and military also seized private correspondence during such searches.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and the press is provided for by the Constitution but is often abridged because of intimidation and self-censorship. With an illiteracy rate of approximately 80 percent, broadcast media, especially Creole-language radio, have unusual importance, and independent broadcast media were particular targets. In February Conatel, the Haitian board governing communications, invoked a Duvalier-era decree to order all radio station directors to suppress all information that might "alarm the populace."

Nineteen radio stations operate in Port-au-Prince, 11 of which offer news programming. Four radio stations operating before the coup closed permanently. News broadcasts exercise sporadic self-censorship, conditioned by events and political tensions. Print media enjoyed greater freedom, possibly as a result of their relatively small readership. Two independent daily newspapers operate in Port-au-Prince; pro-Aristide weeklies published in Haiti and in the United States were freely sold in the streets, although vendors of some of these publications were harassed sporadically. The army and the police also frequently harassed, beat, or detained persons they found in possession of pro-Aristide literature. There were numerous incidents of illegal detention and petty harassment of radio and print journalists during 1993.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, but these rights were severely restricted following the 1991 coup d'etat. There were credible reports from all parts of Haiti that the military engaged in a systematic effort to inhibit any type of association during 1993. Soldiers fired into the air to disperse gatherings. Some community organizers,

even of nonpolitical organizations, were arrested and sometimes beaten, harassed, or intimidated into fleeing their own communities. Grassroots liberation theology organizations in the countryside remain a strong base of support for President Aristide. These groups and their leaders were particular targets of military and paramilitary harassment, such as short-term arrests clearly intended to intimidate. These arrests often followed the discovery of pro-Aristide materials during illegal military searches of homes, vehicles, and church rectories. Most civic education, community health, and literacy organizations were prevented from operating normally.

c. *Freedom of Religion.*—Religion is an integral part of Haitian life and culture and is practiced widely. Roman Catholicism and voodoo (a mixture of African beliefs and Christianity) are the two major religions. Members of various Protestant denominations and foreign missionary groups openly seek converts. There are no government restrictions on missionary activities, affiliations with overseas coreligionists, or religious instruction or publishing.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There were credible reports that many Haitians moved from one area of the country to another to evade abusive local authorities. Estimates of those numbers vary widely, and a lack of statistics make it difficult to establish the actual number. However, it is likely that several thousand Haitians are internally displaced.

There were no cases of government restriction on foreign travel in 1993. Although the clandestine departure of migrants is technically a violation of Haitian immigration law and punishable by fines or jail sentences, the authorities made only token efforts to interfere with such migration, occasionally in the form of soliciting small bribes to permit departure. Authorities intermittently detained and prosecuted suspected organizers of the voyages.

Throughout 1993 U.S. authorities engaged in interdiction and repatriation of illegal Haitian migrants bound for the United States. Although Haitian boat people face the same difficult conditions affecting Haitians in general, in interviews the U.S. Embassy refugee program has conducted with returnees, no credible claims of retribution have been made by those repatriated Haitians who are not involved in organizing the voyages. Persons suspected of organizing the illegal departuresare generally taken into police custody and detained briefly. Since February 1992, the U.S. Embassy and the Immigration and Naturalization Service (INS) have provided in-country processingof refugee applications by Haitians claiming well-founded fear of persecution, and INS has granted refugee status to approximately 2,000 Haitians who are then transported to the United States.

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

The right of citizens to change their government was forcibly abridged by the September 1991 military coup, and again in October 1993 when the army and its allies refused to implement the Governors Island accords. President Aristide was forced to flee the country after the coup, and most senior members of his administration either went into hiding, fled the country, or took refuge in foreign embassies.

The Parliament and such local officials as mayors were elected along with President Aristide at the end of 1990. Some local elected officials were persecuted and ousted from office after the coup. Members of Parliament remained in place and have played a continuing role in political events since the coup. In January the de facto government mandated, pursuant to an "executive order," by-elections for nine senate and four chamber seats. Pro-Aristide political parties refused to run for the vacant seats. The by-elections were conducted irregularly and the results were not recognized by the international community. Members of Parliament and leaders of political parties agreed at the United Nations in July that those elected to parliamentary seats in January would refrain from participating in legislative business until a solution to the problem could be found by the incoming constitutional government.

There are no de jure impediments to women's participation in politics or government. De facto impediments include economic factors such as poorer families "rationing" education money to pay school fees for male children only, and the general lower status of women which limits their role in these fields.

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

About a dozen local human rights groups exist in Haiti, but only a few were active. All of the local human rights groups depended upon five attorneys in Port-au-Prince who offered pro bono legal defense assistance. These attorneys were also

training paralegals to defend cases in the provinces. Human rights organization officials reported repeated threats but still managed to operate relatively freely. Haitian human rights figures and groups have publicly criticized the Government, although more so under the previous de facto regime than in the late–1993 political climate of intimidation and increased violence. Most such groups do not have the means or training to investigate government activities. One human rights group conducted a prison visit/reform program during 1993. The program halted when the group's director was threatened by armed civilians who invaded his home in late October; the director ultimately was forced to leave the country.

The ICM, a team of international human rights observers which eventually numbered more than 200, were deployed throughout Haiti under U.N. and OAS auspices until October. The ICM's activities were largely tolerated by military and de facto civilian authorities, although access to prisons was blocked intermittently by local officials. On two occasions ICM vehicles were deliberately damaged: one was stoned by a pro-Aristide mob and another was battered by soldiers and armed civilians. ICM personnel were followed and intimidated by army enlisted men in the Artibonite Valley and in the Central Plateau, two areas known for strong pro-Aristide sympathies and repressive local military commands, but no ICM personnel were harmed. ICM personnel were temporarily evacuated to the Dominican Republic in October because of concern for their personal safety during heightened political tension over implementation of the Governors Island accords. At the end of the year, ICM personnel had not yet returned but were expected to begin returning by the end of January 1994.

Representatives of international human rights organizations visited Haiti regularly. These groups also faced threats and harassment, but their high profile permitted them to operate relatively freely. In August the Inter-American Commission on Human Rights visited to gather information on the human rights situation. The U.N. Special Rapporteur on Haiti was part of that delegation.

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

Women.—Officially, there is no discrimination against women. While the 1987 Constitution does not specifically prohibit discrimination against women, it does establish fundamental rights for "all citizens." Women have occupied prominent positions in both the public and private sectors in recent years. In some social strata, however, women's roles have been limited by tradition. Peasant women remain largely in the traditional occupations of farming, marketing, and domestic tasks. Violence against women is known to occur with some frequency, but, because of societal traditions, it is generally not reported to police authorities.

Although women are traditionally often the breadwinners for rural and urban poor families, they do not enjoy the same economic and social status as men. Knowledgeable local authorities report that both domestic violence and rape are common but are rarely reported or prosecuted. Existing laws and penalties against these crimes would be adequate were they enforced.

Children.—The practice of forced domestic labor by children, called "restavek" in Haitian creole, continued unabated during 1993. An estimated 109,000 restavek children were cited in a 1991 U.N. study as an example of slavery practiced in the 20th century. Young children from rural families are "adopted" and "educated" by more affluent city dwellers to serve as unpaid domestic labor. The children are compelled to work long hours, receive poor nourishment, little or no education, and are frequently beaten and sexually abused. Most of Port-au-Prince'slarge population of street children are runaway restaveks, and child prostitution rings are alleged to purchase restavek children from their "adoptive families." Local human rights groups do not regard the plight of restavek children as a priority and do not report on abuses of children or actively seek to improve their situation.

Only 2 percent of the Health Ministry budget was devoted to health programs such as immunization and oral rehydration which serve children. However, humanitarian assistance to Haiti is specifically targeted at the most vulnerable groups of the population. It is probable that infant and child mortality has deteriorated over the last year given the general long-term decline in social and economic conditions in Haiti—a decline that began before the September 1991 coup. In the absence of thorough survey data, it is impossible to determine the magnitude of such a decline.

National/Racial/Ethnic Minorities.—Some 95 percent of Haitians are descendants of African slaves who won their war of independence from France in 1804. Most others are mulatto or of European, Middle Eastern, North American, or Latin American origin. Haitian law makes no distinctions based on race. There are longstanding social and political animosities among these various groups, however, many of which date back before Haiti's revolutionary period.

There are two official languages: Creole, which is spoken by virtually all Haitians, and French, which is spoken by about 20 percent of the population. Those unable to read, write, and speak French are limited in their political and economic activities. Many argue that the country's French-speaking elite have used language requirements as a barrier to the advancement of the country's Creole-speaking majority.

People with Disabilities.—There is no overt ill-treatment of people with disabilities, but given the desperate poverty in which the vast majority of Haitians live, those with disabilities face a particularly harsh existence. There are no laws mandating provision of access for people with disabilities.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution and the Labor Code guarantee the right of association. Workers, including those in the public sector, are specifically granted the right to form and join unions without prior government authorization. A union, which must have a minimum of 10 members, is required to register with the Ministry of Social Affairs within 60 days of its establishment. Union membership, marginal before the coup and even more so now, is estimated at 1 percent of the total labor force. The influence and effectiveness of organized labor has been severely limited and eroded as a result of political repression and economic breakdown. There are five principal labor federations: the Autonomous Central of Haitian Workers, the National Confederation of Haitian Teachers, the Federation of Unionized Workers, the Confederation of Haitian Workers, and the Independent General Organization of Haitian Workers. Each of these organizations maintains some affiliation with various international labor organizations.

The military continued to employ widespread repression and violence against trade union activities. Many union leaders closed their offices and went into hiding. Three union leaders were arrested and severely beaten by police in April. Unions, as well as all other citizen groups or assemblies, may meet only with the express written permission of the military. The military forced established unions of telephone, electrical, and journalism workers either to change or completely replace their leadership. The military also intimidated leaders of rural agricultural unions and peasant cooperatives by arrests, beatings, and banning of meetings.

Tripartite negotiations (labor, management, and government) begun in 1986 to revise the Labor Code were concluded in 1992. The revised Labor Code has not yet been approved by Parliament. The revised Code recognizes the right to strike but restricts the duration of certain types of strikes, as did the previous Code. The Code also stipulates that the Ministry of Social Affairs must recognize workers' right to strike in each case before a strike is legal. There were several attempts at major public or private sector strikes in 1993, but they were not widely observed, owing to the atmosphere of severe repression that followed the coup, as well as the economic impact of the U.N./OAS embargo.

b. *The Right to Organize and Bargain Collectively.*—Trade union organizing activities are protected by the Labor Code, and those who interfere with this right may be fined. Employers, including export firms, however, still routinely attempted to prevent workers from organizing labor unions, and government enforcement remained mostly ineffective. While union activities were curtailed by the de facto authorities, job loss as a result of economic conditions had a far more damaging impact on union activities. Prior to the coup, organized labor activity was generally concentrated in the Port-au-Prince area, primarily in a large private sugar factory, in the assembly sector, and in state enterprises, all three of which suffered drastic job losses following the coup. The Haitian-American Sugar Company, which alone employed 7,000 unionized workers, has been closed for more than a year. State enterprises also suffered large job losses as the state-run flour mill, daily newspaper, and cement factory shut down.

Collective bargaining, which has never been widespread in Haiti, was nonexistent in 1993. Wages are generally set unilaterally by employers.

While Haiti has no export processing zones, prior to the OAS trade embargo it did have a sizable export-oriented assembly sector. The Haitian Labor Code does not distinguish between industries producing for the local market and those producing for export. Many assembly sector companies were the focus of developmental efforts; they received greater outside scrutiny and were consequently somewhat more generous with benefits such as on-site medical care, vitamin supplements, interest-free loans, and subsidized meals than domestically oriented producers. In addition, wages in the assembly sector are generally above the official minimum wage. Total employment in the export assembly sector declined by about 75 percent, corresponding to an estimated 25,000 to 30,000 jobs. As the assembly sector contracted, unions that were particularly strong in this sector declined accordingly.

c. *Prohibition of Forced or Compulsory Labor.*—The Labor Code prohibits forced or compulsory labor, but enforcement of these provisions is practically nonexistent. Children continued to be subjected to forced domestic labor (see Section 5).

d. *Minimum Age for Employment of Children.*—The minimum employment age for minors in all sectors is 15 years. Fierce adult competition for jobs ensures that child labor is not a factor in the industrial sector. Children under 15 commonly work at odd jobs in both rural and urban settings to supplement family income. Enforcement of child labor laws is the responsibility of the Ministry of Social Affairs but has been criticized by the International Labor Organization as inadequate.

e. *Acceptable Conditions of Work.*—The minimum wage is set by law. A few weeks before the September 1991 coup, Parliament set a new minimum wage of about $2.15 (26 gourdes) per day for workers in the industrial sector. Although technically it became law before the coup, the legislation was never published in the official gazette; nevertheless, companies in the assembly sector have already adopted it. Even if it were widely applied in the private sector, the revised minimum wage would not provide a worker and family with a decent living. The minimum wage law applies also to agricultural workers but is not enforced. Thus the majority of Haitians, who work in the agricultural sector, must survive on considerably less than the minimum wage.

The Labor Code governs individual employment contracts. The Code sets the normal workday at 8 hours and the workweek at 48 hours, with 24 hours of rest on Sunday. It also establishes minimum health and safety regulations. These laws and regulations are somewhat better observed in the industrial sector, which is concentrated in the Port-au-Prince area and is more accessible to outside scrutiny. However, official enforcement, which is the responsibility of the Ministry of Social Affairs, has been lax. Labor Code provisions on health and safety are not enforced. With more than 50 percent of the population unemployed, workers are not able to exercise the right to remove themselves from dangerous work situations without jeopardy to continued employment.

HONDURAS

Honduras is a constitutional democracy with a President and a unicameral Congress elected for 4-year terms, and an independent judiciary headed by a Supreme Court of Justice (CSJ). Liberal Party candidate Carlos Roberto Reina was elected President in November and took office on January 27, 1994. The November elections were marked by higher than usual absenteeism but little indication of fraud. Deputies continued to be elected indirectly from a slate, based on the vote totals for the presidential candidate.

The Honduran Armed Forces (HOAF) comprise not only the army, air force, and navy but also the national police (Public Security Force—FUSEP) as a fourth branch. Credible allegationsof extrajudicial killings by members of the FUSEP, particularly its Directorate of National Investigations (DNI), led to establishment of an Ad Hoc Commission on Police and Judicial Reform. It recommended creation of a new Public Ministry to manage every aspect of the investigative phase of criminal cases and a new Directorate of Criminal Investigations (DIC) to replace the DNI. Congress passed enabling legislation for the Public Ministry in December.

The HOAF operates with considerable institutional and legal autonomy, particularly in the realm of internal security and military affairs. The military also plays a sizable role in the national economy, operating numerous enterprises usually associated with the private sector. In 1993 Congress passed a resolution restricting the jurisdiction of the military court system to military crimes committed by active duty personnel. Since then enlisted military personnel accused of crimes against civilians were in fact remanded to the civilian judicial system, although the congressional ruling has not been tested by an accusation against a senior military officer.

The Honduran economy is based upon agriculture, with a small light manufacturing sector. Despite a relatively low inflation rate in the past few years, estimates for 1993 were above 10 percent. In 1993 real economic growth was expected to be about 3.5 percent. Per capita income in 1992 was estimated to be $637, combined unemployment and underemployment as high as 58 percent, and literacy only 67 percent. The United Nations Development Program estimated that 74 percent of Hondurans lived in poverty.

The principal human rights problems were extrajudicial killings,arbitrary and incommunicado detentions, and torture and abuse of detainees. However, reports of such abuses fell sharply following the establishment in March of a joint civilian-military supervisory board to oversee the activities of the DNI, the agency whose

officers were most frequently criticized for abuses. The root cause of Honduras' human rights problems is the near-complete impunity before the law enjoyed by members of the civilian and military elite. The weak judicial system, intentionally underfunded and plagued by corruption, is unable to press cases against the wealthy and the powerful. Almost no elected official, member of the business elite, bureaucrat, politician, or anyone with perceived influence or connections to the elite was tried, sentenced, or even fined in 1993. Some progress in eroding the traditional impunity of military officers was made with the arrest and incarceration of three colonels pending trial or sentencing.

National Human Rights Commissioner Leo Valladares at the end of December issued his preliminary report on politically motivated disappearances occurring between 1979 and 1989. The report states that 184 individuals of various nationalities "disappeared" in Honduras during that period and that the HOAF and the former Nicaraguan Resistance were apparently responsible for the majority of the crimes. Valladares called on the judiciary to use his report as a basis for investigation of these matters. He included in his report unsubstantiated material from news articles dating from the 1980's which claimed that U.S. advisers were working with the HOAF and Nicaraguan Resistance in Honduras and may have known of and tolerated the disappearances.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—As in previous years, some members of the police and security forces were involved in extrajudicial killings; those prosecuted tended to be only from the ranks of enlisted men. Officers continued to enjoy impunity, despite the notable exception of the military officers tried and convicted in 1993 in the Riccy Mabel Martinez case (see below).

In November five DNI agents were arrested and turned over to civilian judicial authorities for the torture and murder of narcotics suspect Jorge Alcides Medina Hernandez. He had been arrested earlier and then released; when his body was found, investigation revealed that he had been picked up a second time by the DNI agents. Authorities concluded he had been killed during interrogation; the fact that the DNI surrendered the perpetrators reflected compliance with the congressional decree requiring all but strictly military crimes be handled by civilian courts (see Section 1.e.). After the end of the year, seven FUSEP agents were arrested for robbing and killing a Nicaraguan in mid-December.

In late January, San Pedro Sula businessman Eduardo Pina Van Tuyl was killed in a drive-by shooting. A television reporter, Eduardo Coto, witnessed the killers fleeing the scene. Later he claimed to have been threatened that day by a military officer who warned him not to implicate the armed forces in the crime. Fearing for his life, Coto sought refuge in the offices of Tiempo newspaper and later fled to Spain under Spanish government sponsorship. Following Coto's flight to Spain, the Commission for Human Rights (CODEH) alleged that he had identified several serving members of the armed forces as the perpetrators. The home of Yani Rosenthal, editor of Tiempo, was bombed in what was alleged to be retaliation for having sheltered Coto. Upon Coto's return from Spain in June, he recanted his earlier statements made through CODEH implicating the military personnel, and identified two common criminals, already in prison on unrelated charges, as having been responsible for the assassination. The two persons identified by Coto remained in jail awaiting trial at year's end.

In February Eli Josue Zuniga, a former member of the San Pedro Sula office of the DNI, alleged that the office's antinarcotics unit had killed Pina and committed a number of other murders related to the unit's involvement in drug trafficking. Despite Zuniga's low personal credibility (he had been dismissed from the DNI for misconduct) and the fact that his information consisted almost entirely of hearsay, many Hondurans found credible his allegations that the DNI was involved in criminal activities, including murder and drug trafficking.

Zuniga and others alleged that the January killings of San Pedro businessman Guillermo Agurcia Lefebvre and his companion, Lourdes Enamorado, were also perpetrated by the supposed clique of drug traffickers within the DNI. Although the medical examiner ruled the deaths a murder-suicide, Agurcia Lefebvre— who supposedly killed Enamorado before committing suicide— died of two gunshots to the chest. Agurcia Lefebvre's mother claimed that four police agents committed the crime and that a Captain Mendieta, then allegedly a member of the San Pedro Sula DNI, ordered the killing to cover up the unit's involvement in drug trafficking. No investigation of the victim's mother's allegations of DNI involvement was conducted, and none of the five police personnel she named was indicted. The FUSEP inves-

tigation resulted in detention of a common criminal and initiation of court proceedings against him; he remains in prison awaiting trial. Mrs. Lefevbre claimed in November that she was removed from the list of candidates for election as deputy to the Central American Parliament under pressure from HOAF Commander in Chief Discua, owing to his annoyance with her continued allegations of wrongdoing by military personnel. General Discua denied the charge.

Also in January, Liberal Party Congressional Deputy Carlos Montoya was accused of killing a laborer, Juan Jose Menendez, who was reportedly illegally fishing on his land. First reports by eyewitnesses claimed that Montoya arrived in a vehicle with 2 bodyguards and ordered 30 people fishing off his land, waving a submachine gun and firing shots in the air, one of which hit Menendez in the back, killing him instantly. Seven eyewitnesses, including Menendez' nephew, reported the crime to both the press and a justice of the peace. Montoya's claim of self-defense does not appear credible, based on his own initial remarks and the eyewitness testimony; Montoya at first admitted shooting Menendez but called it an accident. Montoya later denied that he had fired any shots, claiming that his bodyguard had fired the fatal shot when he feared for Montoya's safety, although the victim appeared to be fleeing the scene when he was struck.

Within days, the judge who had begun to investigate the case was removed from office by the Supreme Court. Although the judge was relieved for corruption unrelated to the Menendez killing (in fact, the process to remove him had begun weeks before), the timing of his firing caused the perception that the Supreme Court took the action to protect Montoya. As a congressman, Montoya had enjoyed immunity from prosecution, but in November he failed to win reelection. Subsequently, his immunity was restored in December via special legislation granting "Honorary Deputy" status to all former congressional presidents (Montoya served as president of the Congress in the 1980's). Montoya will thereby have immunity from judicial action, including with respect to the killing of Menendez, at least while Congress is in session. Menendez' family protested the extension of immunity to Montoya.

Rural leader Cleofes Colindres Canales, a member of a cooperative granted land in 1980 by the National Agrarian Institute (INA), was murdered in November. In July a combined force of FUSEP agents and military troops, acting on orders from INA, had forcibly removed the cooperative from the site and destroyed members' homes. Colindres was organizing a move back to the land when he was killed, apparently with FUSEP involvement and perhaps in collaboration with the wealthy original owner of the land. No action was taken against the guards or landowner, nor did it appear that the crime was being investigated.

Soldiers from the 15th infantry battalion shot and killed Glenda Patricia Solorzano Medina and injured three others in May in Olancho when troops fired wildly at a youth seeking to avoid being forcibly recruited into the military. Armed Forces Commander Discua publicly blamed the commander of the 15th battalion for the incident, whom he said had violated Discua's order to cease forced recruitment nationwide, pending the national elections. The military promised an immediate and full investigation and removed and detained the battalion commander. No legal action was taken against the commander or the soldier or soldiers involved in the incident, and the dead woman's mother claimed she was pressured to cease her efforts to bring those responsible to justice.

In December CODEH president Ramon Custodio criticized the failure to investigate two recent murders of former leftist political activists. Roger David Torres Vallejos, who had been a member of the "Cinchoneros" terrorist group, was killed in October; Rigoberto Quezada Figueres, a former member of the Honduran Communist Party, was murdered in November. Both had returned to Honduras under the 1991 amnesty issued by President Callejas for leftist opponents of the Government. In both cases, police authorities called the killings the work of common criminals.

In July both defendants in the July 13, 1991, rape and murder of 18-year-old student Riccy Mabel Martinez were convicted. Colonel Angel Castillo Maradiaga was sentenced to 16 years and 6 months in prison. Of this sentence, 10 years and 6 months were levied for the crime of simple homicide (equivalent to second degree murder), and 6 years for rape. Sergeant Santos Ilovares Funes was sentenced to 10 years for simple homicide. The family of the victim appealed the verdict and requested that the defendants be convicted of first degree murder.

In December Lt. Colonel Leonel Galindo Knutsen, accused in the May 1991 killing of five peasants at El Astillero, was released. Galindo had been detained since 1991 by judicial military authorities, but in May 1993 his case was transferred to the civilian courts. The private attorney prosecuting the case for the victims' families announced her intention to appeal Galindo's release.

There has been no investigation or judicial followup in the following cases from past years:

—The July 1992 killing of Juan Humberto Sanchez, allegedly by the HOAF;

—The July 15, 1992, assassination of Rigoberto Borjas, in which the deposed leftist leadership of the Electrical Worker's Union was a prime suspect;

—The 1992 killing of Ramon Castellon Baide, allegedly by the Morazanista Patriotic Front;

—The July 1992 killing of University professor Cayo Eng Lee;

—The December 1991 murder of Manuel de Jesus Guerra, a leader of the National Central of Farm Workers (CNTC), allegedlycommitted by members of the San Pedro Sula DNI unit;

—The 1990 killings of labor leader Francisco Javier Bonilla Medina and student leader Ramon Antonio Briceno. A suspect in Briceno's murder was arrested but was later released for lack of evidence.

b. *Disappearance.*—There were no reports of politically motivated disappearances in 1993.

During the election campaign, when local human rights groups and Amnesty International continued to press for an official accounting of the approximately 145 claimed disappearances (which mainly occurred during the early 1980's under the tenure of former armed forces Commander General Gustavo Alvarez Martinez), the presidential candidates discussed suggesting formation of a "Truth Commission" to investigate the disappearances. However, after consultation with the Archbishop of Tegucigalpa, the candidates concluded that any investigation or report should be left in the hands of the judiciary and the Government's Human Rights Commission.

In November National Human Rights Commissioner Leo Valladares announced that he was undertaking a review of the 1979–89 disappearances and would report by the end of December. The nearly 1,000-page preliminary report, entitled "The Facts Speak for Themselves," is a comprehensive collection of news articles, eyewitness accounts, and other materials related to the disappearances. In announcing release of the report, Dr. Valladares called upon judicial authorities to use the report as a basis for initiating investigations.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture, and police and military authorities issued assurances that the practice had been stopped. After release of the Ad Hoc Commission report and the creation of a civil-military board to help oversee the activities of the DNI, allegations of torture and abuse by that police agency dropped sharply. An earlier case of alleged torture occurred in February, when Jose Efrain Oreilano Garcia claimed he had been beaten and submerged in a tank of water before being released from detention.

The FUSEP Office of Professional Responsibility (OPR) is supposed to investigate cases of alleged torture and to recommend sanctions for police agents found guilty of such abuse. However, neither the FUSEP General Command nor the OPR is empowered to mete out punishment for wrongdoers; only the commander of the accused wrongdoer has the authority to do so. There are no known instances of members of the Armed Forces ever being convicted of torture in a court of law.

After a number of killings reportedly committed by DNI agents, an Ad Hoc Commission on Police and Judicial Reform was formed in February. It recommended creating a new Public Ministry to manage every aspect of the investigative phase of criminal cases; Congress passed the enabling legislation for the Ministry on December 10. The new Ministry is to be responsible for a Directorate of Criminal Investigations (DIC), which would replace the DNI; the head of the DIC must be a civilian. A supervisory board consisting of two civilians and one police officer was created to investigate allegations of misconduct, dismiss wrongdoers or poorly trained agents, and generally oversee DNI activities during the transition to the DIC. Alfredo Landaverde, one of the civilian members of the new board, told the press in December that 150 DNI agents (42 percent of the DNI work force) had been dismissed as a result of the board's work. The police and military also began in-house training programs to prevent the practice of torture and other forms of abuse.

In contrast to these signs of progress, however, in December the nongovernmental Committee of the Families of the Disappeared of Honduras (COFADEH) alleged that two DNI agents had illegally detained and tortured three minors arrested on suspicion of robbery in November. They were released a week later after COFADEH requested assistance from board member Landaverde. COFADEH asked the criminal court to order the arrest of the two DNI agents involved and an investigation of the allegations.

Prison conditions in Honduras are consistently deplorable. Prisoners suffer from severe overcrowding, malnutrition, and a lack of adequate sanitation. In December the Government inaugurated a larger detention facility in Tamara to replace the an-

tiquated central penitentiary in Tegucigalpa. Prisoners with money routinely buy private cells, decent food, and conjugal visitation rights, while prisoners without money often lack the most basic necessities.

d. *Arbitrary Arrest, Detention, or Exile.*—The law states that a person may be arrested only with a court order, unless the arrest is made during the commission of a crime, and that the person must be clearly informed of the grounds of the arrest. A detainee must be brought within 24 hours before a judge who then must issue an initial temporary holding order within 24 hours, release an initial decision within 6 days, and conduct a preliminary investigation to decide whether there is sufficient evidence to warrant further investigation. While bail is legally available and used, poor defendants, even when represented by a public defender, are often unable to take advantage of it.

Under the 1984 Code of Criminal Procedures, criminal proceedings may be initiated by a judge, the police, public officials, or any citizen. Perhaps as many as 80 percent of the cases reported to the police are never referred to the criminal justice system but instead are settled administrativelyby the police or by municipal courts (the latter are separate from the regular judicial court system).

There continued to be allegations that the FUSEP, in particular the DNI, and other security force elements continued to practice arbitrary arrest and detention in a substantial number of cases. Local human rights monitoring organizations asserted, however, that this situation improved markedly since the issuance of the Ad Hoc Commission report. They reported that the police were more aware of the need to comply with holding order limits and to respond to writs of habeas corpus, and that the courts were more aware of the need to process cases in a timely manner.

"Land invasions" were both less common and much smaller in extent than in the past, although they still sometimes resulted in armed conflicts among groups of peasants or squatters and landowners and military forces. The Government abrogated an unpopular antiterrorist law previously used to arrest squatters, although on occasion the military was employed to carry out forcibly court orders.

e. *Denial of Fair Public Trial.*—An accused person has the right to a fair trial, which includes the right to an initial hearing by a judge, to bail, to an attorney provided by the State if necessary, and to appeal. Defendants in military tribunals have the same due process rights as those being tried in the civilian system with the exception of bail. The military court system does not have its own courts of appeal; appeals and confirmations of military court verdicts are referred to the civilian judicial system.

The judicial system applies justice inequitably. The poor are punished in accordance with the law, but the rich or politically influential are almost never held in jail, much less brought to trial or convicted Those few who are incarcerated usually buy their way out or "escape."

In March Congress took action to resolve a longstanding dispute over jurisdictions by civilian versus military courts, which arose when a member of the military was alleged to have committed a crime against a civilian in circumstances unrelated to official duties. The Congress decreed that civilian courts will have jurisdiction in such cases; the military will maintain jurisdiction only in cases of a crime committed on duty. The decree also stated that in the event of a conflict of jurisdiction between civilian and military courts, the civilian court shall have precedence. Since the passage of the decree, all cases of enlisted men accused of "civilian" crimes were in fact turned over expeditiously to the civilian legal system. Nonetheless, since no officers were involved, and since the armed forces determine when an officer or soldier is on duty, it was clear that this controversy had not been definitively resolved.

Until improvements are made in the civilian justice system, however, military officers are no more likely to be convicted of human rights abuses or other crimes than they were under military justice. The civilian judiciary is weak, underfunded, politicized, inefficient, and corrupt. Honduran society continues to rely on influence, pressure, and accomodation rather than the rule of law to resolve disputes.

The nine magistrates of the Supreme Court are elected by the Congress by a majority vote for 4 years and confirmed by the President. The period of their terms coincides with those of the Congress and the President. The Supreme Court appoints all of the judges in the lower civilian courts. While some headway was made in using a career system to depoliticize the appointments process, both major political parties ignored the recommendation by the Ad Hoc Commission that they agree to a completely apolitical, independent judiciary. The judicial system also suffers from woefully inadequate funding.

Detention of criminal suspects pending trial averaged 14 months and constituted a serious human rights problem. A significant number of defendants serve the maximum possible sentence for the crime of which they are accused before their trials are ever concluded or even begun. Approximately 85 percent of the prison popu-

lation in 1993 had neither been sentenced nor exonerated. In midyear, the court allocated extra judges, prosecutors, public defenders, and funds to clear up the backlog.

These judicial weaknesses, along with the FUSEP's own problems of underfunding and poorly paid and ill-trained personnel, greatly undermine the right of Hondurans to a speedy, fair public trial. Judicial authorities were also subjected to threats when they attempted to perform their duties. The judge in the Riccy Mabel Martinez case received a number of death threats during the trial.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution specifies that a person's home is inviolable and that entry by persons authorized by the State may only be made with the owner's consent or with the authorization of a competent authority. Entry may only take place between 6 a.m. and 6 p.m. or at any time in the event of an emergency or to prevent the commission of a crime. However, as in previous years, there were credible charges that police and armed forces personnel failed at times to obtain the needed authorization before entering a private home. Police authorities claimed that part of the problem was the unavailability of judges to issue orders at night and on weekends. As a result of a DNI request, the Supreme Court refined procedures to ensure that "duty judges" will be available 24 hours per day, 7 days a week. It is too early to judge the effectiveness of the new system.

Government monitoring of mail or telephones may be authorized by judicial order for specific purposes, such as criminal investigation or national security. Carlos Kellner, former president of the Honduran Telecommunications Union and now living in self-imposed exile in the United States, made credibleallegations in 1993 that the armed forces took advantage of its operation of the national telephone company to monitor illegallytelephone lines of influential people in the Government, the military, and the private sector.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and press, and these freedoms are largely respected in practice. The media, while often openly critical of the Government and frequently willing to expose corruption, are subject to high levels of corruption and politicization. There continued to be credible reports of intimidation by authorities, instances of self-censorship, and payoffs to journalists. In February FUSEP Chief Colonel Hung Pacheco told the press that the military maintained "dossiers" on journalists.

The Government respects academic freedom and has not attempted to curtail political expression on campus.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right to peaceful assembly for political, religious, or other purposes. The Government does not generally require prior authorization or permits but may ask for a permit to "guarantee public order." In most cases, neither the Government nor the armed forces interfere in the right of citizens to assemble. For example, police did not interfere in the demonstrations marking the second anniversary of the murder of Riccy Mabel Martinez, nor during public protests over the perceived mildness of the sentences imposed.

However, the police used excessive force in April near Choluteca when members of the 6th regional police command and the 101st army brigade used tear gas, rifle butts, and gunshots to break up a demonstration of 600 fishermen. The fishermen were illegally blocking the Pan American Highway to protest Nicaraguan confiscation of Honduran fishing boats in contested waters of the Gulf of Fonseca. The police, who were attempting to clear the road to permit passage by the President, claimed that some of the fishermen carried firearms but reportedly did not attempt to negotiate with or give warning to the protesters. At least 14 of the protesters were injured, including several women.

c. *Freedom of Religion.*—The Constitution protects all forms of religious expression, and there is no state religion. While most Hondurans are nominally Roman Catholic, foreign missionaries of various Protestant sects work and proselytize throughout the country. There were no reported incidents of harassment or intimidation of the clergy by the military in 1993.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens enter and exit Honduras without arbitrary impediment, and travel within the country's borders is freely permitted. There were no known instances in which citizenship was revoked for political reasons. Of the 250 Haitian refugees who arrived in Honduras in November 1991, 45 remain. There were no reported human rights abuses committed against the refugees. In 1993 a total of 14 Cuban citizens requested and received political asylum.

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

Hondurans continued to exercise the right to change their government through democratic and peaceful means in the November elections. International observers found the election free and fair. A last-minute effort by the Liberal, Christian Democrat, and PINU parties to permit voters to cast ballots even if their names did not appear on the voting list was thwarted by the National Party-controlled Supreme Court. This controversy did not affect the results of the election or its essential fairness. National and municipal governments are chosen by free, secret, direct, and obligatory balloting every 4 years. Suffrage is universal, but serving members of the armed forces are not permitted to vote. Any citizen born in Honduras or abroad of Honduran parentage may hold office except for members of the clergy and the armed forces. A new political party may gain legal status by obtaining 20,000 signatures and establishing party organizations in at least half of the country's 18 departments.

In a significant change, voters in the 1993 elections were able to split their ballot by voting for a mayor from a different party, instead of being required to cast a single ballot for a single-party slate of candidates for almost all elected offices, from the President on down. Neither the names nor the photos of the mayoral candidates appeared on the ballot, however, which hampered the democratic process, given the predominantly illiterate electorate. The vote for Presidentcontinued to be a vote for the entire congressional slate of that candidate's party.

The inability to split tickets in contests for other offices not only adversely affected small parties, but also limited the institutional effectiveness and independence of the Congress and municipal government, since those elected officials have no independent mandate. In addition, the internal candidate selection process in both major parties limited direct, popular participation in the process, particularly at the regional or local levels. Both major parties have an extensive "precandidate campaign" period, following which the presidential candidates are selected through internal party elections, held approximately 1 year prior to the national elections. Once selected through the internal elections, the parties' presidential candidates choose their slate's congressional and mayoral candidates.

There are no legal impediments to women and minorities participating in government and politics. In practice, the proportion of women in political organizations and elected to office is far lower than their overall representation in society. Women tend to continue to be relegated to "traditional" roles. This may be changing, however; for the first time a woman, Guadalupe Jerezano, was elected as one of the three vice presidents in the November elections, and many women were elected mayors. Several women served in high appointed positions in the outgoing Callejas administration.

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

The Committee for the Defense of Human Rights in Honduras (CODEH) and the Committee of the Relatives of the Detained and Disappeared in Honduras (COFADEH) are the best known and most active local nongovernmental human rights organizations. Prior to the Government's establishment of the Office of the Human Rights Commissioner, CODEH, with its network of offices throughout Honduras, was often the only recourse available to victims of abuses, particularly those living in rural areas. The nongovernmental Center for the Investigation and Promotion of Human Rights (CIPRODEH), established in April 1991, offers basic human rights courses, holds monthly seminars, carries out research on issues affecting Hondurans, and serves as a source of information on human rights. CIPRODEH continued its human rights training of police officers and added training programs for the military.

Government officials continued to meet and cooperate with representatives of local and international human rights organizations in 1993. In 1992 President Callejas appointed experienced and widely respected human rights activist Dr. Leo Valladares as the Human Rights Commissioner. Since then, his office has grown from a staff of 5 to 21 persons, and published a "preliminary" study of the politically motivated disappearances which took place during the 1979–1989 period (see Section 1.c.). The governmental Inter-Institutional Commission on Human Rights (CIDH), established in 1987 to respond to domestic and international inquiries and to investigate human rights violations, is largely ineffective, as it does not receive full cooperation from military and civilian judicial authorities.

There were no reported incidents of harassment against members of human rights organization in 1993.

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

Although discrimination on the basis of class is banned under the Constitution, in fact, both the military and the political and social elite generally enjoy impunity before the legal system. Members of the socioeconomic upper class are rarely arrested or jailed. The Constitution provides for 2 years of compulsory military service for male citizens between the ages of 18 and 30, although only Hondurans from the middle and lower classes are forcibly recruited into the armed forces.

Women.—The Constitution also bans discrimination for reasons of race and sex. Women are represented in at least small numbers in most of the professions, but cultural attitudes act to limit their career opportunities. In theory, women have equal access to educational opportunities, but cultural attitudes within families often serve to brake the ambitions of women intent on obtaining higher education. Women are supposed to be paid equal wages for equal work, but their jobs are often classified as less demanding than those of men, as a justification for paying them lower salaries.

Efforts to combat violence against women are severely impeded by serious weaknesses in the Penal Code. Visitacion Padilla, a women's human rights group, has called for legislation to make violence against women a serious crime. Violence against women remains widespread, according to the group. An example of the weakness of Honduran law in this regard is the case of rape. Except in the case of children age 12 or under, rape is considered a private crime. Rape victims over age 12 are therefore required to hire a private prosecutor, a luxury few can afford. The penalties for rape are relatively light, ranging from 3 to 9 years' detention.

There are no shelters specifically maintained for battered women. Although the law offers some redress, few women take advantage of the legal process. This reluctance stems from a lack of education and the perception that judges would be unwilling to apply the law vigorously. Some organizations have begun to offer assistance to women, principally targeting those living in the rural sectors and marginal neighborhoods of cities. The Honduran Federation of Women's Associations, for example, provides home construction and improvement loans, offers free legal assistance to women, and lobbies the Government on women's causes. CIPRODEH began an education program to make women aware of their rights under the law.

Children.—The Government is committed to providing basic education and health care to children, and succeeds in some measure in this task. Lack of resources is a limiting factor. The Constitutionand the Labor Code prohibit the employment of minors under the age of 16, but the Ministry of Labor lacks resources to exercise its responsibility to ensure enforcement.

Indigenous People.—There is no formal mechanism for the small community of indigenous people to present petitions to the Government or to participate in decisions regarding traditional lands. With the assistance of international organizations and local human rights groups, the principal indigenous groups have succeeded in establishing organizations to focus governmental and public attention on their wishes.

People with Disabilities.—There are no formal barriers to participation by disabled persons in terms of employment, education, and health care, but neither is there specific statutory protection for them. There is no legislation that requires accessibility for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—Workers have the legal right to form and join labor unions, and with the exception of some "parallel" unions formed by the Government, the unions are independent of government and political parties. Although only about 20 percent of the work force is organized, trade unions exert considerable economic and political influence. They frequently participate in public rallies against government policies and make extensive use of the media to advance their views. There are also three large peasant associations directly affiliated with the trade unions.

The right to strike, along with a wide range of other basic labor rights, is provided for by the Constitution and honored in practice. The Civil Service Code, however, stipulates that public workers do not have the right to strike. In 1992, the International Labor Organization's Committee of Experts again noted that the Labor Code should be reformed to include workers of certain agricultural enterprises, and to eliminate provisionswhich prohibit more than one trade union per establishment and which impose restrictions on the right to strike.

A number of private firms instituted "solidarity" associations, which are essentially aimed at providing credit and other services to workers and management who are members of the association. Organized labor, including the American Federation of Labor-Congress of Industrial Organizations and the International Confederation of Free Trade Unions (ICFTU), strongly opposes these associations on the grounds

that they do not permit strikes, have inadequate grievance procedures, and neutralize genuine and representative trade unions. The membership of such associations remained static during 1993.

The Government afforded official recognition to a parallel union in the Union of National Agrarian Institute Workers (SITRAINA) in April. It dismissed workers supporting the elected union and then replaced them with supporters of the government-backed union. The National Agrarian Institute also fired a number of workers in violation of the Labor Code, but 40 of these, who staged 2 lengthy hunger strikes to protest the dismissals, were later reinstated. Carlos Kellner, former leader of the Telecommunications Workers Union, SITRATELH, who had continued to challenge and appeal the imposition of a parallel union in 1992, left the country following severe and continued harrassment; he continued to live abroad at year's end.

There were no killings of trade unionists in 1993. However, the ICFTU cited the Government as being unable or unwilling to bring the perpetrators of worker rights abuses to justice, including those responsible for a number of extrajudicial killings of trade unionists in 1992.

The trade union movement maintains close ties with various international trade union organizations.

b. *The Right to Organize and Bargain Collectively.*—The right to organize and to bargain collectively is protected by law and collective bargaining agreements are the norm for companies in which the workers are organized. However, retribution by employers for trade union activity was not uncommon, in spite of its prohibition in the Labor Code. Employers threatened to close down unionized companies, harassed their workers, and in some cases fired them for trying to form a trade union. Relatively few workers are actually dismissed for union activity once the union is recognized; these cases, however, served to discourage other workers from attempting to organize. Workers in both unionized and nonunionized companies are under the protection of the Labor Code, which gives them the right to seek redress from the Ministry of Labor. Depending on the decision of the labor or civil court, employers can be required to rehire employees fired for union activity. Such decisions are uncommon.

The same labor regulations apply in export processing zones (EPZ's) as in the rest of private industry. Working conditions and wages in the EPZ's are generally considered superior to those prevailing in the rest of the country. There was a strike and plant seizure in September in an EPZ in Choloma, which was declared illegal. However, since in this instance the strike occurred concurrently with the clearly illegal plant seizure, it remains unclear whether under other circumstances a strike in an EPZ might be declared legal.

Unions are active in the government-owned Puerto Cortes free trade zone, but factory owners have resisted efforts to organize the new privately owned industrial parks.

Blacklisting is clearly prohibited by the Labor Code. Nevertheless, there was credible evidence that informal blacklisting occurred in the privately owned industrial parks. When unions are formed, a list of initial members must be submitted to the Ministry of Labor as part of the process of obtaining official recognition. Before official recognition is granted, however, the Ministry informs the company of the impending union organization. Ministry inspectors have consistently been unable to provide effective protection to workers, including the provision to plant owners of Ministry of Labor documentation for union formation. The inadequacy of inspectors is particularly obvious in the EPZ sector. Some companies in the industrial parks have taken the information and dismissed union organizers before recognition was granted.

c. *Prohibition of Forced or Compulsory Labor.*—There is no forced or compulsory labor; such practices are prohibited by law and the Constitution.

d. *Minimum Age for Employment of Children.*—The Constitution and the Labor Code prohibit the employment of children under the age of 16. Violations of the Labor Code occur frequently in rural areas or in small companies. High adult unemployment and underemployment has resulted in many children working in small family farms, as street vendors, or in small workshops to supplement the family income. The Ministry of Labor has the responsibility for enforcing child employment laws, but it lacks the resources necessary to carry out the task.

e. *Acceptable Conditions of Work.*—In May organized labor and the private sector umbrella organization agreed on a 14.35 percent increase in the minimum wage, which became effective June 1. Daily pay rates vary by the sector of the economy affected and geographical zones: the lowest minimum wage is $1.70 (12 lempiras) per day in the agriculture sector. The highest minimum wage rate paid is in the mining sector, at $3.20 (22.60 lempiras) daily. Urban zone workers earn slightly more than in the countryside. The Constitution and the Labor Code require that all

labor be fairly paid. Minimum wages, working hours, vacations, and occupational safety are all regulated, but the Ministry of Labor lacks the staff and other resources for effective enforcement. Even after the third consecutive annual increase, the minimum wage is considered insufficient to provide a decent standard of living, particularly in light of inflation. In addition, many workers receive even less than the minimum wage.

The law prescribes an 8-hour day and a 44-hour workweek. There is a requirement for at least one 24-hour rest period every 8 days.

The Labor Code provides for a paid vacation of 10 workdays after 1 year and 20 workdays after 4 years. The regulations are frequently ignored in practice as a result of the high level of unemployment and underemployment.

The Ministry of Labor is responsible for enforcing national health and safety laws. Due to a lack of resources, the laws are not well enforced. There is no provision for a worker to remove himself from a dangerous work situation without jeopardy to continued employment. Reliable reports indicate that there are still as many as 50 deaths per year resulting from serious health and safety hazards facing Miskito Indian scuba divers employed in lobster and conch harvesting off the Caribbean coast of Honduras. Some complaints have also arisen about the failure of foreign factory managers to comply with the Labor Code in factories located in free zones and industrial parks.

JAMAICA

Jamaica is a constitutional parliamentary democracy and a member of the Commonwealth of Nations. The Governor General, appointed by the Crown on the advice of the Prime Minister, represents the Queen as Head of State. The elected Prime Minister, the leader of the majority party in Parliament, is the head of government. The Parliament is composed of an elected House of Representatives and an appointed Senate. Two major political parties have alternated in power since the first elections under universal adult suffrage in 1944. The People's National Party (PNP) holds 52 of the 60 seats in the House of Representatives. The opposition Jamaica Labor Party (JLP), which formed the Government from 1980 to 1989, holds the remaining 8 seats. The last general election, held in March, was marred by political violence and fraud.

The security forces consist of the Jamaica Constabulary Force (JCF—police), the Island Special Constabulary Force (ISCF—auxiliary police), and the Jamaica Defense Force (JDF—army, air wing, and coast guard). The JCF and ISCF report to the Ministry of National Security. The JDF is responsible to the Prime Minister in his capacity as Defense Minister. The JCF has repeatedly and accurately been cited for human rights abuses and political partisanship; the JDF has been responsible for some, albeit fewer, abuses.

Jamaica's economy is based on primary products (bauxite/alumina,sugar, bananas), services (tourism), and light manufacturing (garment assembly). The Government has promoted private investment to stimulate economic growth and modernization, pursuing in the process a sometimes painful program of structural adjustment. Side effects of this program have included inflation, currency devaluation, and large-scale layoffs in the public sector.

Jamaica's principal human rights abuses are extrajudicial killings and beatings by police and prison guards and, to a lesser extent, members of the army. Such killings are often carried out with impunity. While a few police and army personnel were prosecuted for manslaughter or murder, the local media and human rights groups attributed new execution-style killings to members of the security forces. Other abuses include violence against women, including attacks by police; searches without warrants; indefinite detention; brutal treatment of detainees; and vigilantism. Conditions in Jamaican jails and prisons remain appalling, with serious overcrowding, awful sanitary conditions, and inadequate diet the norm. An inefficient and overburdened judiciary was responsible for lengthy delays in trials, sentencing, and appeals.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—The March 30 general election was preceded by a brief but violent campaign during which between 14 and 22 persons were killed by political partisans and/or members of the security forces in February and March. In the only pre-election killing with political overtones allegedly committed by security forces, a JDF lieutenant and a lance corporal were charged with the

March 27 killing of JCF constable Rupert Sinclair, who was acting as a bodyguard for JLP candidate for Parliament Ernest Smith. Eyewitnesses reported that Sinclair, who identified himself as a policeman, was shot in the stomach while being questioned by the soldiers. A trial was set to begin on October 11, but had not begun by year's end.

On March 26, election official Dennis Brooks was shot and killed in Old Harbour, St. Catherine. The suspected killer, a PNP supporter, was later found dead of multiple gunshot wounds one day after his arrest, and subsequent unexplained release, for the killing of a JLP supporter.

There continue to be credible reports that the JCF engages in the summary execution of suspects under the guise of "shoot-outs." Local media accounts disputing JCF claims of shoot-outs (often quoting eyewitness accounts in direct contradiction) appeared with increasing frequency in 1993. One case which drew particular media attention concerned the July 16 shooting death of two robbery suspects at Nuttall private hospital in Kingston. While initial JCF reports indicated the two men, Alfredo Bell and Leroy Chin, were killed in a shoot-out, eyewitness accounts from health professionals and other credible witnesses maintained that Bell was chased into the hospital, taken outside by JCF personnel, forced to lie prone and shot in the back of the head. One of six JCF officers involved was charged with capital murder and suspended while the investigation and prosecution proceeded.

Statistics collected over several years from the JCF show that the number of people shot and killed by the police routinely exceeds the number shot but only wounded. In 1993 the JCF listed 67 people shot and wounded by police officers, while 91 were shot and killed. For 1992 the figures were 69 shot and wounded, 107 shot and killed. Prosecutions of security officials for extrajudicial killings appeared to increase. Overall, seven JCF members were charged, suspended, or prosecuted for murder or manslaughter in 1993, compared with four in 1992.

The new Commissioner of Police, Army Colonel (ret) Trevor MacMillan, the first chosen from outside the ranks of the JCF since 1966, was appointed with a mandate to reform the police. In October he ordered the disbanding of the Special Operations Unit and the restructuring of the Protective Service Unit, both of which had been responsible for much political partisanship.

Extrajudicial killings of persons in official custody continued. Four JCF inspectors and a superintendent were charged on April 2 with manslaughter in connection with the deaths of three detainees in the Constant Spring police jail in October 1992. The trial of the five had not begun by the end of 1993. In another incident, the death of detainee John Headley in the Ramble jail in November 1992, a detective constable and another JCF officer were charged with manslaughter in late May. According to eyewitness accounts from fellow detainees, Headley died under interrogation from repeated beatings as the accused officers sought a confession in the case of a stolen cow. The accused had not been tried by year's end.

Vigilantism, involving spontaneous mob executions, occurred with some frequency in Jamaica in 1993. Residents often complained that help from the police, particularly in rural areas, was tardy or nonexistent; in many such cases, the response to crimes from agricultural larceny to armed robbery was the rapid formation of a local mob which beat, stoned, or "chopped" (with machetes) the alleged criminals to death. Police rarely brought charges against vigilantes, and acquittals were common in the few cases that did go to court.

b. *Disappearance.*—There was no evidence of politically related abduction or disappearances perpetrated by the security forces or others in 1993.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture and other abuse of prisoners and detainees are prohibited by law. Nonetheless, there were numerous credible complaints of beatings, in many cases to obtain confessions, by guards and security personnel of inmates held in jails and prisons. The Jamaica Council on Human Rights (JCHR) reported that the beating of detainees on the soles of the feet in order to obtain confessions was a common practice; in one incident, it said, police forced one detainee to beat the soles of a friend and fellow detainee. In recent years, the Government has paid out hundreds of thousands of dollars in civil damages to settle suits brought against security personnel for brutal treatment; the most recent available figure, for 1991, was $333,000.

The Police Public Complaints Authority (PPCA), a nonpartisan civilian body which began operations in April, received over 150 complaints in its initial months of operation. Most complaints charged excessive use of force or abuse of power. The PPCA's chairman told local media in August that the authority's work was being hampered by a lack of reliable witnesses. The PPCA may refer cases to the Commissioner of Police; if not satisfied with the Commissioner's actions, the Authority may report on the matter to the Governor General. At year's end, however, no JCF personnel had been charged or prosecuted for matters arising from PPCA complaints.

There were no significant changes in conditions in maximum security prisons and police jails, which remain abysmal. Sanitary conditions are appalling and dangerous, food inadequate at best, and overcrowding the rule rather than the exception. Several police jails were temporarily closed during the year in an effort to cope with raw sewage running through the grounds; others, including Central jail in Kingston and Barnett Street jail in Montego Bay, remained open under substantially the same conditions. At the general penitentiary in Kingston, up to six men are held in the 7- by 10-foot cells in the remand section, in near total darkness, for 16 to 20 hours a day.

The failure to provide adequate and timely medical attention is a further problem, especially given the degrading sanitary conditions. Prisoners and detainees who can afford to pay find access to medical treatment, supplemental food, and other amenities. Prisoners without access to money from family members and friends must subsist on the $0.60 a day per inmate budgeted for food.

A 1992 amendment to Jamaica's Offenses Against the Person Act, which separated murder into capital and noncapital categories, elicited a great deal of comment on the revised Act and on the death penalty in general during 1993. A number of commentators, including the JCHR, questioned the propriety of allowing 10- to 15-year delays in executions for a large number of convicted murderers. They charged that, the question of the rightness or wrongness of the death penalty aside, such lengthy delays themselves constituted cruel, inhuman, and degrading punishment. In November the Privy Council commuted the death sentences of two convicted murderers, saying their 14 years on death row amounted to inhuman treatment. There have been no executions in Jamaica since 1988 and no ex post facto applications of the death penalty.

d. *Arbitrary Arrest, Detention, or Exile.*—The Suppression of Crimes Act (SOCA), adopted in 1974 and still in force in Kingston, St. Andrew, and St. Catherine parishes, allows police to make arrests and conduct warrantless searches of the homes and property of persons "reasonably" suspected of having committed a crime. It has also been used as justification for curfews in urban areas. The Government promised on several occasions during 1993 to repeal the SOCA; by the end of the year, however, the law was still on the books.

Detention of suspects without a warrant occurs regularly, particularly in poor neighborhoods. Many detainees are held for several weeks without being brought before a judge or magistrate, in contravention of the law, which sets a maximum of 48 hours for detention without a hearing. For Jamaican suspects charged with a crime, there is a functioning bail system. Foreign detainees, however, are regularly denied bail. Persons unable to post bail while waiting for a judicial hearing are often detained for long periods. Detainees constitute 15 percent of the maximum security prison population; the average length of detention before trial has not been determined but ranges from 6 to 52 weeks.

Some 80–100 persons are currently awaiting trial "at the pleasure of the Governor General," usually for capital offenses committed as minors. They are subject to indefinite detention; many have been held for more than 10 years. Others in the group, mostly mentally ill, have been judged unfit to plead. A man held for 24 years without trial was released in September to the care of his family after a public outcry stemming from media reports of his plight. Other such cases were under review by the Governor General at year's end.

Under a 1992 joint police-military campaign called "Operation Ardent," the Government established rapid response units in three locations to combat increasingly violent crime. By mid–1993, however, the Anti-Crime Investigation Detachment (ACID) replaced Operation Ardent as the latest anticrime initiative. ACID members were almost immediately linked to reports of summary executions (see Section 1.a., the Nuttall hospital incident). The three military detention centers which were to be used to house Operation Ardent detainees, meanwhile, were constructed but never used.

e. *Denial of Fair Public Trial.*—There is a well-established right to counsel for persons charged with criminal offenses; indigents, however, must have been accused of a "serious offense" (e.g., murder, rape, robbery, firearms offenses) to qualify for court-appointed counsel. Many offenses, including wounding with intent (to cause great bodily harm), are not considered "serious," and many defendants are thus convicted without benefit of counsel. The Court of Appeal and the Parliament may refer cases to the judicial committee of the Privy Council in the United Kingdom (see Section 1.c.).

A special gun court, established in 1974, considers all cases involving the illegal use or possession of firearms and ammunition. Public attendance is restricted, and cases are heard by a panel of three judges, with less rigorous rules of evidence than

in regular court proceedings. In capital cases, hearings before the gun court serve as preliminaries to jury trials under the jurisdiction of the Supreme Court.

The judicial system, although independent, is overburdened and operates with inadequate resources. Budgetary shortfalls have resulted in a steady attrition of trained personnel, causing further delays. Many cases take years to come to trial, and others have had to be dismissed because case files could not be located. One case required 50 visits to court by the parties before a decision was reached; another has been on the books of the May Pen district court since 1972. The Government in recent years took some steps to reverse the deterioration of the legal system, which included raising judicial salaries, increasing training for judicial personnel, upgrading court house facilities, and providing technical assistance to institutionalize an improved court administration system. The effects on caseloads and average length of proceedings have so far been minimal, however.

There are no political prisoners in Jamaica.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits arbitrary intrusion by the State into the private life of the individual. Under the SOCA, however, homes or businesses believed to be occupied by persons "reasonably" suspected by the police of having committed a crime may be searched without a warrant. This authority is frequently abused.

Although the use of telephone taps without a court order is officially limited to cases involving the drug trade, terrorism, and subversion of the Government, charges have been raised in recent years by political and trade union officials that their telephones were being tapped. These charges have not been addressed by the authorities.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and press are provided for in the Constitution and are observed in practice within the broad limits of libel laws and the Official Secrets Act.

The Jamaica Broadcasting Company (JBC), largely freed from government ownership in 1988, operates two radio stations and one of the island's two television channels. A private television station went on the air in May, while two other privately owned FM radio stations also began operation during the year. The Government's broadcast commission has the right to regulate programming during emergencies. Foreign television transmissions are unregulated and available to a sizable number of Jamaicans through satellite antennas.

Jamaica's four largest newspapers, all privately owned, regularly report on alleged human rights abuses, particularly those involving the JCF. Foreign publications are widely available. There is no censorship or interference in academic institutions.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association. Public rallies are staged by all political parties. Such events require a police permit, which is normally granted. Large numbers and varieties of professional, business, service, social, and cultural associations function freely.

c. *Freedom of Religion.*—Freedom of religion is provided for by the Constitution and is well established. More than 80 percent of the population belongs to various Christian denominations, and religious groups of all kinds operate freely. Evangelical Christian movements have gained a significant following, and foreign evangelists visit regularly.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides Jamaican citizens freedom of movement and immunity from expulsion from the country. Apart from persons under criminal investigation, there are no restrictions on foreign travel or emigration. Citizenship is not revoked for political reasons.

Those who apply for refugee status are handled on a case-by-case basis. In coordination with the U.N. High Commissioner for Refugees (UNHCR) in 1991, the Jamaican Government established a facility which processed more than 100 Haitian boat people, who were housed, clothed, and fed throughout 1992. By the end of 1993, some 30–35 remained in Jamaica, the rest having been voluntarily repatriated to Haiti. There were occasions when the Jamaican Government refused the disembarcation of Cuban asylum seekers.

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

Jamaicans have, and freely exercise, the right to change their government. All citizens aged 18 and over have the right to vote by secret ballot. The March 30 general election was marred, however, by fraud which occurred on a large scale within

the urban constituencies of Kingston, and to a lesser but still significant extent in nearby parishes. In an April 2 statement, Professor Gladstone Mills, chairman of the electoral advisory committee, called the theft and stuffing of ballot boxes and repeat voting by hundreds of people "a terrible and sad travesty of the democratic process." Observers found particularly troubling the involvement of elements of the security forces: in addition to the murder of Rupert Sinclair (Section 1.a.), members of the JCF were observed by the local and international media assisting in the takeover of polling stations by one party or the other. Indeed, the results from some stations depended on which party was able to bring the greater threat of force to bear.

According to Professor Mills, the murder 3 days before the election of electoral official Dennis Brooks also had a substantial effect on the willingness of electoral officials to do their jobs on election day, contributing to delays in opening and the premature closing of some polling stations. Such action effectively disenfranchised thousands of voters, either by shortened polling hours or by threats of violence from armed political gangs. Nevertheless, observers, including the opposition JLP, conceded that the overall result of the election was not altered by the fraud which took place, even though individual seats may have been decided as a result of fraud.

The JLP boycotted a by-election in late November, charging that appropriate electoral reforms were not in place. The election, won overwhelmingly by the PNP candidate, was contested by one independent and two small-party candidates, who charged that voter turnout figures were inflated, and that some of their votes were lost owing to electoral irregularities. The security forces appeared to have performed their duties professionally on election day; no charges of violence or malfeasance were raised against members of the army or police.

There are no de jure limitations to the participation of women in politics at any level. In practice, women constitute a small minority of national parliamentarians and an only slightly higher proportion of local council members. Women in politics, as in Jamaican business, hold few leadership positions; they tend, on the other hand, to dominate in administrative areas.

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

There are no restrictions on human rights organizations in Jamaica. The JCHR, the country's only formal human rights organization, has vigorously protested abuses by the police and has called for corrective reforms. Its work was hampered, however, by a lack of adequate resources. There was no official followup on the August 1992 break-in and fire at the JCHR headquarters, which effectively shut the organization down for 3 months. The JCHR's coordinator, chairman, and vice-chairman continued to receive death threats in 1993.

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

Women.—While Jamaican women are theoretically accorded full equality under the Constitution and under the 1975 Employment Act, in practice they suffer from economic discrimination, sexual harassment in the workplace, and cultural and social traditions which do little to discourage violence against women.

Sexual assault reports increased from 1,091 in 1991 to 1,155 in 1992. According to the authorities, reports of violence against women increased again in 1993, although figures were unavailable at year's end. Complaints filed with the JCHR alleging police attacks on women have increased dramatically in the last few years, leading the organization to focus formally on women's issues for the first time since its creation in 1968. A police instructor allegedly raped a young woman recruit at the police academy on August 16; he was arrested the same day. By year's end, his trial had not begun.

The Women's Crisis Center and Sistren (a women's resource collective) both reported increases in the number of, and level of violence involved in, attacks against women. Women remain reluctant to bring assault charges against their domestic partners when jail is seen as the likely result. The Government, which promised legislation to introduce noncustodialsentencing for nonweapon offenses, had not done so by the end of 1993.

Children.—The Government has gone on record several times over the past decade as supporting the rights and welfare of children. Limited resources, however, make it difficult for the Government to monitor the status of children at school, in the workplace, or at home. The only legislation which specifically addresses the rights of children is the Juvenile Act (see Section 6.d.).

The treatment of children in Jamaican society received increased public attention in 1993. Sexual abuse and child labor practices were particular areas of concern. A University of the West Indies study released in April showed that 13 percent of

eighth-grade girls questioned had faced attempted rape, while 4 percent had actually been raped, often by a family member. Additionally, 22 percent had witnessed acts of violence involving weapons at home, while 40 percent had witnessed similar acts at school.

Indigenous People.—While there are no indigenous peoples remaining in Jamaica, several community groups descended from freed and escaped slaves, called Maroons, live in separate communities in the interior of the island. Since British colonial times, the Maroons have enjoyed a degree of autonomy granted by treaty. There were no charges of political or other discrimination made by Maroon leaders in 1993. However, they continue to press claims for land rights which they say the Government has not honored.

Religious Minorities.—The Rastafarians, a sect dedicated to black repatriation to Africa, have repeatedly charged the Government with religious persecution over the years; often, however, the charges stem from criminal prosecutions brought for possession and use of marijuana, the smoking of which the Rastafarians regard as a sacrament.

People with Disabilities.—There have been no organized campaigns to make structures and facilities accessible to disabled persons, and there are no laws mandating provision of accessibility for people with disabilities. A government-sponsored "disabilities week," held in September, helped raise public awareness of the problems which confront disabled Jamaicans.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution specifically provides for the right to form or join a trade union. There are no categories of workers who do not have the right to form unions. Labor unions function freely and independently of the Government. The Labor Relations and Industrial Disputes Act (LRIDA) codifies worker rights. There is a spectrum of national unions, some of which are associated with political parties. Approximately 15 percent of the labor force is organized.

Jamaican law neither authorizes nor prohibits the right to strike, but unions and workers do strike. Striking workers can interrupt work without criminal liability but cannot be assured of keeping their jobs. Workers in 10 broad categories of "essential services" are prohibited from striking, a provision of the LRIDA which the International Labor Organization (ILO) has repeatedly condemned as overly inclusive. There was a major increase in workdays lost to industrial action in 1993, as workers attempted to regain buying power lost to inflation over the preceding 3 years. No strikes were declared illegal in 1993.

Jamaican unions maintain a wide variety of regional and international affiliations.

b. *The Right to Organize and Bargain Collectively.*—The Constitution provides for the right to organize and belong to labor unions, and LRIDA provisions include guidelines for labor, management, and government on issues such as organizing work sites, negotiating agreements, and conflict resolution. The Government rarely interferes with union organization efforts, and judicial and police authorities effectively enforce the LRIDA and other labor regulations.

Labor, management, and the Government remain firmly committed by law and in practice to collective bargaining in contract negotiations and conflict resolution, even in some nonunion settings. When labor and management fail to reach an agreement, cases may be referred to an independent Industrial Disputes Tribunal (IDT), which forms the first appeal level above the Ministry of Labor. Any cases not resolved by the IDT pass to the civil courts.

The LRIDA prohibits antiunion discrimination: for example, employees may not be fired solely for union membership. Employees unlawfully fired for union activities may choose to be reinstated or receive appropriate compensation, under the direction of the Industrial Disputes Tribunal. This law has been effectively enforced. On the other hand, union affiliation may not be a prerequisite for employment.

Domestic labor laws apply in the "free zones" (export processingzones); however, there are no unionized companies in any of them. Union organizers attribute this to resistance by foreign owners in the zones to organizing efforts and government reluctance to allow union access. Nonetheless, the free zones were hit by labor unrest in July and attempts to organize plants within the zones continue. Company-controlled "workers' councils" handle grievance resolution at most free zone companies. Wages and conditions within the free zones, set by management, are generally as good as or better than those in similar industries outside the zones. The Labor Ministry, however, discontinued inspections of the zones in mid–1992 due to budget cutbacks.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution does not specifically address the matter of forced or compulsory labor. However, Jamaica is a party

to both ILO conventions that prohibit compulsory labor, and there have been no allegations that this practice exists in Jamaica.

d. *Minimum Age for Employment of Children.*—The Juvenile Act provides that children under the age of 12 shall not be employed except by parents or guardians, and that such employment may be only in domestic, agricultural, or horticultural work. However, enforcement is erratic. Children under 12 years of age can be seen peddling goods or services on city streets. There is no evidence of widespread illegal employment of children in other sectors of the economy. The Educational Act stipulates that all children aged 6 to 11 must attend elementary school. Industrial safety, police, and truant officers are charged with enforcement. Given the difficult economic circumstances of the past few years, however, thousands of children were kept home for varying periods to help with housework and to keep expenses down.

e. *Acceptable Conditions of Work.*—The minimum wage, $10 (J$300) per week, is widely considered inadequate. Most salaried workers are paid more than the legal minimum wage. Work over 40 hours per week or 8 hours per day must be compensated at overtime rates, a provision which is widely observed. The law provides for a 24-hour rest day per week, during which workers may choose to work in exchange for double pay. The Labor Ministry's Industrial Safety Division is charged with setting and enforcing industrial health and safety standards, which outside experts consider adequate. Industrial accident rates were once again low in 1993. The Ministries of Labor, Finance, the Public Service and National Security are charged with enforcing labor laws and regulations; again, however, the reduction of the public service in 1992 had a grave impact on the ability of those ministries to enforce the law. Workers are guaranteed the right to remove themselves from dangerous work situations without jeopardy to their continued employment if they are trade union members or covered by the Factories Act; other categories of workers are not specifically protected by law in those circumstances.

MEXICO

Mexico is a federal republic with a president, a bicameral legislature, and a constitutionally independent judiciary. The Institutional Revolutionary Party (PRI) has won every presidential election since the party's founding in 1929, but in recent years and through democratic reform, the opposition has steadily expanded its stake in the political system. Since the 1988 elections, opposition parties have gained 180 of 500 seats in the Chamber of Deputies and 3 state governorships and control the governments in 10 percent of the municipalities. These gains reflect increased ability by the opposition to attract support and to organize itself, as well as the impact of political reforms instituted by the administration of President Salinas. Nevertheless, the PRI continued to dominate the Government through a combination of voting strength, organizational power, access to resources not enjoyed by other political parties, and—in some elections—outright violations of electoral laws. September 1993 changes in federal electoral law and practices were designed to make future elections more transparent and tamperproof.

Mexican security forces, which include the military, federal and state judicial police, federal highway police, and local police, are under the control of elected civilian officials. Despite progress made by the Salinas administration to curb human rights abuses, the security forces, in particular the police, continued to commit serious human rights violations in 1993.

Mexico has a mixed economy that combines domestic market capitalism with some state ownership of major industries. Private property rights are protected by law. The Government's economic reform program was successful in reducing inflation and restoring both domestic and overseas investor confidence. However, there continued to exist serious disparities of income and areas of severe poverty. The North American Free Trade Agreement (NAFTA) with Canada and the United States was signed in 1992 and won approval from the U.S., Mexican, and Canadian legislatures. It entered into force on January 1, 1994.

Early in 1994, a primarily Indian group calling itself the Zapatista Army of National Liberation resorted to an armed uprising, initially taking control of four municipalities in the state of Chiapas, to protest what it regarded as government failure to deal effectively with social and economic problems.

In 1993 there continued to be widespread human rights abuses and a frequent failure to punish violators despite government efforts to do so. Important abuses included extrajudicial killings by the police, torture, illegal arrests, glaring prison deficiencies, and extensive illegal child labor in the informal economy. The Government has made strong efforts to end the "culture of impunity" surrounding the security

forces through reforms in the Office of the Attorney General (PGR), continued support to the National Commission for Human Rights (CNDH), and establishment in 1993 of state-level commissions for human rights. These actions together with increased public awareness of human rights concerns have brought about a noticeable decline in the incidence of violations in Mexico.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—A number of political and human rights activists were killed in 1993, but a political motive was not clearly established in any of these killings. For example, on June 20 unknown assailants killed Amado Solomon Rodriguez, Campeche state leader of the opposition Party of Democratic Revolution (PRD). The case was not solved, and there was conflicting evidence as to the possible motive.

The focus remained on developments in the killings of political and human rights activists from past years, particularly the 1990 murder of human rights lawyer and professor Norma Corona, the 1988 disappearance and suspected murder of political activist Jose Ramon Garcia, the 1988 murders of Xavier Obando and Roman Gil, and the 1984 murder of journalist Manuel Buendia. In the Norma Corona case, police commander Gonzalez Trevino remained on trial for the murder, despite the subsequent murders of six prosecution witnesses, several of whom were in police custody at the time they were killed. Former National Security Director Jose Antonio Zorrilla Perez and four others were convicted and sentenced to 35 years in the Buendia killing. Two state attorneys general accused of killing Obando and Gil, and a former state police chief charged with Garcia's disappearance and murder, are in jail.

The CNDH opened a special investigation into political violence, including killings, in 1993. There were 140 cases of violence against PRD members being investigated, of which 90 concerned killings. Of the 140 cases, 67 resulted in recommendations from the CNDH involving culpability by government authorities. In 18 cases the CNDH did not find government authorities at fault. The CNDH concluded 22 cases for lack of additional information from the complainants, and 18 cases fell outside the CNDH's juridical authority. Three cases were referred to other authorities, and six cases were incorporated into previously existing cases.

The police and police auxiliaries, known as "madrinas," and to a lesser extent the army continued to be responsible for extrajudicial killings. A number of detainees and prisoners were killed while in police custody. Although many of these cases were being investigated by the CNDH, many were not fully prosecuted or the guilty parties punished. In Sonora, an auxiliary killed five civilians in an incident arising out of a traffic confrontation. Following an attempted coverup and an investigation, the auxiliary, a former Mexico City policeman dismissed for involvement in another murder, was charged with multiple homicides, transportation of illegal arms, and usurpation of functions. Two police commanders who attempted to cover up the killings were fired and charged with obstruction of justice. At year's end, all three remained on trial. Four other police officers, who knew of the coverup but did not report it, were dismissed but have not been charged with wrongdoing. Attorney General Carpizo ended the practice of hiring police auxiliaries.

There were a number of deaths of detainees and prisoners in police custody. The most prominent was the death in Guadalajara of an alleged member of the drug family identified with the May killing of Cardinal Posada and five others. Investigations revealed that the drug family had been receiving police protection; a number of prominent police officials were charged with crimes as a result. The killing of the drug family member was ruled an accident by Jalisco state authorities, but local newspapers credibly claimed that it was an extrajudicial killing and openly mocked the findings. One 1992 death of an American citizen in police custody, originally reported to the authorities as a suicide, has now been ruled a murder. A police officer was arrested and charged with murder; the trial continued at year's end.

Killings of gays and male prostitutes continued in the state of Chiapas. Press reports indicated that in 1992–93 at least 12 known homosexuals and 9 male prostitutes were killed, most with high-calibre firearms. At year's end, the police had solved none of these murders, and gay rights advocates charged they were making little, if any, effort to do so.

The army was also responsible for some extrajudicial killings. On June 23, Mexican army units claimed they had killed five narcotics traffickers in a shoot-out in Chihuahua state. A subsequent investigation revealed that the soldiers had captured, tortured, and summarily executed the suspects. Sixteen soldiers were charged in the incident.

In Mexico's rural states, violent disputes over land sometimes led to extrajudicial killings. Paramilitary bands, police auxiliaries, and local police controlled by political bosses and landowners threatened and sometimes killed indigenous activists.

With the establishment in 1990 of the CNDH as an independent entity under the Constitution and the formation in 1993 of official human rights commissions in each state, increased attention was paid to human rights at both the state and federal levels. The CNDH has the power to compel officials to grant access and give evidence. However, it then issues nonbinding recommendations that depend on executive and judicial organs and the weight of public opinion to ensure enforcement by the government entities. To date, of the 624 recommendations the CNDH has issued, 268 have been followed fully. Eighty-two people were arrested as a result of CNDH recommendations to the Attorney General's office and of those, 20 were tried, convicted, and sentenced to prison terms averaging over 5 years, including 3 officials who were convicted of torture.

b. *Disappearance.*—There were no confirmed reports of politically motivated disappearances in 1993.

The most significant development in Mexico's continuing effort to resolve past disappearances was resolution of the 1988 Jose Ramon Garcia case, mentioned above. Over the last 6 years, some human rights advocates claimed that there were more than a dozen disappearances, but in 1992 and 1993 no new cases arising in Mexico were added to the list kept by the U.N. Working Group on Involuntary or Forced Disappearances.

The CNDH closed its inquiries into 78 of the more than 200 disappearance cases listed by the U.N. Working Group over that period. Of the 80 cases concluded, 51 persons were found alive,and 22 were determined to be dead. Sixteen of the deaths were homicides, but in no case was there evidence that the homicides were politically motivated. The remaining seven cases were dropped by the complainants. Independent Mexican human rights groups assert that approximately 500 persons disappeared in Mexico over the last 23 years, mostly in the early to mid-1970's. Eureka, a group formed by mothers of several hundred persons who disappeared during the guerrilla conflicts of the 1970's, continued to press for news of family members' whereabouts.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although prohibited by the Constitution, torture is still used by members of the security forces despite increased public awareness and some convictions of violators. The most commonly used methods of torture were threats, beatings, asphyxiation, and electric shock.

From its establishment in June 1990 through September 1993, the CNDH received 1,114 complaints of torture, 847 of which were investigated and concluded. All were classified as possible torture based on the allegations in the complaints. Of these, 103 were found to have involved torture, and recommendations were issued in those cases. In 293 other cases, violations other than torture were found.

According to the CNDH, torture complaints declined again during 1993 both in number and as a percentage of all complaints. During the CNDH's first year in operation (May 1990-May 1991), allegations of torture totaled 426 (13.4 percent of all cases), though many of those cases were from previous years and only reported to the Commission in its first year of operation. During the May 1992-May 1993 period, the number of torture allegations had fallen to 246 (2.8 percent of all cases). From June to December 1993, 91 cases (1.6 percent of all cases) of alleged torture were lodged with the CNDH. Although state human rights commission presidents and some nongovernmental human rights groups agreed that complaints of torture have declined, other human rights organizations claimed that torture remained at historic levels or even increased, citing frequent allegations to their groups. The magnitude of the problem remains significant.

CNDH investigations into complaints of torture were an important effort to reduce violations. However, there continued a pattern of failure to try, convict, and sentence prison officials guilty of abusing detainees. Thirty-two U.S. citizens registered complaints with U.S. consulates and, with permission of the complainants, the U.S. Government formally protested 13 cases of torture or other mistreatment through diplomatic channels. There has been a decline in such cases, as reflected in the decreasing number of formal protests over the past several years: 39 in 1990, 21 in 1991, and 17 in 1992.

Most prisons in Mexico lack adequate facilities for prisoners and are overcrowded, despite an early release program endorsed by the CNDH and legal reforms reducing the number of crimes that carry mandatory prison sentences. In addition, an entrenched system of corruption undermined prison authority and led to abuses. Frequently, prisoners exercise authority within the prison, displacing prison officials. Conflicts between rival prison groups, often involved in drug trafficking, continued

to spark lethal violence. While a few prison officials were prosecuted for abusing prisoners, it was more common to dismiss them or to charge them with only minor offenses. Urged by the CNDH, the Government accelerated a major prison-building program designed to reduce the overcrowding, lack of security, and the mixing of male and female prisoners and of accused and sentenced criminals that have added greatly to prison violence. The federal prison system alone added 400 spaces for maximum security prisoners, and 800 more were planned for 1993 and 1994. As of December 31,there were 94,768 inmates in Mexican prisons: 48,994 were serving sentences; 45,774 were being tried.

d. *Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and imprisonment is the most common human rights abuse, reflected both in the complaints brought to the CNDH and those brought to the state commissions. Legally, arrests may be made only upon the authority of a judicially issued warrant, with two exceptions: suspects caught in the act of committing a crime, and serious crimes where there is an urgent need to make the arrest and no judge is available. In the latter, a public prosecutor can issue an arrest warrant, but the suspect must be presented to a judge immediately. In practice, police frequently arrested suspects without a warrant, even when the suspect was not caught in the act, and judges overlooked this irregularity.

The Constitution requires that those arrested be arraigned before a judge as soon as possible. In August the Constitution was amended to allow detention of up to 48 hours after arrest in ordinary cases or 96 hours in cases where organized crime is alleged. The amendment was designed to give prosecutors more time to prepare their cases. Once arraigned, a judge takes the defendant's statement and must inform the accused of charges and evidence against him within 48 hours. Within 72 hours of arraignment, a judge must remand the defendant to prison or proceed with release. In a large majority of cases, detainees are released or arraigned within the time frame specified by law. The impact of the amendments is not yet clear.

In 1993 arrests without warrants were somewhat fewer but remained common. Attorney General Carpizo, a human rights advocate and former CNDH head, backed the lengthened prearraignment period in part to discourage such abuses. As in the case of roadside narcotics searches, which Carpizo revived but subjected to strict new rules, the lengthened prearraignment period was intended both to assist law enforcement and to keep prosecutors out of trouble by setting rules they can follow. Before August, prison populations contained a significant number of pretrial detainees, many of whom had been detained for more than the time permitted under the Constitution. In recent years, the CNDH, other rights groups, and private counsel have won release of detainees held beyond the constitutional time limits, but prolonged detention remained an ingrained problem.

Frequent forced expulsions and unlawful arrests continued in rural areas. These human rights violations often involved indigenous people evicted by landowners with local police and government support. In February squatters who had settled on a plot of land in Morelos were violently driven off by special police, losing many of their possessions. The state human rights commission and the state Attorney General's office concluded that the squatters had no right to the land. At year's end, an investigation continued into charges of human rights violations during the eviction proceedings; no one had been charged with wrongdoing.

In Chiapas, state police were criticized for wrongfully arresting several groups of Indians while investigating two unrelated incidents in which military officers had been killed. In both cases, several Indians were allegedly beaten and wronglydetained. While many of the suspects were later released, charges remained pending against others, and the Government maintained it acted properly in bringing those charges. At the beginning of 1994, an armed uprising in Chiapas called attention to serious discontent with the human rights and economic situation.

Indians continued to be detained or arrested without cause as a result of police and military investigations into killings of soldiers. An investigation by the CNDH, nongovernmental organizations (NGO's), and the army itself into one such case in Baborigame, Chihuahua, resulted in an unprecedented admission of responsibility by the army, which paid restitution to those Indians affected by the action and punished those responsible. In the villages of Ocosingo and Ocotal, Chiapas, several Indian peasants identified as suspects in the murders of soldiers were arrested but then released by judges for lack of evidence after local human rights groups and the CNDH intervened. The CNDH and the federal Attorney General's office investigated the arrests and recommended disciplinary action against the officials involved. Other Indians involved in the Ocosingo case remained imprisoned on murder and other charges, and government officials asserted that there is evidence to support these allegations.

Exile of Mexican citizens is not normally practiced.

e. *Denial of Fair Public Trial.*—The judicial system is divided into federal and state courts, with federal courts having jurisdiction over most civil cases and those involving major felonies, including drug trafficking. Some opposition politicians and credible independent analysts asserted that judicial officials were overly partial to the executive branch, despite appointments for life (unless dismissed for cause) after a tenuring period. Three federal judges in Sonora were dismissed for obstructing justice, and an arrest warrant for obstructing justice and bribery was issued against a former Supreme Court justice (both unprecedented in modern Mexico). Low pay and high caseloads contributed to continued corruption within the judicial system.

The Constitution requires that a court must hand down a verdict within 4 months of arrest for crimes that carry a maximum sentence of 2 years or less, and within a year for those with longer maximum sentences. The trial itself, sentencing, and appeals can delay the final outcome for significant periods of time, sometimes adding a year or more to the entire process. Trial is by judge, not jury, in nearly all criminal cases. Defendants have a right to counsel, and public defenders are available. Other rights include protection against self-incrimination, the right to confront one's accusers, the right to a translator if one's native language is not Spanish, and the right to a public trial. Such protections are not always observed in practice. The long trial process is one of the major causes of overcrowding in the prison system, as those who do not qualify for or cannot post bond swell the prison population.

Imprisonment of rural indigenous people, often on charges of cultivating narcotic plants, puts a heavy demand on the prison system. Human rights advocates argue convincingly that many Indians were denied fair trials because of language and cultural barriers, as well as poverty. The CNDH began a program in 1992 to seek early release for prisoners, including indigenous people, and to improve compliance by federal and state officials with legal requirements that indigenous people be represented fairly. More than 1,000 Indians benefited from the early release program and the general parole program in 1993.

Some human rights groups claim that many indigenous prisoners are political prisoners because language and cultural barriers denied them fair trial. The Government disputes the claim, charging that there is evidence that those whom human rights groups consider to be political prisoners have been guilty of common crimes such as criminal association, homicide, and damage to property.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the rights of privacy and freedom from intrusion by the Government into homes, family, and correspondence. However, although search warrants are required by law, unlawful searches without warrants occurred frequently, and there continued to be credible reports of wiretapping.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and the press, but there remained significant restrictions on these freedoms. Opposition leaders freely voice their criticism of the Government, and there is a large number of newspapers and magazines with a wide range of editorial views. The Government's control of a significant advertising budget and its ability to reward favored journalists by providing them access to officials were used to discourage unfavorable reports. A number of journalists depended upon receipt of under-the-table payments from the often public entities they covered to supplement low wages.

There were signs of change in the relationship between the Government and the press. The government practice of paying the press to run material it provided as news articles was banned, though some agencies may still do so, disregarding the prohibition. The Government put into effect clear rules restricting advertising by government entities in the press and requiring receipts for any press expenses. Several newspapers revised their wage and advertising revenue distribution policies to reduce or eliminate abuses. In 1992 the Government announced that it would no longer cover expenses incurred by reporters accompanying the President at home (it had earlier ended the practice on travels abroad). Two of three remaining government-owned television stations were sold to a private group that will provide significant new competition in national television media. Nevertheless, the Government's continuing control over broadcast license renewals and a reluctance by journalists and newspaper owners to undermine their access to and relationship with the Government contributed to the media's tendency toward self-censorship.

During campaign periods, the Federal Electoral Code provides opposition parties with 15 minutes per month of television time, plus additional time in proportion to their electoral strength. In addition, federal law reforms passed in 1993 stipulated that all parties seeking to buy more time from commercial stations shall have equal access and pay the same rates. If several parties compete for the same time slots, there is a procedure to divide the slot in two, distribute the right to buy slots in

the first half pro rata among all parties, and allot the right to buy slots in the second half in proportion to a party's polling in the immediate past federal election. A procedure was also mandated to limit overall campaign spending that will include media time and space.

Opposition politicians and others have long claimed that the principal television networks accord the government party inordinate news coverage, particularly at election time. There continued to be credible allegations that the media did not give government critics as much air time as government supporters. The new law requires the Federal Electoral Commission to inform media of a general requirement for fair treatment, but there is no provision for a "right of reply" under the law.

Violence and threats against journalists continued to be a problem. There were at least five reported cases of journalists killed in gangland style during the course of the year. Others reported receiving threats. Investigations continued into these murders, but none appeared politically motivated. A senior national security official was convicted in the 1984 murder of journalist Manuel Buendia. Human rights advocates and others speculated that narcotics traffickers and corrupt officials protecting them have been behind many assaults on journalists.

The July 1991 death of physician and columnist Victor Manuel Oropeza Contreras remained unresolved. Two suspects initially charged with the murder were released in 1992 in compliance with a recommendation from CNDH; a new prosecutor is continuing the investigation. The police officials who made the two arrests were tried for fabricating that case.

In response to a complaint by the Union of Democratic Journalists, the CNDH began an inquiry in 1990 into 55 cases of alleged abuse of journalists' human rights. Of the original 55 cases, the arrests of 3 persons responsible for the murder of journalist Javier Juarez brought to 41 the cases concluded by the CNDH either through arrests, final judgments (including convictions), or dismissals for lack of evidence or interest by complainants. Police investigations pursuant to CNDH recommendations continued in the 14 cases where recommendations were issued. The CNDH did not establish a political motive in any of the 41 cases, although as noted above, a corrupt securityofficial was convicted of the Buendia murder. In December 1992,the CNDH updated its report and announced that it had embarked on a second stage, investigating 22 new cases. Of these, three new cases were concluded; in two cases the CNDH found no violation, and in the third the complaint was withdrawn.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution grants the right of peaceful assembly for any lawful purpose. A government permit is generally required for major demonstrations. The Government permits demonstrations by a broad range of political groups.

c. *Freedom of Religion.*—The Constitution permits persons to practice the religion of their choice, and that right is honored in fact. Religious entities may acquire legal status after operating in Mexico for 5 years, own property, and operate private schools but are restricted from owning businesses and communications media. Individual clergy may be candidates for political office but only after a period of separation from their religious functions. Otherwise, clergy remain barred from holding public office and advocating partisan political positions.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Movement within and outside the country is unrestricted. The Government has customarily admitted persons recognized as refugees by the U.N. High Commissioner for Refugees. Approximately 45,000 Guatemalan refugees (up from 43,000 in 1992) reside in camps and resettlement areas in southern Mexican states. The refugee population grew due to high birth rates, despite repatriations of 2,500 refugees in January and 1,300 refugees in December. Since 1990 they have been permitted to accept work outside their camps and may travel freely in the five-state area of Chiapas, Campeche, Quintana Roo, Tabasco, and Yucatan. The Government estimates that an additional 400,000 Central Americans, mostly Guatemalans and Salvadorans, are living and working in Mexico. These pre–1990 undocumented Central Americans lead a precarious existence, are subject to deportation when caught, and are often exploited as a source of cheap labor.

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

Under the Constitution, citizens have the right to change their government through periodic elections. The Institutional Revolutionary Party (PRI) dominates Mexican politics and has controlled the Government since its founding in 1929. It won every presidential election since then and has maintained power, in part, by relying on public patronage, use of government and party organizational resources, and—according to respected independent observers—electoral fraud. Recent reforms enacted by the Government are intended to ensure that future elections will be, and

will be seen to be, free and fair. Opposition parties have argued that the reforms do not go far enough to ensure that objective fully.

Nine states elected governors, state legislators, and municipal mayors in 1993. The PRI won all the gubernatorial contests. Most of those victories were won by wide margins and prompted only scattered protests by opposition parties who claimed electoral law violations. In several cases, however, opposition parties strongly contested the PRI victories, and credible observers in some instances attributed them to electoral fraud. For example, the PRD rejected official results that declared the PRI candidate governor in Guerrero in February and in Nayarit in July. In both cases, the PRD asserted that vote tallies were distorted by various means that violated electoral laws. In Guerrero, the PRD alleged that too few people voted to make the election legitimate. The PRI candidates took office in both states amid continuing opposition protests. The conservative National Action Party (PAN) was the protagonist in less extensive protests over the elections in Baja California Sur in February. Although local PAN members claimed that their candidate had won the governorship, the national PAN leadership conceded its loss.

In the Yucatan, the PRI proposed in April that the November gubernatorial election be postponed until 1995, seen as an attempt to prevent the popular PAN mayor of Merida from winning the position just months before general elections in August 1994. The measure was passed in the PRI-dominated state legislature, despite PAN protests. Later, however, the PRI proposed that the gubernatorial election be held in November as scheduled, but for only an 18-month term. New elections for governor then would be held in May 1995. The state legislature also approved this proposal, again without PAN support.

Yucatan elections were held on November 28, with civic action groups reporting heavy voter turnout and noting some irregularities in voting procedures. Opposition parties, led by the PAN, registered complaints with the state electoral commission against procedures in 57 polling places throughout the state. On December 1, the Yucatan interim governor, from the PRI, unexpectedly submitted her resignation, possibly over the manner in which the elections were conducted; the resignation was not accepted by the state legislature. On December 5, the Yucatan electoral commission formally declared the PRI candidates victors in the gubernatorial and Merida mayoral races. The PAN subsequently launched a series of protest rallies, led by PAN presidential candidate Diego Fernandez. After further protests and deliberations, the PRI mayor-elect of Merida resigned his office on December 20, and the electoral commission awarded the post to the PAN candidate who had finished second in the official results. The commission also dismissed most of the PAN's other challenges, and the PAN ended its public protests over the elections.

Continuing changes to the Constitution and reforms of electoral legislation have somewhat reduced the PRI's advantages. The Congress adopted constitutional amendments and revised the electoral law to double the size of the Senate, guarantee the opposition at least 25 percent of the seats, and revise (effective in 1999) the requirements for president by eliminating the bar to native-born Mexicans of foreign-born parents. In addition, the changes establish campaign and party financing limits along with an audit function in the semiautonomous Federal Electoral Institute (IFE), eliminate the clause that gave the party achieving a plurality of 35 percent or more of the vote an automatic majority in the lower house, and give parties access to commercial media time based on electoral strength. The PRI, PAN, and a smaller party voted for these measures. The PRD demurred, arguing that the IFE and other organizations running the elections should be controlled by the parties, not the Government. The PRD is correct in its contention that the Government still has substantial influence over the IFE. Mexico's Secretary of Government remains as president and a voting member of the IFE governing council. The current IFE Director General served as a subsecretary in the Secretariat of Government before taking the post; his predecessor went on to become the victorious PRI candidate for governor of Mexico state.

The 1993 changes did, however, give opposition party representatives and citizen members-at-large more votes than PRI and IFE officials combined on the IFE's district and state electoral boards, which perform the critical first review of campaign results and complaints. In addition, the legal changes buttressed the autonomy of the Federal Electoral Tribunal (TFE), which adjudicates federal election disputes, by adding a five-member appellate panel, presided over by the TFE president and including four members who must be federal judges, nominated by the Supreme Court and approved by two-thirds of the Congress. The appellate panel will pass final judgment on the elections of federal deputies and senators. As a result, newly elected federal legislators will no longer sit in judgment over their own elections.

In another move to legitimate electoral processes in Mexico, the IFE began a campaign late in 1992 to distribute new voter credentials with photographs and also up-

dated the voter registry that was compiled in 1991. The law requires that the list of those receiving voter credentials be given to all parties in sufficient time to review the list and the distribution of voter credentials. Opposition parties remain concerned that the process of producing and distributing credentials may be abused by printing duplicate credentials or selective distribution. In a further effort to instill confidence in its decisions and reduce the opportunity for political influence, the IFE interviewed, tested, and recruited 2,300 individuals to become its new professional civil service staff.

Although improved, the revised Electoral Code was criticized for setting new, more stringent standards for parties seeking to form a coalition, such as that which supported PRD leader Cuauhtemoc Cardenas in 1988. Coalition parties meeting the new standards are to be treated as a single party for the purpose of the election. As such they are entitled to only one space on the ballot, to one share (equal to the largest coalition party's share) of federal financing, and to one party's share of federal funding.

Increased government efforts to redress electoral deficiencies at the federal level have not been matched at the state and local levels where contests continue to provoke controversy. State electoral laws have not kept pace with changes at the federal level. Local elections continue to be subject to the influence of political bosses who have traditionally controlled certain towns or regions and are loathe to lose their power base. Nonetheless, 12–15 million Mexicans are governed by opposition parties at the state and local levels. Opposition leaders assert that those gains have laid the foundation for further advances at the state and national levels.

Under Mexican law, indigenous peoples have the same political rights as all other citizens. While there is no separate indigenous political party in Mexico (although evangelical Christian Indians in Chiapas state have broached the idea of forming their own party), in many states—particularly Chiapas, Oaxaca, and Guerrero—indigenous voters make up an important percentage of the population. Traditionally, indigenous voters strongly backed the ruling PRI, with the Government in turn allowing local groups some autonomy on economic and social issues. Opposition politicians and human rights advocates have criticized elections in indigenous areas, saying that the reported results often reflect distortion of the voting process and not a genuine consensus to support the PRI.

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

Although the Government permits both domestic and international human rights groups to operate without restrictions or official harassment, human rights monitors continued to be subject to threats. Well-known human rights monitor Teresa Jardi, who received five written death threats in 1992, rejoined the Attorney General's office in 1993 and is now the Attorney General's delegate in the state of Chihuahua and in charge of all federal police there. A high-level investigation into the threats against her did not determine who had issued the threats, which have since ceased. Victor Clark, a human rights advocate in Tijuana who issued a study charging that torture continued to be a frequent human rights violation in Baja California, was sued for libel by a police official whom Clark accused of involvement in such abuses. The suit against Clark is being monitored carefully by many who fear it may dissuade others from reporting abuse.

In June 1990, President Salinas established the semiautonomous National Commission on Human Rights (CNDH) and appointed respected jurist Jorge Carpizo McGregor as its president. In January 1992, constitutional reforms took effect making the CNDH legally independent. The Commission's mandate does not extend to jurisdiction over the substantive aspects of labor or electoral matters. It may, however, investigate claims of related abuse of nonlabor or political rights, such as failure to proceed with required administrative actions by labor boards or physical or other abuse in connection with an election process. The Code of Official Conduct provides that CNDH officials investigating a complaint have the right to enter immediately any government office or prison and that federal government officials must respond to CNDH requests for information.

The CNDH, whose president calls himself an ombudsman, must rely solely upon the pressure of public opinion and the accuracy of its investigations to induce compliance with its recommendationsto state and federal authorities to investigate and prosecute transgressors. The recommendations are not legally binding.

Since announcing in June 1992 that too many of its recommendations had been accepted but only partially implemented, the CNDH pursued an aggressive campaign to enforce full compliance. In the last 2 years, as a result of CNDH recommendations to the Attorney General's Office alone, 20 Mexican officials were tried and convicted of abuse and jailed for terms averaging more than 5 years. Many

more cases were still under trial. In addition, the CNDH developed a nationwide register of public officials punished for human rights violations to prevent such officials from being rehired by another public office or agency.

The constitutional change making the CNDH independent also required state human rights commissions to be established by legislation, not executive order. The state commissions in the 30 states and federal district became operational in 1993.

There was no evidence of any attempt by the Government to retaliate against human rights critics in 1993. Ranking officials routinely meet with domestic and international human rights activists to discuss human rights problems. The Salinas Government made a conscious effort both to improve protection of human rights in Mexico and to respond to criticism at home and abroad on human rights issues. Mexican NGO's and international organizations such as Amnesty International and Americas Watch continue to report rights abuses in Mexico, especially torture and illegal detention.

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

Women.—Historically, women have played a subordinate role economically,politically, and socially although they are treated equally under the law. The constitutional provision for equal pay for equal work has never been enforced. The traditional women's role is changing, albeit slowly, as they become increasingly active economically and politically; one woman is the leader of the PRI in the Congress, and another woman led the PRD congressional delegation, the third largest. Women hold important union leadership roles, and they have the right to file for separation and divorce and to own property in their own name.

Domestic assault is a crime, but the magnitude of the problem is unclear because it is reported infrequently. Women appear to be reluctant to file reports of abuse or to press charges; human rights groups say that they receive relatively few complaints of such abuse. When notified, police are reluctant to intervene in what is often considered a domestic affair. Informed sources indicate that as many as 90 percent of incidents of abuse may go unreported. The CNDH has included programs and publications on women's rights in its training and education campaign, and the Center Against Violence toward Women has worked to encourage rape victims to come forward and report sexual crimes. Mexico's first National Conference on Human Rights and Women, held October 20–22, adopted an action plan to increase awareness and enforcement of women's rights.

Children.—There is no societal pattern of abuse against children, but child advocates report many cases of such abuse. In 1992 the government-sponsored National Action Program for Children reported receiving 94,000 cases of reported abuse and opened criminal investigations in almost 1,000 cases. The Government devotes a major portion of its discretionary budget to social spending, including programs to assist children. Some 500,000 children receive medical and nutritional assistance as well as educational grants through the national solidarity program. Advocates call for even greater levels of assistance. The protection of children in Mexico is the responsibility of the National System for the Total Development of the Family (DIF), an autonomous agency within the Government's social services sector. DIF employs social workers throughout the country to investigate child abuse allegations, cases of abandoned children, infant malnutrition, and adoptions.

Indigenous People.—The Government encourages indigenous groups, many of which do not speak Spanish, to participate in political life, and it is respectful of their desire to retain elements of their traditional lifestyle. Indigenous people do not live on independently governed reservations, although many indigenous communities continue to exercise considerable local control over economic and social issues. These communities continue to apply their traditional law to resolve a variety of disputes, including allegations of crimes. However, these groups remain largely outside the country's political and economic mainstream, a result of longstanding patterns of economic and social development, and in many cases their ability to participate in decisions affecting their lands, cultural traditions, and the allocation of natural resources is negligible. At the beginning of 1994, these problems were particularly highlighted by an armed uprising in Chiapas state. Agrarian law reforms designed to promote sustainable economic development may negatively affect traditional indigenous land ownership.

Human rights groups continued to make credible claims that some indigenous defendants in criminal cases are not treated fairly, despite the 1991 amendment to federal law requiring an interpreter at every stage of a criminal proceeding for indigenous peoples not fluent in Spanish. Knowledge of the Spanish language is essential to work outside indigenous areas, and Indians who do not speak Spanish find entering the outside workplace very difficult.

In Chiapas, political ties between the PRI and tribal leaders have ensured both local autonomy and PRI victories in the indigenous communities. Often the tribe would select its leader, the PRI would endorse the choice, and indigenous voters would vote a straight PRI ticket for local, state, and federal offices. This practice allowed local leaders to maintain autonomy and ties to the national political structure but failed to provide a means to remove corrupt or ineffective leaders once they obtained PRI backing.

Indians have protections under Mexican law, ranging from the right to own land communally to the right to language interpretation in court cases. Indian communities also receive support from social and economic assistance programs. However, deep dissatisfaction among the Indians stems, in part, from the ineffectiveness of legal guarantees and social welfare programs to achieve the goals they expect.

The CNDH received 137 complaints from individuals or groups living or working in indigenous communities from May 1992 to May 1993. Most complaints pertained to the administration of justice and judicial procedures, arbitrary arrests, torture, abuse of authority, failure to carry out land dispute resolutions, and refusal to award and restore lands. During the same period, the CNDH made recommendations in favor of 17 complainants, faulting the authorities for procedural deficiencies, abuse of authority, delays in the administration of justice, and failure to carry out arrest warrants. Most recommendations were accepted, and legal proceedings have begun and, in some cases, already concluded. The CNDH's civic education work to end human rights abuses of Mexico's indigenous people continued and expanded.

Religious Minorities.—Discrimination against persons on the basis of religious affiliation is illegal, and no complaints of such abuse were brought against the Government. In Chiapas, indigenous people who converted from their traditional Catholic religion to evangelical faiths continued to be forcibly expelled from their houses by other villagers, despite efforts by the state government and the Catholic hierarchy to stop such actions. There was at least one attempt by local residents in Nuevo Leon in 1993 to stop construction of an evangelical church. After a delay, construction continued. There were also credible reports of private businesses preferring Catholic to non-Catholic job applicants.

People With Disabilities.—Disabled access to buildings and other facilities is seldom seen in Mexico and not required by law outside Mexico City, where it was recently mandated. Special education for the disabled is not widely available. Handicapped persons hold prominent positions in political parties and in the workplace but do not appear to receive any special assistance by law or in fact.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution and provisions of the Federal Labor Law (FLL) give all workers the freedom to form unions to defend their interests. Unions must register with federal or state government authorities to obtain legal status. Unions may freely join labor centrals without the Government's prior approval, but centrals too must register to acquire legal status. Registration requirements, involving submission of basic information about the union, are not onerous. There have been repeated allegations by labor activists, however, that federal or state labor authorities use this administrative procedure improperly to withhold registration from groups considered disruptive to government policies, trade union leaders, or enterprises. Privately, some employers and trade unionists supportive of the government agree this occurs occasionally. The considerable delays allow for a variety of outside pressures from employers, unions, and government or political party officials either in favor of or in opposition to the registration application, which, on occasion, have led to public protests, demonstrations, and controversy. However, no such delays were reported or aroused controversh in 1993.

The Federal Government's Secretariat of Labor and Social Protection (STPS), Arbitration and Conciliation Board (JFCA), and other agencies apply and enforce these laws with reasonable fairness and efficiency. There are occasional errors or oversights, however, and vociferous public complaints by losing parties to disputes are frequent. This issue is complicated by the federal system which reserves some jurisdiction to the states. Some state governments are reputed to be less fair and efficient in enforcing labor law than others. According to federal labor authorities, labor law is more effectively enforced in sectors under federal jurisdiction than in those under state jurisdiction. NAFTA and its supplemental agreements will enlarge the area of federal jurisdiction.

About 30 to 35 percent of the total Mexican work force is organized in trade unions. Most of these are members of several large union confederations, known as labor centrals, most of which belong to a national umbrella organization, the Labor Congress (CT—see below). Unions and labor centers, including independent unions

and those not allied with the governing PRI party, are free to affiliate with international labor organizations and participate in them actively.

Mexico maintains legal restrictions on public employees that contravene international labor standards. In examining compliance by member governments which have ratified the International Labor Organization (ILO) Convention on Freedom of Association, the ILO Committee of Experts (COE) reminded Mexico again in 1993 that several clauses of its Federal Government Employees Law do not conform to this Convention. The law allows only one union per public body and prohibits public servants from leaving their union, reelecting their leaders, or joining workers or peasants unions. However, some public sector union leaders have been reelected despite these restrictions and union statutes. The COE said the law may legitimately restrict collective bargaining and certain other activities to "the most representative organization" but without prohibiting existence of other organizations, and again asked the Government to amend the law. The COE also reiterated a similar reminder about another clause institutionalizing trade union monopoly in the public banking sector, but it noted with satisfaction that constitutional amendments and the privatization of many banks had freed their employees of such restrictions.

The largest trade union central is the Confederation of Mexican Workers (CTM), organizationally a major component of the PRI. In the past, CTM members were automatically PRI members, but the PRI shifted to individual memberships in 1990. The CTM, other PRI-allied federations, and a number of autonomous, mostly PRI-allied unions (a total of 37 organizations) belong to the CT, a coordinating body which represents approximately 85 percent of Mexico's organized workers.

Traditionally, a significant number of union officials held appointive and elected positions in federal and state governments and in the ruling PRI, and there was significant union influence in nominating PRI candidates at all levels of government. This symbiotic relationship gave labor unions a degree of influence in the Government but similarly limited their freedom of action. The CT, however, remains primarily a coordinating body among the CTM and most other PRI-allied unions which can be mobilized to support the PRI's positions on selected political issues and in election campaigns. Union officials continue to support PRI political candidates and generally support government economic policies, but the labor sector's voice in policy formulation has greatly diminished. When systemic reforms were instituted in the late 1980's, the mainstream labor organizations lost strength within the PRI. Half of the PRI national political council is now chosen on a territorial basis, and only half, rather than all, on a sectoral basis. (The national labor centrals are one sector). After 1991 federal legislative elections with fewer than usual PRI labor candidates, the percentage of CT senators and deputies in the Federal Congress fell to less than 10 percent. (Only 3 of 62 senators are from the labor sector, though 1 of these heads the Senate.) Only 3 of 31 state governors are former labor leaders. These factors, as well as the reality of privatization and economic restructuring of the economy, prompted a debate within the CT about how best to adjust to changing circumstances. In an example of the changes taking place in government-union relations, the powerful Teachers' Union already ended its PRI affiliation, and others may eventually follow suit.

The FLL grants workers, including public sector and public enterprise workers, the right to strike. It requires a 6- to 10-day advance strike notice, followed by a brief, government-sponsored mediation effort. If a strike is then ruled nonexistent, employees must return to work within 24 hours or face dismissal for cause. If it is legally recognized, the law requires the company or the subunit that is the strike target to shut down totally. Not even management officials may enter the premises until the strike is resolved. While some strikes are declared nonexistent, many are declared legal, and many occur. Strike threats are often used to secure collective agreements (as with the airline pilots in 1993) without strikes actually occurring. The FLL also permits strikes by all public sector and private enterprise employees, but they are rare.

From January to September 1993, 4,142 notices of intent to strike were filed with the JFCA, and 121 actual strikes occurred in industries under federal jurisdiction. In 1992 there were 6,815 notices of intent to strike and 156 actual strikes, of which 33 continued. The comparable figures for 1991 were 7,006 strike notices and 136 strikes. There were also 422 collective conflicts without strike notice from January through June 1993, compared to 1,017 in all of 1992 and 832 in 1991. The FLL provides protection against dismissal for striking or other reasons and against other retribution for striking. While the FLL prohibits direct retribution against strikers, indirect pressures may be used from time to time by employers or state or even federal government authorities to avoid costly strikes, and employers may try to find ways to rid themselves of strikers. Appeal is to the JFCA, which is quite punctilious

and reasonably fair and objective in applying the FLL, though there are often delays, as in other aspects of the bureaucracy.

The International Confederation of Free Trade Unions (ICFTU) alleged in 1993 that although the right to strike exists in law, workers are subject to arbitrary dismissal and violence when exercising this right. It cited the 1992 arrest of Matamoros CTM leader Agapito Gonzalez Cavazos on 3-year-old tax fraud charges on the eve of a union strike deadline as an example of government interference in collective bargaining in the in-bond export ("maquiladora") industry. While the ICFTU and human rights organizations saw his arrest as intended to intimidate workers, the union achieved most of its demands, and Gonzalez, released on bond and reinstated in his union, was reported once again to be seeking major wage increases in new, upcoming negotiations. The head of the Matamoros state CTM, Diego Navarro Rodriguez, was also arrested and jailed on tax fraud charges but in this case replaced by another CTM leader with Gonzalez' support.

The ICFTU also criticized the Government's handling of the 1992 Volkswagen strike in Puebla, in which 14,000 workers were dismissed when they refused to return to work after their strike was declared illegal and later rehired on terms more favorable to Volkswagen, with the approval of the JFCA. According to the ICFTU, police with trained dogs and clubs attacked a peaceful demonstration against the dismissals, injuring 12 workers.

A JFCA ruling in September denied an appeal by the ousted leadership of the Cuautitlan (Mexico City) local of the national Ford Autoworkers Union of the CTM for reinstatement. This led to charges by the ousted committee that this was a case of CTM-Ford-JFCA collusion to prevent genuine worker representation. In this incident, one of many in a succession of labor problems at these plants, the national leadership of the Ford CTM union intervened the local after an unsuccessful campaign by a rival central to take over. After negotiating a settlement for renewal of the collective bargaining agreement with Ford, the national union convened new local elections in which new leaders were elected. On the advice of outside advisers, the ousted leaders appealed their removal to the JFCA and did not return to work in the plant. Ford management held the ousted leaders' jobs open well beyond the period required by the FLL, made repeated offers, and finally demands, that they return to work. When dismissed by Ford, they appealed this, too, to the JFCA which found the election in accord with union statutes and ruled the former leaders had forfeited reemployment rights by not exercising them.

Political rivalries within and between Mexican union organizations and leaders in and out of the PRI (as well as political factions and parties outside the unions) are often noisy, turbulent, and occasionally violent. For example, the national leader of the National Railroad Workers' Union, also a PRI deputy in the Nuevo Leon state legislature, was shot to death on July 17 in the parking lot of a Mexico City hotel. Union sources said he had been threatened days before his murder by the leader of a dissident alternative railroad union against whom he had preferred charges. Press reports cited the Attorney General's office as saying witnesses identified one of the dissidents as the murderer.

Former Tabasco state Government Employee Union head and indigenous political leader Aquiles Magana, a PRI member who had supported the 1988 presidential campaign of the PRD's Cuauhtemoc Cardenas, was arrested in 1990 while leading a municipal workers demonstration demanding payment of an agreed-upon pay raise. Convicted of assault and battery in late 1992, Tabasco's governor pardoned him on May 7, following a well-publicized 48-day hunger strike and opposition rallies in Mexico City on his behalf.

In September a 39-member group mostly comprised of U.S. and Canadian members of the International Association of Machinists and Aerospace Workers (IAM) appeared unannounced outside an American-owned in-bond export plant in Tijuana, at which a dissident group of workers, in an organizing effort backed by a rival PRI-allied labor central, failed earlier (and again subsequently) to displace the existing local union affiliated to another PRI-allied labor central. The IAM group parked outside the plant where arrangements had been made to talk to workers during a shift change. Plant managers, suspicious of a bus of non-Mexicans parked outside the plant, summoned immigration authorities who questioned and later escorted the IAM group to the border in its bus. The immigration officials told the delegation members their activity was not permitted under terms of their tourist status.

b. *The Right to Organize and Bargain Collectively.*—The FLL provides for the right to organize and to bargain collectively. On the basis of only a small showing of interest by employees, an employer must recognize the union concerned and make arrangements either for a union recognition election or proceed immediately to negotiate a collective bargaining agreement. Such agreements are commonplace. Employers complain the FLL is too favorable to union organization. Some employers en-

courage company unionism as the only legal way to resist organization by national or local unions affiliated with the dominant labor centrals, or by more radical independent unions. Union representation elections are traditionally open, and votes are recorded by name. Management representatives as well as competing trade union officials are present with the presiding JFCA official when each and every worker votes.

The public sector is almost totally organized. Public sector unions negotiate collective bargaining agreements with their agencies. Their central organization (FSTSE), a powerful and influential organization, negotiates to a limited degree on proposed changes in pay scales and working conditions with the Government as a whole.

Political factional disputes (sometimes between prominent PRI politicians, sometimes involving opposition parties or dissident groups) on occasion lead to noisy public confrontations in which public sector unions or dissident elements within them occupy or blockade government offices, including those of Cabinet secretaries, or conduct hunger strikes. These sometimes involve violent clashes. One recent dispute involved competing factions in the agricultural and water resources secretariat. Similarly, the Social Security Union successfully used press articles and paid advertisements to forestall rumored presidential initiatives to privatize or reform social security and preserved the employment status quo in its collective bargaining agreement.

The state petroleum industry (Pemex) union STPRM was once renowned as powerful, corrupt, armed, dangerous, and practicallyimmune from control under the law, though influential in some parts of the PRI. Early in the Salinas administration, as a necessary precondition to market-oriented economic reform and downsizing state enterprise, the Government brought the STPRM under control, jailing top leaders for their illegal actions, while others fled abroad into exile. In the subsequent downsizing of Pemex and privatization of some of its petrochemical installations, a large number of workers lost jobs and demonstrated for greater, or more rapid, payment of severance pay and benefits. The reformed union is back in the good graces of the CTM (to which it belongs), the PRI, and the Government. The reform leader recently retired, and one of the former officials who was not arrested or exiled was elected to replace him.

The degree of private sector organization varies widely by states. While most traditional industrial areas are heavily organized, states with a small industrial base usually have few unions. Workers are protected by law from antiunion discrimination, but this law is unevenly enforced, especially in states with a low degree of unionization. Workers in industries under federal jurisdiction may appeal to the JFCA or labor inspectors, regardless of what state they are in. Workers in industries under state jurisdiction may appeal to local boards under state jurisdiction, or to state labor authorities, but these are also obliged to apply the FLL. Employers found guilty of antiunion discrimination are required to reinstate workers fired for union activities, though they may prefer to buy them off by negotiating large severance pay packages.

The rate of unionization of in-bond export industries varies by area, but is comparatively low. This is particularly true in Baja California, where industrialization began only recently and the in-bond exporters have small plants. Baja California is governed by the opposition PAN, close to business interests but not to the PRI or to PRI-allied unions. Some assert the relatively good wage and benefit packages of the large in-bond export plants reduce the incentives to unionize, but critics decry deplorable working conditions and inadequate wages at smaller plants and allege state or federal government as well as employer efforts to suppress unionization. In one key state (Nuevo Leon), in-bond plants are heavily unionized, mostly by apolitical independent unions some term "company unions." There was no credible evidence the Federal Government has suppressed unionization of the in-bond facilities. There were, however, indications that some state and local government and business leaders discouraged unionization, but trade unions have not filed any complaints about this with the Federal Government.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced labor. There have been no credible reports of forced labor for many years.

d. *Minimum Age for Employment of Children.*—The FLL sets 14 as the minimum age for employment by children. Children from 14 to 15 may work a maximum of 6 hours, may not work overtime or at night, and may not be employed in jobs deemed hazardous. Enforcement is reasonably good at large and medium formal sector companies, including export industries and especially in sectors under federal jurisdiction. Enforcement is much more difficult and spotty at the many small companies and in agriculture, and practically nonexistent in the informal sector, despite government efforts.

Illegal child labor is extensive in the informal economy. There are significant numbers of underage street vendors, employees in very small businesses, and workers in rural areas. The joint 1993 "Report on Child Labor in Mexico and the United States" by the U.S. Labor Department and Mexico's STPS stated that 43 percent of child labor is in agriculture. Estimates of the number of children working vary from 8 to 11 million (about 31 million Mexicans are under 15). The lower estimate is from the United Nations Children's Fund (UNICEF) and the CTM; the latter an estimate by the Mexican Statistics Institute (INEGI) that 34.3 percent of the under-15 population are economically active.

Small-scale employers prepared to disregard company registration, social security, health, safety, and tax laws are often equally prepared to violate child labor laws. Eighty-fivepercent of all registered Mexican companies have 15 or less employees, and 80 percent have 5 or less employees, indicating the vast scope of the enforcement challenge even within the formal economy.

In 1992 the Government increased from 6 to 9 the minimum number of years that children must attend school and made parents legally liable, for the first time, to ensure their children's attendance. The move was part of a major educational reform effort designed to upgrade the skills of the Mexican labor force and to discourage child labor. The Government recognizes the need to continue increasing educational opportunities for youth and to eradicate child labor, but implementation and enforcement, as with the elimination of poverty, will be an uphill battle.

The ILO worked with the Government's Social Development Secretariat to develop a national action program for the eradication of child labor, with the help of UNICEF funding. A preliminary project was drawn up but is awaiting high-level approval in the Secretariat. In addition, the STPS authorized an ILO national seminar on the work of minors for August 1993, and the ILO, NGO's, and government agencies are stepping up seminars, media campaigns, and other educational approaches. For example, Mexico City radio stations carry announcements admonishing parents on the importance of education to enhance their children's future and earning capacity.

e. *Acceptable Conditions of Work.*—The Constitution and the FLL provide for a minimum wage. It is set by the tripartite (government, labor, employers) National Minimum Wage Commission (NMWC). A tripartite accord, renewed annually, limits price and wage increases. Since 1987, wages set by collective bargaining agreements and, especially, fringe benefits and white-collar salaries in the private sector more than kept pace with inflation, recuperating part (wages), most (fringe benefits), or virtually all (salaries) of the real purchasing power lost since 1982. The minimum wage continued to decline in real terms to a level woefully inadequate in 1991 to provide a living for a worker and family. In May President Salinas announced he would encourage the NMWC to begin to take productivity increases into account in adjusting the minimum wage, and he made this a formal commitment in August 1993 when the NAFTA supplemental agreements were announced. Labor Secretariat officials indicate this will begin a gradual increase in the real minimum wage over the next several years similar to that in real average wages over the last 5 years.

The 1993 minimum wage was $4.60 (14.27 new pesos) per day for the most advanced areas (Mexico City, Acapulco, Baja California, and certain municipalities of Chihuahua, state of Mexico, Sonora, Tamaulipas, and Veracruz). It was slightly less, $4.28 (NP 13.26) per day, for intermediate areas (Guadalajara and some municipalities of Jalisco, Monterrey and some municipalities of Nuevo Leon, and additional municipalities of Sonora, Tamaulipas and Veracruz). It was $3.90 (NP 12.05) per day in the rest of the country. There were special, higher minimum wages for 88 specialized occupations, including various construction trades. The announced 1994 minimum daily wage, to be implemented January 1, 1994, is $5.00 (NP 15.27) for the most advanced areas, $4.58 (NP 14.19) for the intermediate areas, and $4.16 (NP 12.89) in the poorer parts of the country. The higher rates for 88 specialized occupations remain in effect. All these rates reflect a 7-percent increase from 1993 (5 percent for expected inflation and 2 percent representing the average increase in productivity over the past 3 years).

Social security data indicate that less than 16 percent of Mexico's workers earn the minimum wage. Legislation retroactiveto October 1 established a negative income tax (or devolution) of 7.5 to 10.8 percent for workers earning the minimum wage. This devolution will be paid with each paycheck by employers, who may subtract the amount from any taxes owed the Federal Government. Combined with the minimum wage increase, minimum wage earners will receive an increase in their incomes of 14.5 to 17.8 percent from 1993 to 1994. The same legislation eliminated income taxes on those earning up to two times the minimum wage and reduced them for those earning less than four times the minimum. These changes imple-

mented provisions of the October 3 tripartite stability, competitiveness, and employment pact (PECE), in which employers and workers also agreed to negotiate schemes to improve quality and productivity and to devise incentives or bonuses to give workers immediately a fair share of the earnings derived from these improvements.

The FLL sets 48 hours as the standard legal workweek. The FLL provides that workers who are asked to exceed 3 hours of overtime per day or work any overtime on 3 consecutive days must be paid triple the normal wage. For most industrial workers, especially unionized ones, the real workweek has declined to about 42 hours, although they are paid for a full 48 hours. (This is why unions zealously defend the legal ban on hourly wages in favor of daily wages.)

Mexico's legislation and rules regarding employee health and safety are relatively advanced. All employers are bound by law to observe the General Regulations on Safety and Health in the Workplace issued jointly by the STPS and the Mexican Institute of Social Security (IMSS). In addition, in late 1991 the in-bond export associations in northern border states agreed to cooperate in a special program with STPS and IMSS health and safety experts to help their member companies overcome any deficiencies in their compliance. This program has made progress and is effective.

The focal point for standard setting and enforcement in the workplace is in FLL-mandated bipartite (management and labor) safety and health committees in the plants and offices of every company. These meet at least monthly to consider workplace safety and health needs and file copies of their minutes with federal or state labor inspectors. Government labor inspectors schedule their own activities largely in response to the findings of these workplace committees. Individual employees may also complain directly to the office of labor inspection or the general directorate of medicine and safety in the workplace. Workers may remove themselves from hazardous situations without jeopardizing their employment. Complaints may be brought before the JFCA at no cost to the plaintiff. Mexican labor and social security officials report compliance is reasonably good at most large companies, both foreign-owned and domestic. Most compliance difficulties occur with small businesses, few of which export any goods or services. Compliance and enforcement is practically nonexistent in the informal sector.

NICARAGUA

Nicaragua is a constitutional democracy, with executive, legislative, judicial, and electoral branches of government. President Violeta Barrios de Chamorro, who was elected in a free and fair election in 1990 as the candidate of the 14-party National Opposition Union (UNO), governs through an appointed Cabinet; she has delegated comprehensive executive authority to her Presidency Minister and son-in-law, Antonio Lacayo. UNO, which broke with the President over her policy of governing with the assistance of the Sandinista National Liberation Front (FSLN), declared itself in opposition to the Government and boycotted votes in the National Assembly for most of the year. During 1993 the President continued to rule through executive decrees with the force of law, depending on the FSLN bloc and nine former UNO deputies (the "center group") to support her few legislative proposals. In December three additional UNO parties decided to return to the Assembly, reducing the original UNO bloc to seven parties.

The President (as nominal Minister of Defense) and the Ministry of Government are legally responsible for overseeing the Sandinista Popular Army (EPS) and the National Police, respectively. In practice, however, Nicaragua's security forces continued to be led by Sandinista officers who operated with substantial institutional and legal autonomy; EPS Commanding General Humberto Ortega and his general staff openly resisted presidential attempts to assert civilian control over the EPS. With the deaths of nine former members of the Nicaraguan Resistance (RN) attributable to the police and the EPS, the number of serious human rights violations committed by the state security forces declined slightly in 1993, but most of these violations went unpunished.

Nicaragua's efforts to reactivate its predominantly agricultural economy were unsuccessful, as economic growth remained stagnant. The country's balance of payments position was precarious; the investment climate, unsettled. The estimated rate of open unemployment was 20 percent, while total unemployment and underemployment approached 50 percent. Nicaragua's estimated per capita income of $400 per year was one of the lowest in the Western Hemisphere. Inflation, which by 1992 had been slashed to under 4 percent, increased to about 20 percent during

1993; the purchasing power of salaried workers dropped 15 percent in the first half of 1993. Although the Government's fiscal deficit has been cut by 80 percent since 1990, Nicaragua remained heavily dependent on foreign aid.

Major persistent human rights problems included: continued political kidnapings and murders; extrajudicial killings, torture, mistreatment of detainees, and other abuses by security forces; and violence by paramilitary bands in rural areas. The Government's continuing failure to prosecute and punish those responsible for human rights abuses and the backlogged and often partisan judicial system contributed to the impunity with which human rights violations occurred. The Government was reluctant to challenge the police and the EPS over human rights violations. Additionally, while the Government's repeated amnesties for those guilty of "political crimes" and related common crimes, including murder, were intended to promote national reconciliation, they arguably lessened restraints on those inclined to commit human rights abuses. There were continued problems with violence against women (including rape and wife beating).

An Office of Human Rights within the Attorney General's office, created in 1992, remained unstaffed. A Tripartite Commission on political violence, composed of the civilian Government, the Catholic Church, and the Organization of American States' International Support and Verification Commission (OAS/CIAV), sent the President 3 reports covering 50 murder cases; the reports recommended sanctions against some members of the police and the EPS. Although two of the police officers were convicted of murder and legal action is pending against some of the other policemen named, no action was taken against any implicated EPS officers.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Politically motivated violence remained commonplace in 1993. The civil war, which formally concluded in June 1990 with the demobilization of the Nicaraguan Resistance (RN), left Nicaraguan society both politically polarized and heavily armed. Armed groups continued to operate in various areas of the country, mainly in the north. Their activities were principally criminal but often had political overtones. They included kidnapings for ransom by former members of the EPS and killings of Sandinista cooperative members by rearmed members of the RN known as recontras. In February, March, and April, there were several brutal murders of Sandinista peasants in northern Nicaragua. These included the murder of Juan Davila and his two young daughters near Waslala by fellow members of their Sandinista farm cooperative; the torture and murder of three members of the Wenceslao Espinoza family near El Guaylo, again by fellow members of their Sandinista farm cooperative; the torture and murder of five peasants near Wilikito by recontra bandits; and the torture and beheading of four peasants by recontra bandits at El Jicaro.

There were credible reports that the police, army, or Sandinistamilitants killed demobilized RN combatants during the year. According to OAS/CIAV, the National Police or active or demobilized EPS members killed 9 former combatants in 1993; FSLN militants or Sandinista farm cooperative members killed an additional 3; and unknown assailants killed 18. Rearmed EPS veterans (known as recompas) killed 8 and recontras or other ex-RN members killed 12. This number of 50 deaths brought to 215 the number of ex-RN members who died under violent circumstances since the beginning of the Chamorro administration. OAS/CIAV provided details of these human rights abuses to the Government.

To address the issue of ex-RN deaths, many of which were politically motivated, President Chamorro established a Tripartite Commission composed of the civilian Government, the Catholic Church, and OAS/CIAV in late 1992. In February the Commission sent its first report, covering 10 murder cases, to the President. It recommended prosecutions or sanctions against 12 police officers and 10 members of the EPS for participating in or covering up the deaths. A military court convicted two policemen of killing one of the victims and sentenced them to 15 years in prison, but their actual incarceration could not be confirmed. The EPS took no action against any of the EPS members named.

Many incidents of political and extrajudicial killing dating from 1990 had not been resolved by the end of 1993. In November 1991, a special presidential commission charged with investigating the February 16, 1991, assassination of former RN commander Enrique Bermudez was dissolved after it claimed there was a lack of evidence. Since then, no progress in investigating the murder was reported. At the request of the Government and the Tripartite Commission, a British police team reviewed the procedures used in the Nicaraguan police investigation, but it did not uncover any new evidence.

The military courts have not yet prosecuted those accused in the 1990 killing of high school student Jean Paul Genie, despite the fact that a criminal court concluded in July 1992 that EPS Commanding General Humberto Ortega covered up the murder of Genie by Ortega's bodyguards and ruled that only the military courts could try them. In December 1993, the Supreme Court remanded the case to the military justice system, denying an appeal to try the case in civilian court. The Inter-American Commission on Human Rights has referred the case to the Inter-American Court of Human Rights, but the Government maintains that since the killing took place prior to Nicaragua'sadherence to the Court, the Court does not have jurisdiction.

There were no arrests in the November 23, 1992, assassination of Dr. Arges Sequeira Manga. A terrorist group, the self-styled"punitive forces of the left," publicly took credit for the murder. The EPS claimed that all of Sequeira's killers had recently retired from its ranks, but the father of one publicly stated that his son was still on active duty. The leader of the group, Lt. Colonel Frank Ibarra (the former EPS intelligencechief in Leon), and two henchmen (both former intelligence officers) were tried in absentia in July 1993; the trial was suspended when the jury failed to reach a verdict. In September, at the request of the President, the National Assembly passed an amnesty law covering "political crimes" and related common crimes committed by rearmed groups. (The UNO opposition was boycotting the Assembly at the time.) Although the President publicly maintained that Sequeira's killers were not included in the amnesty, the intent of the legislators was clearly to benefit Ibarra and his group. Ibarra had well publicized contacts with the Government's special disarmament brigade in mid-1993, but that organization did not attempt to arrest him. When the suspended trial resumed in November, another jury convicted Ibarra but acquitted the two other defendants. Two weeks later, the trial judge dismissed all charges against Ibarra, ruling that he cannot be punished because he is covered by the amnesty. On November 29, the public prosecutor asked the Leon court of appeals to overturn the decision of the trial judge.

Local human rights monitors charged that security forces continued to be staffed by many former members of the disbanded General State Security Directorate (DGSE), cited for repeated human rights violations under the Sandinista Government. On September 2, President Chamorro announced the removal of the Defense Information Directorate (DID—the successor to the DGSE) from EPS control, its transfer to the Presidency, and the future appointment of a civilian to replace its chief, Colonel Lenin Cerna, who was responsible for human rights violations while he headed the DGSE. On October 15, President Chamorro issued a decree creating the Directorate of Intelligence Affairs (DAI) attached to the Presidency, under the direction of a civilian and three vice directors (one appointed by the Ministry of Government, one by the Police, and one by the EPS).Simultaneously the EPS named Colonel Hugo Torres, a Sandinista Comandante who headed the EPS political directorate, to replace Cerna as head of the DID and announced it would appoint Torres as the EPS representative on the new DAI. Cerna was temporarily transferred to the post of Inspector General of the EPS, a move strongly criticized by local human rights groups.

All three local human rights groups and a number of foreign ones denounced the September 1993 amnesty for political crimes and related common crimes. The Government's avowed purpose for the first amnesty was to promote reconciliation following Nicaragua's civil war; for the second and third amnesties, to accomplish the disarmament and disbanding of rearmed combatants involved in rural violence. In general, the Chamorro Governmenthas not been able or willing to try, convict, and punish offenders. Many of them continue in the ranks of the police and the EPS and can only be tried by the military court system, which continues to protect its own. Convictions by the militarycourts are rare and actual punishment uncertain. Although the civilian Government has recommended that the police enforce administrative sanctions against a few officers, the police took only weak action against some and cleared others.

b. *Disappearance.*—Official forces are not known to have been responsible for disappearances during the year, and there are no reliable accounts of other groups having been responsible for such actions.

In August a government negotiating delegation including two prominent Sandinista members of the National Assembly were taken hostage in northern Nicaragua by a recontra group, the "380 Northern Front." The group demanded the firing of EPS Commanding General Humberto Ortega and other governmental changes. Soon thereafter, a group of masked former Sandinista army officers, styling themselves the "National Dignity and Sovereignty Command," took hostage in Managua the top leadership of the UNO coalition, including the Vice President of Nicaragua. The Managua group demanded the release of the hostages in the north. After 5 days of ne-

gotiation with special commissions appointed by the Government, both groups released their hostages. The Government amnestied both groups.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There were numerous credible reports during the year of beatings and other physical mistreatment of persons detained by the police, often to obtain confessions from detainees. According to the Permanent Human Rights Commission (CDPH), a prominent human rights group, the use of torture as an investigative tool is "systematic" in the national police, especially in the departments of Leon, Boaco, and Chontales. Police offenders enjoy almost complete impunity; only the worst cases are sent by the civil inspection unit to the military courts for action, and those accused are normally absolved. The CPDH charged that the Government has no policy to eliminate physical maltreatment of prisoners.

There were reports in February that EPS members targeted women for rape during field operations in the Central Zelaya region, particularly mothers, sisters, and wives of former RN members. However, it was not possible to obtain independent verification of these complaints.

Conditions in the prison system threatened the life and the health of the prisoners. The Civil Inspection Unit of the Ministry of Government is responsible for checking prison conditions, which are also independently monitored by local human rights groups. The CPDH attributes the conditions to the Government's "inexcusable indifference" and its failure to allocate adequate funds.

d. *Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention by the police were common. The Police Functions Law establishes procedures for the arrest of criminal suspects, which require police to obtain a warrant from a police official prior to detaining a suspect. After detention, police are required by the law to notify family members of the detainee's whereabouts, but in practice this is rarely done. Detainees do not have the right to an attorney until they have been formally charged with a crime. Local human rights groups criticized the law for providing inadequate judicial oversight of police arrests.

The Constitution declares that all detained persons have the right to be brought before a judge within 72 hours, but in practice this right is ignored. The Police Functions Law permits a suspect to be detained for up to 9 days before being brought before a judge; if released sooner, the police are not required to justify the detention. Although the National Assembly specified the 3-day deadline in the reform Law of Penal Procedures, passed in 1991, it did not amend the Police Functions Law. Local human rights groups reported that detainees routinely continued to be held indefinitely.

The Civil Inspection Unit of the Ministry of Government, established in 1991, continues to monitor and correct police wrongdoing, including illegal detention. Although the Constitution provides that detainees are to receive access to legal counsel once they have been charged with a crime, in practice police do not act to protect this right. The Reform Law of Penal Procedures provides for the release on bail of persons accused of certain crimes. Previously, detainees were permitted to remain at liberty prior to trial only for compelling personal reasons, such as ill health.

The CPDH estimated the number of arbitrary detentions in 1993 in the hundreds; it noted that arbitrary arrest is commonly used by Sandinista police officials in the provinces to harass political opponents, principally members of the UNO coalition parties and former members of the Nicaraguan Resistance.

Exile is not practiced.

e. *Denial of Fair Public Trial.*—The judicial system comprises both civilian and military courts and is headed by the Supreme Court of Justice.

The Supreme Court consists of at least seven judges. They are appointed by the National Assembly from lists of nominees selected by the President and serve for 6-year terms. During 1993 the Court consisted of nine judges: five holdovers appointed during the Sandinista Government and four judges appointed by President Chamorro. On December 13, the National Assembly accepted the nominations of four Supreme Court replacements, giving the Court a non-Sandinista majority for the first time since President Chamorro took office. This has potentially positive implications for human rights because the Supreme Court appoints appeals court and lower court judges. Non-Sandinista appointees are widely considered by Nicaraguans to be more impartial than their Sandinista counterparts.

The military courts are responsible for investigating, prosecuting, and trying crimes committed by or against members of the armed forces or police. These courts can thus under certain circumstances try civilians; in a controversial 1993 ruling a military court extended its jurisdiction to convict a former member of the EPS. Military courts often fail to investigate or try cases against members of the military; sanctions against soldiers are frequently light or the sentences are not enforced. The Supreme Court's decision in December, on the last day of the terms of four Supreme

Court justices, to remand the Jean Paul Genie case (Section 1.a.) to the military court will therefore be a test of the military court system's integrity.

In all criminal cases, the accused has the right to legal counsel, and defendants are presumed innocent until proven guilty. Publicly funded attorneys to represent indigent defendants do not exist. Obtaining justice is a slow process, and many persons are arrested and held without bail for months before they appear in court. According to one report by the Nicaraguan Human Rights Center (CENIDH), based on information from the chief of the national prison system, 52 percent of the prison population is awaiting trial. The CPDH estimates that nearly half of all those incarcerated in the prison system have been awaiting trial for between 6 months and 2 years.

The 1991 Reform Law of Penal Procedures reestablished trial by jury and allowed individual citizens to denounce criminal activities directly to a judge. Previously all accusations of criminal wrongdoing were processed first by the police, who determined whether the case merited further action. However, the jury system has not proved effective so far. Many prospective jurors seek to evade jury duty, thereby delaying trials. Jurors are also generally regarded as excessively susceptible to argumentation based on emotion.

The civilian Government does not punish political activity, and there were no known political prisoners in Nicaragua in 1993.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution establishes that all persons have the right to privacy of their family and to the inviolability of their home, correspondence, and communications. It also requires warrants for searches of private homes and excludes from legal proceedings illegally seized letters, documents, and private papers. Local human rights groups claimed that officers from the Defense Information Directorate continued to operate as they had under the DGSE, operating wiretaps and other electronic surveillance, intercepting mail, and searching private homes and offices without judicial authorization. During 1993, there were credible reports that the EPS and police officials illegally entered homes and businesses.

In May President Chamorro, in connection with military operations against rearmed groups in northern Nicaragua, issued a presidential decree partially suspending for 30 days constitutional guarantees in 14 counties in the departments of Nueva Segovia, Madriz, Esteli, Matagalpa, and Jinotega. The rights suspended were inviolability of the home, freedom from arbitrary detention, freedom from arrest without warrant, the right to be immediately informed of charges, the right to an appearance before a judge within 72 hours, and the right to legal action against authorities for an illegal detention.

This suspension was the Government's largely symbolic attempt to crack down on crime in the countryside, principally by organized bands of recontras and recompas. Human rights monitors registered no complaints concerning the violations of these rights in the areas affected. Some human rights monitors suggested that the police and the military, who routinely ignore constitutional guarantees in the countryside, became more scrupulous than usual about respecting them because of the international criticism generated by the suspension decree.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—There was considerable armed conflict in northern Nicaragua between the EPS and the recontra and recompa rearmed groups. In July some 500 EPS troops attacked one recompa group (the Peasant Worker Revolutionary Front) of 150 men that had occupied portions of the city of Esteli. Credible reports indicate that 8 civilians, including 2 children, were killed in the attack, and 68 civilians were wounded, of whom 18 were children. By most reports, the EPS used heavy machine guns, rocket-propelled grenades, and rifle-propelled grenades during its operations. Nicaragua is so polarized that few can agree on the facts, much less the interpretation of the facts. Initial reports were that dozens were massacred. A CENIDH report condemned the EPS for "disproportionate and irrational use of force" and declared that an EPS assault on Esteli's Davila Bolanos hospital "flagrantly violated the norms of humanitarian law." U.S. Embassy officers visited Esteli after the event and confirmed that some fighting had taken place there, but they could confirm the deaths of only two combatants.

On October 18, shortly after the EPS began a major offensive against a recontra group in northern Nicaragua, four EPS helicopters fired rockets into the hills surrounding the village of El Guanito. Although no one was injured in the 90-minute attack, some 300 terrified villagers fled across the border into Honduras. On December 22, reacting to an editorial criticizing such attacks as "genocide," EPS General Humberto Ortega filed a criminal libel suit against the editor of La Prensa. The suit, which alleged that the newspaper had damaged the honor of the army, itself drew widespread criticism and was withdrawn 6 days later.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—These freedoms are provided for in the Constitution, which declares that "Nicaraguans have the right freely to express their beliefs in public or private, individually or collectively, in oral, written, and any other form." In practice, during 1993 diverse viewpoints were freely and openly discussed in public discourse, in the privately owned print media, in the broadcast media, and in academic circles. Freedomof the press is qualified, however, by several constitutional provisions. The Constitution also stipulates that Nicaraguans have the right to "accurate information," thereby providing an exception by which the freedom to publish information the Government deems inaccurate could be abridged. Although the right to information cannot be subject to censorship, there is retroactive liability established by law, defined as a "social responsibility," implying sanctions against irresponsibility by the press. Finally, "the mass media are at the service of the national interests," implying that the Government may suppress media activity it decides is not in the national interest.

The most important medium for news distribution is radio. Listeners can receive a wide variety of political viewpoints, particularly in Managua. In August Sandinista terrorists attacked the studios of two center-right Managua stations, Radio Corporacion and Radio Minuto, causing some $50,000 in damages and silencing the stations for 1 and 3 weeks, respectively. In September, amidst antigovernment rioting over a proposed vehicle tax, terrorists attacked Radio Corporacion's transmitter, knocking the station off the air for 1 week. The attacks were the fourth and fifth against the outspokenly anti-Sandinista and antigovernment Radio Corporacion in the past 4 years. Radio Catolica, the Church-owned station, complained that a March 31 power cutoff to the station and earlier electrical problems were punishment for commentaries critical of the Government.

There are seven television stations, four of which carry news programming with marked political overtones. One state-owned station (confiscated by the Sandinista Government) was restored to its original owners in July; its news is produced by COSEP, the Higher Council of Private Enterprise.

There is no official state censorship in Nicaragua, nor is self-censorship practiced. Fears that the broad language of a new antisodomy law, which penalized any person who "induces, promotes or practices in a scandalous manner sexual intercourse between people of the same sex," might be used to curtail freedom of speech and bar the dissemination of health and sex information did not materialize. However, some governmental actions did pose threats to freedom of expression: In May a criminal court's application of Chapter VII of the Penal Code, which deals with libel and slander, had a chilling effect on freedom of the press. Despite provisions in the Code protecting criticism of the performance of public officials, a La Prensa journalist and the newspaper's director were convicted of libel for reporting charges of mismanagement against a former health minister, now an FSLN deputy in the National Assembly. They were fined $1,600 by a Sandinista criminal court judge.

In June policemen beat two El Nuevo Diario (a pro-Sandinista newspaper) journalists attempting to cover a clash between police and striking customs workers in Managua. No action was taken against the policemen responsible.

Academic freedom in higher education is recognized by the Constitution and was respected in practice by the Government.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution recognizes the right to peaceful assembly without prior permission. It also recognizes the right to public assembly, demonstration, and mobilization "in conformity with the law." Demonstrators must obtain permission for a march after registering its planned size and location with police. This permission is routinely granted.

Numerous marches and demonstrations were held throughout the year by groups representing a range of political views. However, in April the Government, vaguely citing "security" reasons and possible antigovernment "provocations," revoked permission for the National Opposition Union to hold a march in La Concepcion to celebrate the third anniversary of its electoral victory over the Sandinistas. In September the Government refused permission for an independence day celebration by Sandinista teachers and students in Managua, on the grounds that the event would have conflicted with an official celebration promoted by the Education Ministry at another location. The unofficial event was held anyway, without government interference. In June police used rubber bullets, tear gas, and clubs to break up a peaceful but unauthorized protest march by 150 military veterans in Managua; 11 persons were injured and some 30 arrested.

The Constitution provides for the right to organize or affiliate with political parties. Opposition and independent associations of all sorts coexisted in Nicaragua throughout 1993. Private associations of any kind may be formed without restrictions but do not have legal status until they receive this designation from the Na-

tional Assembly. Such legal recognition is routinely conferred. Nevertheless, approval of the legal status of the Nicaraguan Resistance Party was delayed for 2 years; it was finally granted in 1993.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion, and this is respected in practice. There are no constitutional or legal restrictions on any religious groups or foreign clergy. Although at least 75 percent of Nicaraguans are Roman Catholic, other religious groups practice without hindrance. There are no constitutional or legal restrictions on places of worship, training of the clergy, religious publishing, religious education, or conversion. Churches legally operate radio stations, and one of the television stations broadcasts exclusively Protestant evangelical programming.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for the right to travel and reside anywhere in Nicaragua and to freely enter and exit the country. There are no government restrictions on movement within the country. The right of citizens to return to Nicaragua is not established in the Constitution, but, in practice, there was no restriction on their return under the Chamorro Government. During the past 3 years, tens of thousands of refugees and expatriated members of the Nicaraguan Resistance and their families returned from Honduras, Costa Rica, the United States, and other countries, without restriction or legal disability.

The Constitution offers asylum "to those persecuted for their struggle for democracy, peace, justice, and human rights," and political refugees expelled from Nicaragua cannot be sent back to the country persecuting them. However, in May the Government summarily expelled to Spain three members of a Basque terrorist group (the ETA) who had been given asylum and Nicaraguan citizenship in 1990 by the former Sandinista Government. Their citizenship was administratively annulled without a hearing. CENIDH, foreign human rights groups, and some officials of the National Police charged that the expulsions were illegal and unconstitutional.

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

Citizens exercised their right peacefully to change their government in the first election under the 1987 Constitution, which took place in February 1990. It was contested by the 14-party UNO coalition, the FSLN, and several smaller parties, and was declared free and fair by international observers. The Constitution centers political power in the executive branch, which consists of the President, Vice President, and a Cabinet appointed by the President. The President is both Head of State and Head of Government, as well as Commander in Chief of the defense and security forces, while the Vice President has no constitutionally mandated duties or powers. Both are elected for 6-year terms by direct popular vote.

Legislative power is vested in the National Assembly. Its members also serve 6-year terms. Ninety members are elected under a proportional representation system from nine departments or regions; defeated presidential candidates are also allocated seats in the Assembly, provided they received a minimum percentage of votes in the previous presidential election.

Throughout 1993, UNO boycotted National Assembly votes after the January 9 elections to the Assembly directorate gave the majority seats on the directorate to the Sandinistas and a group of "Centrists" (defecting UNO deputies). In February the Assembly agreed to fire the Comptroller General following his charges that the Government had bribed some of the Centrist deputies to support its legislative program. The Government depended on the majority coalition of FSLN and Centrist deputies to pass its legislation, while the UNO coalition demanded that the Government act to restore the legislative majority given UNO by the voters in the 1990 elections. Three member parties of UNO decided late in 1993 to return to the Assembly, which led to their expulsion from UNO. At year's end, UNO intended to participate in ordinary sessions and perhaps vote on constitutional reform towards the latter stages of the reform process.

In theory the rights of citizens to change their government remains limited by Article 5 of the 1987 Constitution. That article guarantees the existence of political pluralism "without ideological restrictions, except for those who seek a return to the past or advocate the establishment of a political system similar to it." There have yet to be cases which would define this exception in practical terms. However, in June El Nuevo Diario, citing this article, advocated the withdrawal of legal status from the Independent Liberal Party and the Liberal Constitutionalist Party, which it accused of forming a political alliance with the followers of the late President Somoza and former members of the defunct National Guard.

Elections are administered by an independent branch of government, the Supreme Electoral Council. All elections are by secret ballot, with all citizens aged 16 and

over having the right to vote. There are no restrictions in law or practice against women, indigenous people, or other minorities voting or participating in politics.

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

The Government generally permitted local and international human rights monitors to operate freely in Nicaragua in 1993. Nevertheless, its attitude regarding international and nongovernmental investigations of alleged violations of human rights was mixed. The Government invited international investigations of limited scope in a few specific, well-publicized cases, but it generally ignored complaints of less notorious abuses brought by local human rights groups. Civilian authorities cooperated with local human rights groups in the presentation of human rights seminars for school children and for the police. However, police and prison officials frequently refused to allow access to jails and prisons by human rights monitors, even when permission had been granted by the Ministry of Government. The military refused to cooperate with investigations by human rights monitors.

There are three active local human rights organizations: the Nicaraguan Center for Human Rights (CENIDH), the Permanent Commission for Human Rights (CPDH), and the Nicaraguan Association for Human Rights (ANPDH). There were no reports of repression against human rights observers by the civilian authorities in 1993. However, the CPDH was the target of mail tampering and telephone tapping, presumably by the Defense Intelligence Directorate. In March CENIDH human rights activist and justice of the peace Leonel Gonzalez was shot to death in rural Chontales department by three unidentified men dressed in military uniforms; the murder remains unsolved. In April Alberto Blandon, a representative of the Catholic Church on the Tripartite Commission, was threatened with death by members of a recompa band, and his farmhouse was looted. In June ANPDH activist and local UNO leader Salvador Icaza fled Nicaragua after repeated police harassment and death threats. The CPDH reported that its local collaborator in Boaco was beaten by police and that shots were fired at her vehicle.

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

The Constitution prohibits discrimination on the basis of "birth, nationality, political belief, race, gender, language, religion, opinion, national origin, economic condition, or social condition."

Women.—While there is no de jure discrimination against women, they continued to suffer de facto discrimination in the male- dominated culture prevalent in much of society. Women occupied some senior positions in government, the trade union movement, and social organizations, but were underrepresented in management positions in the private sector and formed the majority of workers in the traditionally low-paid education, textile, and health service sectors.

Local human rights organizations continued to monitor violence against women, including rape and wife beating. Because victims often are reluctant to publicize their charges, it is likely that such abuse is significantly underreported. Local human rights groups report that police sometimes intervene to prevent injury in cases of domestic violence but that the perpetrators are rarely charged or tried for their acts. The Ixchen centers and the Luisa Amanda Association of Nicaraguan Women, a Sandinista mass organization, provided medical and psychological counseling to women, as well as legal advice in divorce cases and to victims of rape and other violence.

Children.—The Government is publicly committed to children's human rights and welfare, but funding levels for programs for children are inadequate. There were a number of newspaper reports in 1993 detailing the existence of child prostitution in Managua, Corinto, and Bluefields. Child prostitutes were said to number some 500 in Managua alone. The press attributed the practice to extreme poverty and homelessness. There was no suggestion that such prostitution is organized. Prostitution itself is not penalized under Nicaraguan law. Although the Government created a National Commission for the Protection of Children in 1992, it had no program directed at child prostitution, which, one of its officials observed, "does not exist from a legal point of view."

Indigenous People.—The indigenous people of Nicaragua are concentrated in four major areas. On the Atlantic Coast and in the Eastern Highlands are the Miskito (numbering 160,000), the Sumu, the Rama, and the Black Carib (these last three exist in very small numbers). These peoples are considered identifiable tribes by the Government.

The Miskito tribe is the largest ethnic group in the North Atlantic autonomous region (the Raan, one of two such regions created in 1987 from the former depart-

ment of Zelaya). The indigenous people of the Raan (the Miskito and the Sumu) have their own political party, the Yatama, with strong representation in regional and municipal councils. Two members of the National Assembly are Miskitos. As in previous years, there were complaints that the indigenous peoples of the Atlantic Coast were excluded from meaningful participation in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. According to some human rights monitors, the central Government has granted business concessions in the autonomous regions without consulting the two relevant regional governments.

National/Racial/Ethnic Minorities.—Most Nicaraguans are of mixed mestizo background, and skin color does not appear to be a barrier to political or economic success. The Government has been criticized for its failure to expend resources in support of the Atlantic coast population, which is composed largely of ethnic, racial, and religious minorities (particularly, members of the Moravian church). Successive central governments in Managua have traditionally neglected the minorities on the Atlantic coast. This has often taken the form of making decisions on exploitation of resources in the region without adequate consultation.

People with Disabilities.—The Government has not legislated or otherwise mandated accessibility for the disabled. Despite the visible presence of many disabled veterans of the civil war, there was no attempt to assist the disabled, nor public calls to do so, in 1993.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution guarantees the right of workers to organize voluntarily in unions "in conformity with the law." Legally, all public and private sector workers, except the military and the police, are entitled to form and join unions of their own choosing, and they exercise this right extensively. New unions must register with the Ministry of Labor and be granted legal status before they may engage in collective bargaining; some labor groups report occasional delays in obtaining this status. Nearly half of Nicaragua's work force, including agricultural workers, is unionized, according to labor leaders.

Nicaragua's unions are independent of the Government. Affiliation to or activity in political parties or associations is grounds for dissolution of a trade union under the existing Labor Code; however, the Government does not enforce this provision. Many unions and federations are affiliated with political parties, most notably the FSLN, the Nicaraguan Socialist Party, the Christian Democratic Union, and, until 1992, the Nicaraguan Communist Party.

The Constitution recognizes the right to strike. The Labor Code requires a 60-percent majority of all the workers in an enterprise to call a strike. It also restricts strikes in rural occupations where produce may be damaged. Workers may strike legally only after they have exhausted other methods of dispute resolution, including mediation by the Ministry of Labor and compulsory arbitration. In practice, unions regard these lengthy procedures as too expensive and time consuming and frequently ignore them when initiating a strike. There were numerous strikes in 1993, but most were declared illegal.

The Labor Code prohibits retribution against strikers and union leaders for legal strikes. However, this protection may be withdrawn in the case of an illegal strike. In the last months of 1992 and the first months of 1993, the Education Ministry fired more than 50 teachers who had participated in a series of brief, extralegal strikes organized by the National Association of Nicaraguan Educators (ANDEN), the Sandinista teachers federation; later in the year it refused to recognize the legal status of the ANDEN leadership or to negotiate a new collective bargain with ANDEN. In June the Nicaraguan customs agency fired some 150 members of the Sandinista-affiliated customs workers federation, including the union leadership, during a strike declared illegal by the Labor Ministry.

In March the national police violently evicted striking sugar workers occupying the San Antonio sugar mill and arrested 63 persons. One policeman and five workers were injured in the clash, and one worker, Francisco Picado, was found dead in circumstances that were never clarified. The International Confederation of Free Trade Unions noted that rural workers were subjected to abductions, intimidations, and detentions in 1992 in connections with land privatization and evictions.

In May the International Labor Organization's (ILO) Committee on Freedom of Association (CFA) issued a report critical of the Government for failing adequately to investigate and punish acts of violence allegedly committed by the police against striking workers in 1990 and 1991. In 1993 the CFA also investigated a complaint alleging unfair dismissal of ANDEN leaders, excessive registration procedures, and prohibition of the trade union check-off. The ILO's Committee of Experts (COE) noted that the draft text of the new Labor Code did not remove restrictions on the

right to strike of rural workers, grant the right to associate of public servants, nor reduce the number of workers in an enterprise required to call a strike to a simple majority. The draft legislation was not enacted in 1993. Unions freely form or join federations or confederations and affiliate with and participate in international bodies.

b. *The Right to Organize and Bargain Collectively.*—The Constitution provides for the right to bargain collectively. The Chamorro Government's labor negotiations continued primarily to be ad hoc efforts to resolve pressing labor conflicts, usually in the public sector. Despite unfavorable economic conditions and unfamiliarity with the practice, following 10 years of central planning, collective bargaining is becoming more common in the private sector.

In 1992 the ILO's COE maintained that the labor law provision which subjects collective agreements to the prior approval of the Ministry of Labor before they can come into force violates the Convention on the Right to Organize and Collective Bargaining ratified by Nicaragua in 1967. The Government took no action to modify this provision in 1993.

During 1993 8 firms, employing some 2,000 workers, operated in the 1 export processing zone. Although the zone's firms receive tax concessions, Nicaraguan law does not exempt them from compliance with any of its labor provisions. Nevertheless,there was no functioning trade union with a certified collective contract in the export processing zone.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, and there is no evidence that it is practiced.

d. *Minimum Age for Employment of Children.*—The Constitution prohibits child labor that can affect normal childhood development or interfere with the obligatory school year. Education is compulsory to age 12, and children under the age of 14 legally are not permitted to work. Nevertheless, because of the prevailing economic conditions, more than 100,000 children reportedly work up to 12 hours a day. Many are employed on family farms. Many children aged 10 or older work for less than $1.00 per day on the same cotton farms, banana plantations, and coffee plantations where their parents are employed. In a form of indentured service, some 13-year-olds work in auto repair shops for little pay in exchange for auto mechanical training. Many small children work in the busy streets of Managua hawking merchandise, cleaning automobile windows, and begging. Although the Ministry of Labor rarely enforces it, the Child Labor Law is generally observed in the small modern sector of the economy.

e. *Acceptable Conditions of Work.*—Over the objections of the labor representatives, a commission made up of representatives from government, labor, and the private sector set sectoral minimum wages in mid-1991. The labor groups argued that the monthly minimum wage rates (ranging from $30 in the agricultural sector, through $39 for central government employees, to $50 in the banking sector) were inadequate given the high cost of living. According to a 1991 estimate by the Government's National Commission on the Standard of Living, the minimum wage did not provide a family of four with the income to meet its basic needs. In January 1993, the Government devalued the official exchange rate without raising the minimum wage rates. Enforcement of the minimum wage is lax, and some workers are reportedly paid less, particularly in the agricultural sector. However, Ministry of Labor surveys indicated that some 86 percent of urban area workers earned more than the minimum wage.

The Constitution guarantees an 8-hour workday with weekly rest and establishes the right to a safe and healthy workplace. The standard legal workweek is a maximum of 48 hours, with 1 day of rest. The Ministry of Labor's Office of Hygiene and Occupational Security is responsible for verifying compliance with health and safety standards. Although extensive, these standards are not strictly enforced due to an insufficient number of inspectors. Workers have no specific right to remove themselves from dangerous work situations without jeopardy to continued employment.

PANAMA

Panama's Constitution establishes a representative democracy with three branches of government—executive and legislative branches elected by direct secret vote for 5-year terms, and an independent judiciary—plus an independent electoral tribunal. The current Government, headed by President Guillermo Endara, is a multiparty coalition elected in May 1989, but unable to take office until December of that year.

Panama has no military forces. Law enforcement duties are the responsibility of the Panamanian National Police (PNP) under the Minister of Government and Justice. Criminal investigationsare performed by the Judicial Technical Police (PTJ) under the Public Ministry, headed by the Attorney General, who is part of the judicial branch. There continued to be instances of abuse of detainees and prisoners by individual members of both forces.

Panama has a free enterprise, service-oriented, dollar-based economy. The economy grew at least 6 percent in real terms in 1993, the fourth year of consecutive growth following the downturn during the last years of the Noriega regime. Poverty is pervasive, however, reflecting high unemployment and underemployment in urban slums and in some rural areas.

During 1993, the Government strengthened some institutional protections and continued to attempt to prosecute those responsible for the human rights abuses during the previous 21 years of dictatorship. Manuel Noriega and two others were convicted and sentenced for the 1985 murder of Dr. Hugo Spadafora. Progress in key areas was slow, however, and Panama's principal human rights problems included prolonged preliminary and pretrial detention, an inefficient criminal justice system, and an overcrowded, oppressive prison system. Violence against women remained a serious problem.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—No cases of political killings at the hands of government personnel were reported.

There were, however, incidents in which Panamanian police used deadly force to stop fleeing suspects, which constitute extrajudicial killings, despite a 1992 presidential decree regulating the use of force by members of law enforcement organizations. In October a PNP officer fired at a fleeing suspect in Chitre, killing the man; the officer was arrested and at year's end was in prison awaiting criminal proceedings. In May indigenous demonstrators in Darien and Chiriqui complained about rough handling and the indiscriminate use of tear gas by police. Indigenous and other sources also claimed the death of protester Saturnino Aguirre was caused by a blow he received from police during the demonstration in Chiriqui; the facts of the incident remain unclear. Indigenous leaders filed charges against the PNP in the death of Aguirre. In other instances, police used birdshot against demonstrators at times when use of lesser force would have been more appropriate. In a February 4 police raid in the Curundu area, witnesses claimed police shot to death an 11-year-old boy during a "social protection" operation (see Section 1.f.). The PNP's Office of Professional Responsibility reported that the 11-year-old was killed during a shootout with criminal suspects. No evidence was found to indicate whether the boy was killed by the police or by others. No PNP officer was charged in the incident.

During 1993 the Government brought to trial two prominent human rights cases involving accusations of politically motivated murder and torture during the Torrijos and Noriega military dictatorships. In October a judge convicted Manuel Noriega (in absentia) and two other defendants for the 1985 murder and decapitation of Dr. Hugo Spadafora, a former Vice Minister of Health and a critic of Noriega. All three were sentenced to 20-year jail terms. In September a jury found seven other defendants not guilty, a decision which took nearly all observers by surprise and provoked riots and demonstrations. Four former military personnel went to trial in October for the 1971 disappearance and death of Catholic priest Hector Gallego, an organizer of agrarian cooperatives. In November a jury found three of them guilty of murder (the other defendant opted for trial by judge and was awaiting the verdict at the end of the year). The three found guilty were expected to be sentenced to from 12 to 20 years' imprisonment.

Other Noriega-era defendants continued to be charged and tried for offenses involving human rights abuses. Over 30 cases were pending against ex-Panama Defense Forces (PDF) Major Felipe Camargo, who had been convicted of human rights abuses in 1992. Ex-PDF Major Luis "Papo" Cordoba and ex-head of the National Investigation Directorate Nivaldo Madrinan, both charged but acquitted in the Spadafora trial, are to stand trial also for the 1985 kidnaping and torture of Dr. Mauro Zuniga, president of the National Civic Coordination (COCINA), an organization opposed to the Noriega regime. A trial date for the defendants in the Zuniga case had yet to be fixed at year's end.

Two major cases, however, remained stalled in the court system: the trial of 12 defendants charged with the kidnaping and murder of American citizen Raymond Dragseth, killed during the 1989 U.S. military action; and the trial of Manuel

Noriega and 5 others charged with the summary executions of 11 PDF members after the October 1989 coup attempt against Noriega.

b. *Disappearance.*—No known or alleged cases of politically motivated disappearances occurred during 1993.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits the death penalty as well as measures which could damage the physical, mental, or moral integrity of prisoners or detainees. In addition to the constitutional prohibitions, Panama has ratified international conventions on the prohibition of torture and has incorporated them into its domestic law. However, there continued to be scattered cases of brutality and use of excessive force by police. The PNP and the PTJ each maintained offices of professional responsibility to investigate claims of police misconduct, including human rights abuses. Sanctions included formal reprimand, disciplinary transfer, reduction in rank, dismissal, and, in severe cases, prosecution. Through August the PNP had investigated 130 cases; 6 officials were dismissed for their actions, and 4 cases were forwarded for possible prosecution in the courts. Through July the PTJ had investigated 45 cases; 5 agents were dismissed, and 2 cases were forwarded for possible prosecution in the courts. In November the PNP's Office of Professional Responsibility reported that the majority of complaints against police involved excessive use of force and inappropriate use of arms. The office also reported that 50 percent of public claims of police abuse were justified.

As part of a 3-week orientation course, the PNP provided 20 hours of instruction to incoming recruits on laws and procedures to protect the human rights and legal guarantees of citizens. The PTJ had no such formal human rights instruction, although the Panamanian Committee on Human Rights (CPDH) organized periodic seminars on the need to respect human rights for new and veteran PTJ personnel. The CPDH provided the same assistance to the PNP.

Prison conditions throughout Panama remained deplorable and health-threatening. The physical plant of most prisons was dilapidated, medical care was inadequate, escape attempts were frequent, and there were credible reports of corruption and abuse of prisoners by guards. Overcrowding of prisons worsened as arrests added to the prison population. According to government figures, the total prison population as of July was 5,241, an increase of approximately 23 percent over July 1992. Modelo prison, Panama's largest, housed over 1,700 prisoners in a facility built for 300. Inmates reported that they slept in physical contact with their cellmates on bare cement floors that were perpetually wet from plumbing problems. There were frequent press reports of mistreatment of prisoners by guards and of inmate attacks on other inmates.

Addressing the inadequate prison facilities, the Government inaugurated the 1,000-bed La Joya prison in August, although the facility, which has less than 100 inmates, will not be fully operational until March 1994. Similarly, the Government announced the completion of a 150-bed wing in El Renacer prison in September, but officials reported in December that the facility was still not ready to admit prisoners.

There was a credible report from the CPDH in August that officials at a Panama City juvenile detention center were using excessive force to keep order at the facility. Inmates told of beatings for breaking the rules, and the director admitted that some juveniles were mistreated, blaming the problem on lack of space. While there were no deaths or serious injuries reported at the center in 1993, the Government took no concrete action in response to the CPDH report. The CPDH reported in December that the Supreme Court, which names the judge of Panama's Juvenile Court, favored moving responsibility for it from the Ministry of Government and Justice to the Judicial Branch, and might propose legislation to that effect. The CDPH believes such a move would help improve protection of children's rights.

Conditions on the Coiba Island Penal Colony continued to be deplorable and primitive. At least five inmate gangs existed on the island, and escape attempts were commonplace. Allegations of mistreatment at the hands of guards, however, notably diminished over prior years. Unlike the situation during the past several years, no inmates died as the result of gang violence on Coiba in 1993; one inmate died in an accident. Prisoners who attempted to flee Coiba more than three times were confined to antiquated cells with no sanitary facilities. Coiba's isolation hindered communication between inmates and their attorneys, often causing delays when its inmates were not transported to court on time.

There was no known evidence in 1993 that female detainees or prisoners were targeted for sexual assault or other abuse by police or prison guards. Conditions at women's prisons were better than those at men's prisons.

d. *Arbitrary Arrest, Detention, or Exile.*—There were no known instances of arbitrary arrest, detention, or exile. The Constitution stipulates that arrests must be

carried out with a warrant issued by the relevant authorities, except when a person is apprehended during the commission of a crime. The detainee is to be informed immediately of the reasons for arrest or detention, and has a right to immediate legal counsel, to be provided by the State for the indigent.

The Constitution provides for judicial review of the legality of detention and mandates the immediate release of any person found to have been detained or arrested illegally. A suspect may not be detained legally for more than 24 hours without being brought before a competent authority. A preliminary investigation report by the police must be completed within 8 days, after which a prosecutor has a fixed period (which varies according to the number of suspects) to complete the investigative file for judicial review. The judge, in turn, has an additional 15 days to render a decision as to whether a trial is warranted. These time limits were often not met in practice. The 24-hour time limit was often violated; detainees were commonly held without charges for several days. Many cases exceeded the time limits as a result of further investigation, resubmissions, and, in some cases, additional communication between the court and the Public Ministry.

Extended pretrial detention of those charged continued to be one of Panama's most serious human rights problems. According to government statistics, the proportion of pretrial detainees in the prison population as of July was nearly 80 percent, up slightly from the same period in 1992. According to public defenders, the average period of pretrial custody for a defendant was 14 to 18 months; pretrial detention in excess of the maximum sentence for the alleged crime was not uncommon. Further, should a detainee who spent a significant amount of time incarcerated be found innocent, there are no legal means to hold the Government accountable. The Government took no meaningful action during the year to correct this situation.

c. *Denial of Fair Public Trial.*—The nine Supreme Court magistrates are appointed to 10-year terms by the executive branch and confirmed by the Legislative Assembly. The magistrates appoint superior court judges, who in turn appoint circuit court judges in their respective jurisdictions.

At the local level, administrative judges similar to justices of the peace are appointed by municipal mayors. There are two types of local judges, "corregidores" and "night" (or "police") judges. These judges exercise jurisdiction over minor civil and criminal cases in which they may impose sentences of up to 1 year. This system has serious shortcomings. The actions of corregidores and night judges are not regulated by the Code of Criminal Procedure, and defendants lack adequate procedural safeguards. These officials need not be (and normally are not) attorneys, and they operate outside the control of the judicial branch. Some allegedly engaged in corrupt practices. By law, jail sentences meted out by these officials can be satisfied by paying a fine; in practice, more affluent defendants pay fines and poorer defendants go to jail. Shortcomings in this system have a serious impact since the vast majority of minor criminal cases are handled by corregidores and night judges.

The Constitution provides that persons charged with crimes have the right to counsel and are presumed innocent until proven guilty. The accused may, if not under pretrial detention, be present with counsel during the investigative phase of the proceeding. Pretrial detainees can be requested to be present for the rendering of statements, amplifications, or confrontation of witnesses. Trial proceedings are generally conducted orally with the accused present. The trial phase is a mixed system (written and oral), which includes the call to trial, the presentation of evidence, and oral hearing. The Constitution establishes trial by jury in some circumstances; by law, jury trials are not an option in most cases.

The Government is constitutionally obliged to provide public defenders for the indigent. In late 1992, the public defenders' office reached its legislatively mandated strength of 36 defenders and maintained that number throughout 1993. Public defenders often were appointed after the investigative phase of the case had passed, limiting the defense's opportunity to present evidence. Public defenders' caseloads were staggering, numbering hundreds of cases per attorney and seriously undermining the quality of representation.

Personnel changes within the Attorney General's office in 1992–93 reduced efficiency and slowed processing of cases. Attorney General Rogelio Cruz was suspended from office in December 1992; several of his immediate collaborators also were dismissed. The Public Ministry was slow to undertake needed changes, including the implementation of a career law within the Ministry and improvement of the work and accountability of the first-level prosecutors.

Panama held no political prisoners in 1993. Various pro-Noriega and ex-PDF groups claimed that approximately 50 to 54 prisoners held for alleged crimes including torture, homicide, kidnaping, and other human rights violations during the period of military dictatorship were "political" prisoners. During the year, some of these prisoners were tried and convicted. Many others were still awaiting trial, most

since early 1990. Although the judicial branch asserted that these cases are being expedited, progress was slow. (Some of the delays, however, stemmed from appeals and other legal motions on behalf of the defendants.) Families of victims of Noriega-era abuses vigorously protested bills to grant amnesty to all the defendants. The Legislative Assembly passed no amnesty bills in 1993.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of the home and communications. Personal documents are not to be examined, communications monitored, or private residences entered and searched except by written order. However, so-called social protection operations in high-crime areas by the PTJ produced credible complaints that PTJ agents failed to follow legal requirements for arrest and search warrants and instead conducted indiscriminate searches of entire apartment buildings or housing complexes.

Despite the view of some that the Constitution prohibits all wiretapping, the Government maintains that wiretapping with judicial branch approval is legal. Media allegations in late November that former Attorney General Rogelio Cruz had ordered wiretaps in May 1991 prompted the CPDH to ask the Government to investigate. These allegations also touched off calls for the Supreme Court or the Legislative Assembly to define what constitutes a legal wiretap in the absence of laws and regulations adequately addressing the issue. The Government took no further action before the end of the year. No evidence was available to suggest that official wiretaps were used in 1993 for other than national security or criminal prosecution reasons; the debate centered on what legal limits should be acceptable.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Panamanians generally enjoyed freedom of speech and press as provided for in the Constitution. Five national daily newspapers (an additional daily opened in September 1993), 3 commercial television stations, 2 educational television stations (1 run by the University of Panama, the other closely associated with the Catholic Church), and over 95 radio stations provided a broad choice of informational sources. While many media outlets took identifiable editorial positions, most carried a wide variety of political commentaries and other perspectives, both local and foreign. Local and foreign journalists worked and traveled freely throughout Panama, and the population had access to foreign media.

Libel is a criminal offense subject to fines and up to 2 years in prison. Opinions, comments, or criticism of government officials acting in their official capacity are specifically exempted from libel prosecution, but a section of the law allows for the immediate discipline of journalists who show "disrespect" for the office of certain government officials. Several plans to annul or revise Noriega-era press restrictions did not reach final debate in the National Assembly by year's end.

In early March, the national censorship board initially banned the U.S. film "The Panama Deception," which was highly critical of the 1989 U.S. Operation Just Cause and the Endara Government. Despite the ban, portions of the film's narrative were published in newspapers. The ban, publicly criticized by President Endara and by at least one member of the censorship board, was rescinded on March 17.

Academic freedom was recognized and freely exercised in public as well as private universities.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides the rights of peaceful assembly and association, and the Government generally respects these rights. No authorization is needed for outdoor meetings, although prior notification for administrative purposes is required. Panamanians have the right to form associations and professional or civic groups without government interference; they may form and organize political parties as they like, though parties must meet membership and organizational standards in order to gain official recognition and run in national campaigns.

Freedom of assembly was widely exercised in 1993; citizens frequently gathered and marched to protest government policies and to demand changes.

c. *Freedom of Religion.*—The Constitution provides for religious freedom. No governmental restrictions impinge on the free exercise and proselytization of religious beliefs, nor on any particular religious groups. Although Roman Catholicism is predominant, Panama has no state religion. Clerics are constitutionally prohibited from holding public office except as related to social assistance, education, or scientific research. Foreign clergy are permitted to enter the country and enjoy the same religious freedoms as Panamanian citizens.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution grants Panamanians the right to move freely within the country and to emigrate and return, and these rights are respected in practice.

No known cases of forcible repatriation of refugees or asylum seekers occurred in 1993.

A 9 p.m. curfew for minors in Panama province, imposed in September 1992, remained in effect although it was enforced mainly in high-crime areas.

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

The Constitution provides for a representative democracy with direct popular election of the president, two vice presidents, legislators, and local representatives every 5 years. Technical arrangements for and the supervision of elections are the responsibility of the independent National Electoral Tribunal. Suffrage is a right and duty for all citizens; there is, however, no penalty for noncompliance. Voting is by secret ballot. Panamanians enjoy the right to join any political party, to propagate their views, and to vote for candidates of their choice without government interference. These rights were respected by the Government in 1993.

There are no legal bars to participation by women or people of African, Asian, or indigenous descent, although their presence in senior leadership positions in government or political parties is not proportionate to their numbers within society. However, numerous representatives of these groups, including five women, are in the Legislative Assembly and they are increasingly visible in mid-level political and governmental positions. San Blas, populated mainly by indigenous Kuna Indians, has two representatives in the Legislative Assembly.

During 1993 Panama began to prepare for the May 1994 general elections. Sixteen parties, representing a wide spectrum of political views, were legally recognized and are expected to participate in the campaign. In May, under the auspices of the Catholic Church, representatives of all political parties and parties-in-formation signed an agreement to conduct fair and peaceful election campaigns; the Church's Justice and Peace Commission began investigating alleged violations of this agreement. In June the Legislative Assembly passed electoral code reforms aimed at ensuring fair elections.

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

Several local human rights organizations, including both church and secular groups, operated without restriction or government interference, conducting investigations and disseminating their findings. International human rights groups also operated without government restriction.

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

The Constitution prohibits discrimination on the basis of race, illegitimacy, social class, sex, religion, or political views.

Women.—The Constitution notwithstanding, women generally do not enjoy the same economic opportunities as men. Panamanian law does not recognize property in common, and divorced or deserted women are often left destitute. Although the Constitution mandates equal pay for equal work, wages paid to women are often lower than those for equivalent work performed by men and increase at a slower rate. There were credible reports of sexual harassment, threats of firing for pregnancy, and hiring practices based on age and "sexual appeal." Although the Center for the Development of the Woman found that Panama has a relatively high rate of female enrollment in higher education, many of these graduates are shunted into menial and lower-paying jobs; only 5 percent of the managerial positions in the country are occupied by women.

Domestic violence against women continued to be a serious problem. The Center for the Development of the Woman reports that the problem is widespread, but notes that few reliable statistics exist on the subject, given the tendency of many battered and abused women to disguise the true cause of their injuries. Although clinic personnel are required by law to report such abuse to the corresponding authorities for investigation, it is seldom done (except in cases of injuries caused by firearms). The Center further claims that police and judicial authorities are reluctant to interfere because domestic violence is widely seen as a "private" matter not subject to legal remedy. Penalties for wife beating and sexual abuse within marriage are also light and do not serve as a deterrent. Private groups and government agencies operated programs to assist victims of such abuse; the Center inaugurated a municipal center in August 1992 devoted exclusively to assisting abused women.

In response to pressure by women's organizations, the Government created a Women's Department at the Ministry of Labor in May to report on abuses in the workplace as well as domestic violence. The office receives funding through the Ministry of Labor's Social Welfare Branch; the Legislative Assembly rejected a request

in late 1993 for separate funding in 1994. In early December, the Legislative Assembly's Children's Commission sent a "Family Code" bill to the full Assembly that, among other things, allows for property in common in marriages. The measure did not pass but it is expected to be taken up when the Assembly reconvenes in 1994.

Children.—Panama is signatory to the U.N. Convention on the Rights of the Child; in 1991, the Convention was made part of Panama's domestic law. The Legislative Assembly created a Permanent Commission on Children's Rights in 1992 and the Commission drafted several measures in 1993 to protect children, including a bill to create a Ministry of the Family. None of the Commission's measures, however, have yet been approved by the Assembly. Although the Government was concerned about the rights of children, budgetary constraints limit provision of educational, health, and social services, particularly in rural areas. There was no unified government response to curbing domestic child abuse. The proposed Family Code bill (see above) incorporated measures to guarantee the protection and welfare of children and to assure the commitment of the Government to safeguarding their legal rights.

In response to the mistreatment of juveniles (see Section 1), the CPDH recommended creation of a government office to defend children's legal rights, independent of any ministry and funded by a separate budget.

Indigenous People.—The Constitution seeks to protect the ethnic identity and native languages of Panama's population of about 194,000 indigenous people, requiring the Government to provide bilingual literacy programs in indigenous communities. The Ministry of Government and Justice maintains a Directorate of Indigenous Policy. Despite legal protection and formal equality, indigenous people generally had relatively higher levels of poverty, disease, malnutrition, and illiteracy than the rest of the population.

The Government provides semiautonomous status to the San Blas reserve, populated mainly by indigenous Kuna Indians. The reserve is governed by tribal chiefs, who meet in general congress twice a year. During 1993 Kunas objected to squatter incursions in areas of Panama province they considered their traditional lands and asked the Government to create another Kuna reserve. Ngobe-Bugle Indians in the provinces of Bocas del Toro, Veraguas, and Chiriqui also called on the Government to create a reserve. Bills to create the Kuna and Ngobe-Bugle reserves and an additional indigenous reserve in Darien province were introduced in the Legislative Assembly in mid-1993, but failed to gain approval.

The National Coordination of Indigenous Peoples of Panama—made up of Kuna, Embera and Ngobe-Bugle leaders—sponsored a national convention in November, the first since 1978, to discuss strategies to compel the Government to create reserves and foster development in Indian areas. Convention participants produced a document calling for the creation of a high-level government commission to implement greater government investment in indigenous communities in the areas of health and education. President Endara endorsed the document in a meeting with indigenous leaders in December. The Government incorporated into domestic law the Convention on the Indigenous Peoples' Development Fund during the same month. The fund provides economic support to the indigenous peoples of Latin America and was among the agreements reached at the second Ibero-American Summit in Madrid in 1992.

Indigenous groups claimed that the Government will only permit them to take part in decisions affecting their lands, cultures, traditions, and the allocation of natural resources when it is coerced into doing so. The Governor of Panama province, for example, was held hostage for a few hours in April by a group of Kunas who argued this was the only means of drawing attention to their demands.

National/Racial/Ethnic Minorities.—Panama is a racially and ethnically mixed country. People of African, Asian, and indigenous descent are politically active, but—as noted in Section 3—underrepresented in senior positions in the Government and the private sector. The law does not discriminate against any social, religious, or cultural group. However, naturalized citizens may not hold certain categories of elective office, and the Constitution reserves retail trade to Panamanian citizens. While anecdotal evidence indicates that reserving retail trade to Panamanian citizens originally was directed at Chinese immigrants, government officials have stated that it serves as a barrier to keep foreign retail chains from operating in Panama. The measure is not enforced in practice; Chinese operate much of the rural retail trade.

While there is no evidence to suggest any organized or government-sponsored discrimination against the 100,000-strong Chinese community, leaders of this community credibly claimed that Chinese were treated as second-class citizens by society at large. The rising Chinese immigration (both legal and illegal) has also raised assimilation problems. Many newer arrivals, seeking first to merge into a large and

influential urban Chinese community, do not attempt to learn Spanish or to integrate into Panamanian society at large.

Religious Minorities.—Panama's sizable evangelical Christian and Jewish communities, together making up more than 10 percent of the population, take part in nearly all aspects of national life. The same is true of practitioners of other faiths, including Muslims, Hindus, and Baha'is. No evidence suggested that religious minorities were denied the right to practice their faiths or were discriminated against based on their beliefs.

People with Disabilities.—Panama has a number of private organizations to assist people with disabilities, the largest of which is the National Association of Disabled People, founded in 1985. The Ministry of Labor's Department for Disabled Workers, created in 1980, is responsible for placing qualified disabled workers with employers. In 1993 the Department was in charge of implementing a June executive order which provided employers with monetary incentives for hiring people with disabilities, as well as an International Labor Organization (ILO) project to provide financial assistance to disabled people who wish to start small businesses. Although some public buildings and retail stores have access ramps for disabled people, no law or regulation compels the use of ramps or other easy-access features in public or private buildings.

Section 6. Worker Rights

a. *The Right of Association.*—Panamanian private sector workers have the right to form and join unions of their choice, subject to registration by the Government. According to Ministry of Labor statistics, approximately 24 percent of the private sector workforce is organized; it is estimated that 11 percent of the total employed labor force is organized. There are 284 active unions, grouped under 7 confederations and 48 federations representing approximately 85,000 members. From January to November, 11 new unions registered with the Government. Some unions formerly affiliated with federations and confederations have chosen to function independently in recent years. Organized labor, which received various benefits from and was largely coopted by the military regime, is no longer identified with nor controlled by the Government or political parties. Union organizations at every level may and do affiliate with international bodies.

Most government workers are not permitted to organize unions or bargain collectively, but have the right to form representative associations. Workers in certain state-owned companies, such as public utilities, are permitted to organize unions, and these are among the strongest in Panama. Workers from the National Telecommunications Institute marched against government proposals to privatize the company; electrical company workers demonstrated repeatedly to oppose the dismissal of workers fired during a recent reorganization. Workers in other state-owned companies do not have the right to form unions but, like those in the rest of the public sector, have the right to form employee associations. FENASEP (the umbrella organization for the public employee associations) elected its executive committee in May and was in the process of reorganizing and reactivating its member associations. Of the 47 member associations under FENASEP, 24 were active and approximately 20 were in the process of reorganizing.

Workers, except government workers and those employed by the U.S. Forces and the Panama Canal Commission, have the right to strike. Employees of state-owned enterprises that were once private, such as the electricity and telecommunications companies, have the right to strike when certain criteria are met. For example, a notice of intention to strike must be served at least 8 calendar days in advance and strikers must continue working in reduced shifts to prevent public services from being completely paralyzed.

While Law 25 of 1990, enacted following the police uprising in December of that year, restricted the right of association by permitting the firing of public sector employees participating in actions contrary to "democracy and the Constitution," this law expired on December 31, 1991. The Supreme Court reviewed the cases of public sector workers fired pursuant to this law and at the end of 1992 ruled that 25 workers should be reinstated. In the remaining 145 cases, the Court determined that the dismissal of the workers was legal. Regretting that the parties concerned did not reach agreement, the ILO Committee on Freedom of Association (CFA) reiterated in November its conclusion that the mass dismissal of trade union leaders and workers in the public sector was a serious violation of the right to organize.

The ILO's Committee of Experts (COE) commented on positive developments with respect to administrative aspects of trade union organizations and the right to strike in 1993. The COE noted that the Government reduced the number of union documents it reviews and limited the effects of the provision of the Code obligating unions to allow the Government to inspect records at least every 6 months. In ref-

erence to restrictions on the right to strike, the COE noted the passage of Law 2 of 1993 which restored freedom of association and collective bargaining rights to workers in the private sector. In particular, the COE noted favorably that Law 2 of 1993 repealed the provision of Law 13 of 1990 that allowed for compulsory arbitration when the continuation of a strike could result in serious economic problems for a business.

The COE continued to criticize the exclusion of public servants from the right to organize and bargain collectively, noting that though the Government submitted an administrative career bill to the Legislative Assembly, the bill did not contain provisions establishing the right of public servants to organize. The COE asked the Government to take measures to address this issue as well as the excessively high number of members required to establish a union, the requirement that 75 percent of union members be Panamanian nationals, and the automatic removal from office of trade union officials dismissed from their jobs. The COE reported the Government's reply that it would consider in a tripartite forum possible reform of Labor Code provisions dealing with numerical and nationality requirements for union formation, as well as the automatic removal from office of a trade union officer in the event of his dismissal from employment. The COE also noted that Panama's Constitution and the Labor Code require that the executive board of a trade union be composed exclusively of Panamanians. The ILO judged that government legislation should be made more flexible to permit organizations to choose leaders without hindrance and should allow foreign workers to hold trade union office.

Despite the prohibition on striking by public sector employees, there were numerous strikes in both the private and public sectors in 1993. Since the unions did not follow the terms of the Labor Code, the Government considered the strikes illegal. From March 8 to April 1, sugar cane cutters of the Estrella Azul sugar company struck to demand an increase in the minimum wage. (The strike was unsuccessful and 270 employees were fired.) Following a strike by construction workers at the La Fortuna dam, Skanska agreed to pay workers a portion of wages accrued during the strike as well as previously owed overtime and extra wages. In June banana workers of the Chiriqui Land Company called a strike to oppose the Legislative Assembly's consideration of a bill which, among other things, would have enabled the company to purchase 5,000 hectares of land from the Government. (Ultimately the contract was rejected by the Assembly.) From May 31 to June 4, bus and taxi drivers called a strike to protest a transport law that established safety requirements and passenger rights.

Panamanian teachers called a work stoppage on August 18 to demand a $100 monthly salary increase and improved working conditions. After a 64-day stoppage, the teachers accepted minimal gains that included neither a salary increase nor pay for the time they failed to work. The teachers' unions still hope the Supreme Court will overrule President Endara's veto of a legislative compromise that would have given the teachers more of their original demands. After a brief September strike for payment of retroactive salary increases, National Institute of Telecommunications (INTEL) workers secured an agreement from the Government to resolve the issue. The increases went to all INTEL workers who had received a performance evaluation of "excellent." The Comptroller General had refused to pay the increase since 97 percent of the workers had been given this exemplary rating.

b. *The Right to Organize and Bargain Collectively.*—The law affords most workers the right to organize and bargain collectively, and the right is widely exercised. Aside from the representative associations discussed above, most public employees are excluded from the right to organize, bargain collectively, and strike. Workers in the Colon Free Zone and the banking sector are effectively denied this right through the de facto exclusion of unions in these sectors. Unions have been excluded when their leaders were fired from their jobs; under the Labor Code, this automatically removes them from their positions as trade union officials. In 1990 and 1991, three officials of the National Bank Workers' Union were fired from Banco Cafetero and Chase Manhattan Bank for union organizing activities. The Government contended that because the union was not legally recognized—even though it had applied for legal certification in 1972—its leaders were not eligible for reinstatement. The Government, however, brokered generous severance payments for the cashiered union officials to ameliorate the dispute. Nevertheless, the result is that the workers have been left effectively without an organizing force. During 1993, there were no attempts to organize in the banking sector or the Colon Free Zone.

On January 13, President Endara signed Law 2 of 1993 restoring full freedom of association and collective bargaining rights to workers in the private sector and repealing sections of Law 13 of 1990. Following more than 18 months of domestic and international pressure, the Government amended or repealed those portions of Law 16 (export processing zones—EPZ's) and Law 13 (collective bargaining) that the ILO

viewed as restricting internationally recognized workers' rights. Law 2 calls for the resumption of collective bargaining for agreements expiring on or after January 1993, based on the agreement's original expiration date or the expiration of an extension under Law 13. Law 2 also repealed the controversial clause of Law 13 that provided for government-mandated arbitration. Over 85 private sector collective bargaining agreements were successfully concluded in 1993.

The amended export processing zone law (Law 25 of 1992) reimposed the obligation of firms operating in EPZ's to enter into collective bargaining agreements with workers. There are three licensed EPZ's in Panama: Isla Margarita, Ojo de Agua, and Telepuerto. Isla Margarita is the only EPZ in operation; it has one apparel assembly facility. No organizational attempts have been made in this facility.

The Labor Code prohibits antiunion discrimination by employers. Disputes or complaints may be brought to a conciliation board in the Ministry of Labor for resolution. The Labor Code provides a general mechanism for arbitration once conciliation procedures have been terminated. Under law, employers found guilty of antiunion discrimination are required to rehire workers fired for union activity. In practice, however, this does not always occur.

c. *Prohibition of Forced or Compulsory Labor.*—The Labor Code prohibits forced or compulsory labor, and neither practice was reported during 1993.

d. *Minimum Age for Employment of Children.*—The Labor Code prohibits the employment of all children under 14 years of age as well as those under 15 if the child has not completed primary school; children under 16 cannot work overtime; those under 18 cannot perform nightwork. Children between the ages of 12 and 15 may perform farm or domestic labor as long as the work is light and does not interfere with the child's schooling. Enforcement of these provisions is triggered by a complaint to the Ministry of Labor, which may order the termination of illegal employment. Child labor provisions were generally enforced, although less so in the interior of the country because of insufficient staff to monitor abuses.

e. *Acceptable Conditions of Work.*—The Labor Code establishes a standard legal workweek of 48 hours and provides for at least one 24-hour rest period. It also establishes minimum wage rates for specific regions and for most categories of labor. Most Panamanian workers employed in urban areas earn the minimum wage or above. Nevertheless, Panama has a substantial informal sector, some of whose workers earn below the minimum wage. A tripartite commission (government, labor, and business) studied the minimum wage in 1992. On January 1, 1993, the minimum wage was increased 20.5 percent (to $0.94 per hour from $0.78 per hour) in the districts of Panama, Colon, and San Miguelito and for workers in financial services. The real purchasing power of the minimum wage increased by 9.3 percent, the largest real increase since 1972. The Ministry of Labor is charged with enforcing the minimum wage, although it lacks sufficient human and financial resources to execute its legal mandate fully. For example, labor leaders in the Canal area allege that contractors operating there pay hourly wages below the $2.90 required under Decree 52 of 1979 and Decree 3 of 1980 which cover employees of companies involved in the maintenance, protection, and use of the Canal.

The Government sets and enforces occupational health and safety standards. An occupational health section in the Social Security System (CSS) is responsible for conducting periodic inspections of especially hazardous employment sites, such as those in in the construction industry, as well as inspecting health and safety standards in response to union or worker requests. Workers who file requests for health and safety inspections are legally protected from dismissal. They also have the right to remove themselves from situations that present an immediate health or safety hazard without jeopardizing their employment. They are generally not allowed to do so if the threat is not immediate, but may request a health and safety inspection to determine the extent and nature of the hazard.

The Ministry of Labor is responsible for enforcing health and safety violations and generally does so. The standards are fairly encompassing and generally emphasize safety over long-term health hazards, according to organized labor sources. An example is the dust hazard in the cement and milling industries; health concerns in these industries did not appear to be effectively addressed. Panama does not have a large industrial sector. The construction industry is the largest employer, and available figures in 1993 did not indicate an unusually high rate of accidents.

PARAGUAY

Paraguay, independent since 1811, has been ruled almost continuously by authoritarian regimes. In May Juan Carlos Wasmosy became the nation's first freely elect-

ed civilian President. Wasmosy took office in August, vowing to consolidate the nation's democratic transition, which began following the February 1989 overthrow of General Alfredo Stroessner. Paraguay is a constitutional republic with a strong executive branch and an increasingly important bicameral legislature. The President is the head of government and cannot succeed himself. The Colorado Party and the armed forces hold substantial influence, but the combination of the changes brought about by the June 1992 Constitution and the election of an opposition-controlled Congress in May 1993 has improved political accountability.

The National Police Force, under the overall authority of the Ministry of the Interior, is responsible for maintaining internal security and public order. The police continued to commit human rights abuses in 1993. Paraguay's armed forces consist of an army, navy, and air force. The President is the commander in chief. Certain elements within the armed forces act with little political oversight and insert themselves into the political process in contravention of the Constitution, through intimidation, corruption, and influence wielding. The presence of the first civilian commander in chief, and his nomination of a civilian Defense Minister, may lessen to some degree the traditional autonomy of the armed forces. Some military officials were accused of human rights abuses during 1993.

Paraguay has a market economy based on the export of primary agricultural products. A substantial percentage of the work force is employed in the informal economy, which may account for 40 to 60 percent of the gross domestic product. Efforts to begin privatization of state-owned enterprises continued.

Principal human rights abuses included extrajudicial killings, torture and mistreatment of criminal suspects and prisoners, police corruption, detention of suspects without judicial orders, general weaknesses within the judiciary, firings of labor organizers, and military interference into the judicial and political systems. Although President Wasmosy has stressed his commitment to enhance respect for human rights, serious accountability problems continued as the Government often failed to prosecute perpetrators of recent abuses or investigate cases of abuse from the Stroessner era.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of political killings in 1993.

There were extrajudicial killings involving criminal suspects detained by security force officials. As in the past, there was little serious effort to investigate and prosecute these incidents. At least seven extrajudicial killings are known to have occurred during the year. On the eve of the May 9 general elections, a drunken army captain allegedly shot and killed Victor Perez Franco, a 20-year-old wearing a T-shirt supporting an opposition political party. Following the incident, the officer and two noncommissioned officers were arrested and taken into military custody. The case remained under investigation at year's end.

On August 30, police officer Angel Ayala allegedly shot and killed Cristobal Gamarra, a 37-year-old bricklayer in the city of Fernando de la Mora. Gamarra had been drinking and behaving boisterously near Ayala's house. Ayala, accused of shooting Gamarra after the latter refused to leave the area, turned himself into police authorities shortly afterwards. The case remained under investigation at year's end. In late May, a minor, Americo Villalba, escaped from prison during a riot mounted in reaction to alleged mistreatment by police officials. Villalba had previously accused a police official of torture and mistreatment. During Villalba's escape attempt, this same officer allegedly shot him at close range. Villalba died 8 hours later without receiving any medical treatment. The official was not punished.

In December 1992 and January 1993, extensive government archiveswere discovered that documented extrajudicial killings and otherhuman rights abuses and implicated many former officials of the Stroessner regime (see Section 1.e.). Four Stroessner-era police officials convicted in 1992 of the torture and murder of Mario Schaerer Prono appealed their sentences; none of them served time in prison, but all remain under arrest.

b. *Disappearance.*—There were no reported cases of abductions by security forces.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture and brutal and degrading treatment of convicted prisoners and other detainees continued. Police, military, and prison guards were implicated to some extent in the mistreatment of individuals in their custody; although some officials have been arrested and held for investigation, few were tried, convicted, or appropriately punished. There were credible reports of mistreatment of women and minors and of brutal attempts to force confessions out of detainees.

A respected human rights group, Tekojoja, reported that children in police custody were particularly susceptible to physical punishment, with torture and abuse occurring against juveniles at a higher rate than against adult detainees. The human rights group accused the police in several cases of torturing minors by placing plastic bags over their heads, knocking out their teeth, using a hammer to beat their backs, or scalding their hands and feet to force a confession. Many minors reported being denied food, drink, or access to toilets for up to 3 days. None of the many cases involving the torture of minors that were brought before the courts resulted in a conviction of the perpetrators.

During a surprise visit to the Encarnacion regional penitentiaryin August, the Congressional Committee on Human Rights discovered that several prisoners had been tortured by police officers. The Congressmen acquired sworn statements implicating Chief of Investigations Juan de la Cruz Paredes and three other police officials. The police officials were transferred to Asuncion and were under investigation at year's end.

Prison conditions remained poor. Overcrowding and mistreatment of prisoners were the most serious problems. Conditions were particularly poor in the Panchito Lopez youth prison. The Government substantially improved formerly abysmal conditions in the Buen Pastor prison, the nation's largest women's prison, by creating a separate section for minor girls.

d. *Arbitrary Arrest, Detention, or Exile.*—The authorities often violated provisions of the Constitution prohibiting detention without written order and stipulating that any person arrested must be presented before a judge within 48 hours of detention. Nearly 90 percent of an estimated 3,000 prisoners are held without arrest warrants, orders of detention, or convictions. Only 6 percent of the detainees at Tacumbu prison have been sentenced; virtually none of the detainees at the Panchito Lopez juvenile prison have been sentenced.

Throughout the year the authorities arrested and imprisoned individuals without legal process. There were a number of cases similar to that of Tomas Leiva who was arrested by police officials without a judicial order on September 13. Following his illegal arrest, he was taken to a police station and beaten in an effort to get him to confess to having stolen cattle, although there was little evidence implicating him in this crime. The authorities did not present Leiva before a judge, and he was unable to communicate with family members for several days. He was released from custody 2 weeks later, following intervention by a local human rights group, and never charged with a crime.

In September the Supreme Court ordered the release of over 20 prisoners from the Tacumbu Penitentiary for lack of any legal process against them. The court also released several minors during the same month for lack of detention orders.

Credible reports continued that landowners, many of them Brazilians living near the border in the Alto Parana department, armed their employees who removed squatters from the property of their employers without court orders. Some of the evictions were violent, although there were no reports of fatalities. No measures were taken to punish those committing abuses.

Forced exile is no longer used as a means of political control.

e. *Denial of Fair Public Trial.*—The judicial branch is comprised of a five-member Supreme Court headed by a president. There are four appellate tribunals: civil and commercial, criminal, labor, and juvenile. Several minor courts and justices of the peace fall within these four functional areas. There are only five public defenders available to the transient and the indigent; accordingly, many destitute suspects receive little or no legal assistance. Trials are conducted almost exclusively by presentation of written documents to a judge, who then renders a decision. Since there is no trial by jury, the judge alone determines guilt or innocence and decides punishment.

During the pretrial phase, the judge receives and may request investigative reports. In this phase, the judge is also likely to make a personal inspection of the scene of the crime and of the available physical evidence. The accused often appears before the court only twice: to plead and to be sentenced. All verdicts are automatically reviewed by an appellate judge, and the law provides for appeals to the Supreme Court. The military has its own judicial system.

Although the 1992 Constitution prescribes that judges be selected by a combination of an independent entity, the Congress, and the executive, many of the judges active during 1993 were holdover appointments made by former dictator Alfredo Stroessner. Several of them were alleged to make judicial decisions on the basis of bribery, intimidation, political motives, and friendship with senior military officers.

Notwithstanding the December 1992 discovery of government archives documenting various human rights abuses and implicating many former government officials of the Stroessner regime, no Stroessner-era officials were convicted of human rights

abuses in 1993. A judicial working group continued the task of reviewing and cataloging the documents for eventual use in court. The Committee of Churches, one of the nation's most prominent human rights groups, had over 23 cases against Stroessner-era human rights abusers pending at year's end.

In January Colonel Luis Catalino Gonzalez Rojas was sentenced by a military tribunal to over 3 months of confinement for "breach of military discipline." This alleged breach was linked to his implication of several high ranking military officials in a stolen car operation. Most observers viewed his sentence to be punishment for his high-profile stand against military corruption rather than a response to the alleged breach of discipline.

f. *Arbitrary Interference with Privacy, Family, Home or Correspondence.*—While the Government and its security forces generally did not interfere in the private lives of citizens, there were exceptions. The Constitution provides that police may not enter private homes except to prevent a crime in progress or when the police possess a judicial warrant. There were complaints that at times the authorities ignored this legal guarantee, particularly in the country's interior. The Government at times also spied on individuals and tapped phones for political and security reasons. In October the press denounced the discovery of a political telephone tapping operation carried out in the offices of the state-owned telephone company in the department of Guaira. Criminal investigations relating to a 1992 discovery of an officially sanctioned wiretap operation ceased without any judicial action.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of expression and the press. The press exercised these rights more freely than at any time in the nation's recent history. Opposition viewpoints were freely discussed and criticism of the Government was ubiquitous in the media. However, two media groups linked to particular candidates practiced self-censorship in reporting on the 1993 electoral campaign.

During the early morning hours of May 9, election day, the Channel 13 television station was the site of an unsuccessful attack in which assailants fired automatic weapons and launched grenades. At year's end, the attack was still under investigation by the authorities. The owners of Channel 13, who also own a newspaper and radio station, alleged that the Government had singled out their media consortium for a tax audit in response to its particularly strong opposition to the then-incumbent President.

Some reporters were threatened and physically attacked during 1993, although investigative reporting continued. As in the past, threats were made against persons examining allegations of official corruption, the contraband trade, ties to the Stroessner regime, and electoral irregularities. In October journalist Emilio Ortiz reported on corruption in the state-owned telephone company in Alto Parana. This led to the dismissal of the company's local director, Mauro Corvalan. Ortiz subsequently was beaten by three men claiming to be acting on Corvalan's behalf. On April 20, two journalists covering a political gathering in Ciudad del Este were beaten by pro-Colorado Party supporters working as security guards at the site where the event was taking place. The two reporters were taking pictures of state-owned vehicles being utilized by Colorado Party supporters in an apparent violation of the nation's electoral law.

There were no restrictions on academic freedom in 1993.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution establishes the right of association and peaceful assembly for all citizens. A law regulating demonstrations in Asuncion limits the areas where and the hours when they may take place and requires that the police be notified 24 hours before any rally in the downtown area. The police may ban a protest but must provide written notification of such a ban within 12 hours of receipt of the organizers' request. Under the law, a police ban is permitted only if a third party has already given notice of plans for a similar rally at the same place and time. In addition, the law prohibits public meetings or demonstrations in front of the presidential palace and outside military or police barracks.

All of the various political parties held demonstrations and rallies during the electoral season without incident. Many social groups, including labor organizations, held rallies without incident throughout the year.

An October rally to protest congressional consideration of military privileges blocked access to Parliament, and a few members of Congress were struck by the participants in the demonstration. The Congressmen pressed criminal charges against demonstration leaders, and the cases remained under investigation at year's end. Media and congressional criticism of the police centered on the failure of the police to protect the Congressmen.

c. *Freedom of Religion.*—The Constitution provides for freedom of conscience for all persons and recognizes no official religion. The Government continued to respect that freedom in 1993. Roman Catholicism is the predominant religion, but all denominations are free to worship as they choose. Adherence to a particular creed confers no legal advantage or disadvantage, and foreign and local missionaries proselytize freely.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—All Paraguayan citizens may travel freely within the country with virtually no restrictions. There are no restrictions on foreign travel or emigration, although the Government closed the nation's border during the May 9 general elections pursuant to a judicial order, an action that was criticized by foreign election observers. There are no established provisions to grant asylum or refugee status; the Director of Immigration determines each request on a case-by-case basis. There were no reports of refugees forced to return to countries in which they feared persecution.

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

Paraguayan citizens exercised the right peacefully to change their government in the May 1993 elections. Juan Carlos Wasmosy became the nation's first freely elected civilian President; a majority opposition Congress was also elected. Several parties contested the major leadership positions in the elections, although only three parties elected officials to national office. The new opposition-dominated Congress quickly demonstrated its independence by rescinding legislation passed by the previous Congress which had the support of the President-elect. General elections are to be held every 5 years. The Constitution and the Electoral Code mandate that voting be by secret ballot.

Although the elections were generally conducted in a peaceful and orderly manner, aspects of the nation's authoritarian tradition were evident during the primary and general elections. International observers criticized the violation of the constitutional prohibition against the military's participation in partisan politics, citing in particular the activities of Army General Lino Oviedo after the December 27, 1992, Colorado Party primary elections, as well as before and during the May 1993 general elections.

Some Paraguayans living outside the country were denied the right to vote by a judicial decision to close the nation's border on election day. Many international observers witnessed intimidation of voters by Colorado Party members and other isolated irregularities and violations of the Electoral Code. Unlawful activities included the election day predawn attack on independent television Channel 13 and the deliberate cutting of telephone lines providing electoral data to an independent consortium of nongovernmental organizations conducting a parallel vote count. During the election campaign, many state employees were pressured to pay dues to the ruling Colorado Party and attend its political rallies. Many state employees were also threatened with dismissal if they did not support the Government's preferred candidate, and several were dismissed for supporting other candidates. Virtually all independent observers of the general elections concluded that the irregularities were neither systematic nor extensive enough to alter the final results. There were, however, credible allegations of misreporting of vote totals in the Colorado Party primary.

Paraguay has an unassimilated and neglected indigenous population estimated at 75,000 to 100,000. Members of indigenous groups, as Paraguayan citizens, are entitled to vote, and the percentage of indigenous people who exercised this privilege in 1993 roughly doubled from years past. Nonetheless, the inhabitants of many indigenous communities were threatened or inhibited from fully exercising their political rights. Some were threatened with death or with losing access to cooperatives and stores unless they voted for a certain candidate. For example, indigenous people in the town of Laguna Negra were told by one candidate that he would execute them should they not support his candidacy.

While there are no formal legal impediments, women often face significant obstacles when they seek to participate in government and politics. Participation by women in the political system, although somewhat improved in 1993, was still limited in the male-dominated society of Paraguay. All major parties ran women as candidates in the 1993 general elections, although few women (four senators and two national deputies) were elected to national office.

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

Several human rights groups operate in Paraguay, including the Committee of Churches (an interdenominational group that monitors human rights and provides legal assistance), Prodemos, Tekojoja (a group dedicated to protection of children's rights), and the local chapter of the Association of Latin American Lawyers for the Defense of Human Rights. The Government did not restrict the activities of any human rights group in 1993.

Former President Rodriguez met with representatives of local and international human rights groups during the year. In his inaugural address, President Wasmosy told the nation that respect for human rights would be a hallmark of his administration. The Chamber of Deputies elected as its president one of Paraguay's leading human rights advocates, Francisco Jose "Pancho" de Vargas.

The Office of the Director General of Human Rights, located in the Ministry of Justice and Labor, continued to sponsor seminars to promote human rights awareness. This office has access to congressional, executive, and judicial authorities. It does not have subpoena or prosecution powers but may forward information concerning human rights abuses to the office of the Attorney General for action. It also serves as a clearinghouse for information on human rights and trained thousands of educators in human rights law in 1993. In January the Government accepted the jurisdiction of the Inter-American Court of Human Rights. The Government has yet to show, however,the determination to try and punish those, particularly within the police, who commit abuses.

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

Although the Constitution and other laws prohibit discrimination, certain groups faced significant discrimination in practice.

Women.—Wife beating and exploitation of women in employment continued to occur. Most informed observers believe that wife beating occurs among a substantial minority of the population and that it is underreported. Exploitation of women, especially the prostitution of teenagers, remained a serious problem. Police frequently raided brothels in which minors were employed but never arrested the owners or operators. The minor's court judge would usually attempt to persuade the minor not to return to prostitution, but no action would be taken against the owners. Authorities also paid insufficient attention to sex-related job discrimination. Some women complained that job promotions were conditioned on their granting sexual favors.

On the average, 16 cases of rape were reported to the Ministry of Health each month, although all women's groups believe that the incidence of rape is much higher. It is becoming easier for women to initiate complaints against their husbands for domestic violence, although no perpetrators of domestic violence have been found guilty by a court to date. The Congress passed a law creating the office of Secretary for Women, a cabinet-level position intended to initiate programs to enable women to have free and equal access to employment, social security, housing, ownership of land, and business opportunities. The Secretary for Women is also responsible for programs to address violence against women.

Children.—The Constitution mandates that at least 20 percent of the total national budget be allocated to education. Forty-six percent of all educational spending was earmarked for elementary education, while 22 percent of the Ministry of Health's budget was devoted to children's services. The Constitution protects certain children's rights and requires that parents and the State care for, feed, educate, and support children. Nonetheless, approximately 26,000 children work in urban areas as street vendors, shoe shiners, or prostitutes. The majority of these children suffer from malnutrition, lack of access to education, and disease. Some young girls, employed as domestic servants or nannies, are denied access to education and are mistreated by their employers. Some who seek to leave domestic jobs are charged with robbing their employers and turned over to the police.

Some minors were forced into obligatory military service prior to the constitutionally established minimum age of 17. In one case, Cesar Meaurio, 15, was removed from a bus and taken to a nearby military training base because he could not present any documents establishing his age. On August 28, Santiago Ignacio Machado, 15, was taken by military authorities while fishing with his parents in Puente Remanso. Military authorities subsequently refused to provide the family with information concerning Machado's whereabouts. The Chamber of Deputies Committee on Human Rights filed a formal legal request on September 10 that the minor be released.

Indigenous People.—Weak organization and lack of financial resources continued to limit access by indigenous peoples to the political and economic system. Indige-

nous groups relied primarily upon parliamentary commissions to promote their particular interests, notwithstanding the fact that the Constitution guarantees indigenous peoples' rights to participate in the economic, social, political, and cultural life of the nation. The Constitution also contains protection for their property interests. These constitutional rights, however, have still not been fully codified.

The Government's National Indigenous Institute (INDI) has the authority to purchase land on behalf of indigenous communities and to expropriate private property under certain conditions to establish tribal home ands, but the entity continued to be poorly funded. In addition, many indigenous people find it difficult to travel to the capital to solicit land titles or process the required paperwork associated with land ownership. The problems of the indigenous population, particularly those involving land claims, continued to receive frequent media attention. The main problems facing the indigenous population are lack of education, malnutrition, lack of medical attention, and economic displacement resulting from development and modernization. In the community of Ca'aguay Pora in the Department of Canindeyu, for example, 80 local children did not have access to a school.

National/Racial/Ethnic Minorities.—The Korean and Chinese communities experience social and economic discrimination and are sometimes denied access to credit terms enjoyed by other Paraguayans. They are also sometimes discriminated against in the housing market and do not have equal access to private institutions and schools.

People with Disabilities.—The Constitution guarantees equal opportunity to people with disabilities and mandates that the State provide the disabled with health care, education, recreation, and professional training. It further requires that the State formulate a policy for the treatment, rehabilitation, and integration into society of people with disabilities. Legislation establishing such programs, however, has never been enacted. Many people with disabilities face significant discrimination in employment;others are unable to seek employment because of a lack of accessible public transportation. Other than the constitutional provisions establishing equal opportunity, accessibility for the disabled has not been mandated by law; the vast majority of the nation's buildings, both public and private, are inaccessible to people with disabilities.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution allows both private and public sector workers (with the exception of the armed forces and the police) to form and join unions without government interference. The Constitution contains several provisions that protect fundamental workers rights, including an antidiscrimination clause, provisions for employment tenure, severance pay for unjustified firings, collective bargaining, and the right to strike. A new Labor Code meeting International Labor Organization (ILO) standards was enacted in October to implement these constitutional provisions.

In general, unions are independent of the Government and political parties. However, one of the nation's three labor centrals, the Confederation of Paraguayan Workers (CPT), is closely aligned with the ruling Colorado Party. The Government did not require the CPT to comply with a union election decree to the same extent that it required compliance from the other labor centrals. Government officials were also accused of encouraging some of the recently organized public sector unions to affiliate with the CPT.

Although the Constitution protects the right to strike and bans binding arbitration, the Government's Permanent Council for Conciliation and Arbitration continued to function. One of the Wasmosy administration's first actions was to forward legislation to the Congress to abolish the body. Strikers and their leaders are protected by the Constitution against retribution, and several strikes occurred in 1993. However, the Ministry of Justice and Labor took few steps to enforce these laws until after the Wasmosy administration took office. Many strikers and labor leaders were dismissed for either attempting to form unions or for carrying out routine union business.

Approximately 7 percent of Paraguayan workers are organized. Unions are free to form and join federations or confederations and affiliate with and participate in international labor bodies. The ILO is currently considering 13 pending claims against the Government for alleged violations of international labor standards.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining is protected by law, and collective contracts have been successfully concluded in many cases. The number of successfully negotiated collective contracts continued to grow in 1993; however, collective contracts are still the exception rather than the norm in labor-management relations and typically reaffirm minimal standards established

by law. When wages are not set in free negotiations between unions and employers, they are made a condition of individual employment offered to employees.

Under former Minister of Justice and Labor Oscar Paciello, the Government took actions to discourage the realization of several collective contracts in 1993. One collective contract, signed between the president of the state-owned electric company and the president of the electric company workers' union, was not recognized by Minister Paciello and declared void. Following the Minister's departure from office, however, the courts ordered that the contract be implemented. On March 18, the executive issued Decree 16769, which suspended all trade union leaders in their functions pending new direct labor organization elections. Although the Supreme Court found the decree to be unconstitutional on September 23, many business leaders, with the support of the former Minister, refused to negotiate with labor leaders unless their organizations had complied with the decree.

Minister of Justice and Labor Juan Manuel Morales took office on August 15 vowing to improve relations between the Government, labor, and management. Organized labor viewed positively many of his early efforts, including presentation of draft legislation to disband the Permanent Council on Conciliation and Arbitration and his early and frequent consultations with labor leaders.

While the Constitution prohibits antiunion discrimination, the firing and harassment of some union organizers and leaders in the private sector continued. Fired union leaders may seek redress in the courts, but the labor courts have been slow to respond to complaints and typically favor business in disputes. The courts are not required to order the reinstatement of workers fired for union activities. As in previous years, in some cases where judges ordered fired workers reinstated, the employers disregarded the court order with impunity. There were a number of cases of trade union leaders fired 2 or 3 years ago who had not yet received a decision from the courts.

There were 20 strikes by unions affiliated with the independent labor central CUT alone, 16 of which were directly related to the firing of union organizers, management violations of a collective contract, management efforts to prevent workers from freely associating, or demands for the payment of the minimum wage, contribution to the social security system, or other benefits established by law. The failure to meet salary payments frequently precipitated labor problems, especially in the public health sector. Principal problems included an unresponsive Ministry of Justice and Labor under the leadership of Minister Paciello and bottlenecks in the judicial system. There were also complaints of management creating parallel or "factory" unions to compete with independently formed unions. There were several cases of workers not receiving the legally established minimum wage or overtime pay who choose not to complain because of fear of reprisal or anticipation of government inaction.

Paraguay has no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is prohibited by law. However, substantiated cases of abuse of national service obligations occurred during 1993. There were several documented cases of draftees forced to serve as laborers for military officers in their residences or privately owned businesses. In April a local newspaper published interviews and photographs of military draftees forced to carry out a remodeling project at the private residence of Colonel Cirilo Velazquez.

Forced labor is not significant in any export industries.

d. *Minimum Age for Employment of Children.*—The Office of the Director General for the Protection of Minors in the Ministry of Justice and Labor is responsible for enforcing child labor laws. Minors between 15 to 18 years of age may be employed only with parental authorization and may not be employed under dangerous or unhealthy conditions. Children between 12 and 15 years of age may be employed only in family enterprises, apprenticeships, or in agriculture. The Labor Code prohibits work by children under 12 years of age, and all children are required to attend elementary school. In practice, however, many thousands of children, many younger than 12, work in urban areas engaged in informal employment such as selling newspapers and sundries, shining shoes, and cleaning car windows. In rural areas, it is not unusual for children as young as 10 to work beside their parents in the field. Other than Paraguay's traditional agricultural exports, there are no export industries in which child labor is significant.

e. *Acceptable Conditions of Work.*—The executive, through the Ministry of Justice and Labor, has established a private sector minimum wage, regionally adjusted according to cost of living indices, sufficient to maintain a minimally adequate standard of living. The minimum salary was adjusted by 10 percent in April (to $159 a month) in response to a loss in real purchasing power of about 42 percent since

1989. Most analysts agree that between 50 to 70 percent of workers earn less than the decreed minimum.

The Labor Code allows for a standard legal workweek of 48 hours,42 hours for night work, with 1 day of rest. The law also provides for an annual bonus of 1 month's salary and a minimum of 6 vacation days a year. The Labor Code also stipulates conditions of safety, hygiene, and comfort. In general, the Government did not effectively enforce the safety and hygiene provisions of the Labor Code, partially due to the lack of inspectors. This led the labor movement to initiate inspector training programs designed to ensure that violations were registered with the Ministry of Justice and Labor.

PERU

Peru is a republic with a dominant executive branch headed by President Alberto Fujimori. During 1993 Peru formally ended the constitutional crisis that began on April 5, 1992, when President Fujimori dissolved Congress and suspended the 1979 Constitution. A new Constitution, drafted by a Constituent Congress elected in conformity with a pledge made by President Fujimori to the Organization of American States (OAS), was approved in a nationwide referendum held in the presence of OAS observers on October 31. The new Constitution took effect on December 31; it accords more power to the executive than its predecessor but also provides for a more independent judiciary. The next elections for President and Congress are due in 1995.

The legislative branch is a unicameral Constituent Congress with 80 members elected at large. President Fujimori's party, Cambio 90/Nueva Mayoria, holds a 44-seat majority. Congress' authority to act as a check and balance on the executive branch, and especially the military, was weakened in April 1993.A provocative show of force and threats by army commander General Hermoza led the progovernment majority to close a congressional investigation into the July 1992 abductions of nine students and a professor from La Cantuta University in which the army and the National Intelligence Service were implicated. A civilian court has indicted 11 military personnel in the case, while a separate military court has indicted these 11 as well as 2 others. Eight officers were among those indicted, including one general officer.

In 1993 the executive branch also dominated the judicial system;hundreds of provisional judges and prosecutors appointed by President Fujimori in 1992 continued in their positions. Congress appointed an independent tribunal to review the 1992 dismissals of several hundred judicial officials and to examine the qualifications of the President's appointees. By the end of 1993, the tribunal had approved about 70 percent of his Supreme Court appointees, who continued in their positions. Most terrorism cases continue to be tried on treason charges in military courts, which lack most of the basic principles of due process. In November Congress enacted several reforms of the procedures for trying terrorism cases which addressed some, but far from all, of the due process problems of the courts.

The police and the military share public security responsibilities. The military and the police both conducted counterterrorism activities in Lima; the military took the lead in provincial areas under a state of emergency. Emergency zone status continued to provide for the suspension of certain constitutional guarantees. Currently 48 percent of Peru's 22 million people live in such areas, including the 8 million residents of Lima. Since 1990 the Peruvian authorities have gradually incorporated human rights concerns into their counterinsurgency strategy. Nonetheless, elements of the military and police continued to be responsible for serious but diminishing human rights abuses and, except in rare cases, continued to act with impunity.

Peru's mixed economy combines free market capitalism with state ownership of some major industries. Minerals extraction and processing account for half of the foreign exchange earnings. The Government pursued a market-oriented economic stabilization and structural adjustment program, including privatization of state-owned firms, and the economy was slowly recovering from recession. However, the World Bank estimated that one half of Peruvians live in poverty, and half of those in extreme poverty.

Significant reductions in political violence and in the volume of disappearances of suspected terrorists marked continued advances by government forces against the Sendero Luminoso (Shining Path) terrorist movement. Major problems in governmenthuman rights observance remained, however, particularly the lackof due process in terrorism trials, continued (albeit substantially fewer) executions and dis-

appearances, torture, and limited prosecution of government abuses. Impunity for those responsible for abuses continued to be a major concern.

The chief sources of human rights violations remained Sendero Luminoso and, to a lesser degree, government security forces. Sendero violations included assassinations of perceived opponents and the merely uncooperative, from government leaders and other officials to religious workers and peasants. Sendero, lacking widespread popular support, used terror against civilians, regardless of their political allegiance, and selective assassination against grassroots leaders as an integral part of its strategy to create chaos and make the country ungovernable. Peru's respected independent National Coordinating Committee for Human Rights (Coordinadora) reported that Sendero was responsible for 516 assassinations of noncombatants in 1993. Sendero killed members of rural self-defense forces (rondas), carried out several massacres, including that of some 60 Ashaninka Indians and colonists on August 18, and continued using car bombs and other explosive devices to create terror and cause damage in urban areas.

The military and the police continued to be responsible for numerous summary executions, disappearances, arbitrary detentions, torture, and rape, with a climate of impunity prevailing. Few abuses were fully investigated, and prosecution of security force members was rare. However, statistics from various sources, including the Coordinadora and the Public Ministry (an autonomous office of the Attorney General), confirmed that the number of disappearances and extrajudicial executions attributable to security forces declined significantly in 1993 as compared to the previous year. The Public Ministry reported that members of the security forces, rondas, and paramilitary groups connected to elements within the Government were believed responsible for 22 extrajudicial killings and as many as 57 disappearances through December. The Coordinadora, using different tracking methods, reported 31 extrajudicial killings and 44 new disappearances attributed to such groups during the year.

Many people were arrested and convicted for terrorism without due process and without provisional liberty in cases in which evidence against them was lacking; police or judicial errors kept innocent people in jail for lengthy periods. In some military trials, lack of due process and procedural errors led to defendants being given lengthy prison sentences under questionable circumstances. There were also credible reports that the Government used the legal system on several occasions to intimidate political opponents and journalists. Violence against women remained pervasive.

There were positive developments during the year. The Government permitted visits by the Inter-American Commisssion on Human Rights and the U.N. Special Rapporteur for Extrajudicial, Summary, or Arbitrary Executions and in March lifted restrictions on the operations of the International Committee of the Red Cross (ICRC). The Government instituted human rights training for the military and a course in human dignity for the police. Police and military practices were altered, as reflected by the drastically reduced numbers of disappearances and extrajudicial executions. However, government security forces continued to act with impunity. The Government also agreed for the first time to hold a regular dialog with the Coordinadora. While the dialog was not held on a regular basis nor were the meetings held in an open atmosphere early in the year, the process began to produce some concrete, though limited, results in late 1993.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Since 1980, Peru has suffered a bloody guerrilla war waged by the terrorist Sendero Luminoso and the Tupac Amaru Revolutionary Movement (MRTA). This war has caused 26,000 deaths and numerous human rights abuses by both sides.

The Public Ministry reported that members of the security forces, rondas, and paramilitary groups were believed responsible for 22 extrajudicial killings during the year. The Coordinadora estimated that military forces were responsible for 12 extrajudicial killings, rondas were responsible for 11, and the police another 8. Sendero Luminoso was reported responsible for 516 political assassinations in 1993; the MRTA, 24; and unidentified subversives, 6. Another 38 persons were killed in terrorist bomb attacks perpetrated by Sendero. The number of killings committed by each side was probably underreported because of widespread distrust of the authorities and the judicial system. In addition, in 62 deaths the Coordinadora was unable to deduce from available evidence whether the security forces or subversives were responsible.

The level of killings by government forces declined significantly from 1992 when Coordinadora estimated that 114 were killed. Most of the killings again took place in emergency zones where the level of conflict was highest. In February there were credible reports that a military patrol massacred eight villagers from the town of Agasmarca within an emergency zone. Credible human rights monitors reported that the army continued to be responsible for murders of university students abducted in Huancayo. In September the body of student Carlos Lopez Granados was discovered in an irrigation ditch with bullet wounds and bearing signs of torture. His abduction followed the pattern of disappearances of three dozen other university students in 1992–93. In the north coast city of Trujillo in September, witnesses claimed police detained 17-year-old Jessica Chavez and her uncle, Javier Cruz, while they were leaving a barbecue. Police brought their bodies to the morgue the next morning, claiming the two were terrorists killed in a police shoot-out. Jessica's mother claimed there were clear signs of torture on both corpses, which the autopsy report failed to mention.

Rural self-defense committees, or rondas—armed and trained by the military—were also responsible for extrajudicial killings. Ronda members reportedly used bows and arrows, knives, and machetes to kill 10 residents of the jungle village of Delta-Pichanaki on September 11. Despite being identified by survivors of the massacre, all but 4 of the 21 alleged perpetrators were released by local authorities after questioning.

Most killings by security forces were neither investigated nor prosecuted. The military repeatedly used its court system, which tries all crimes committed by active duty personnel, to preempt civilian investigation and prosecution of cases involving military abuses. The most blatant case of military interference in an investigation of possible extrajudicial killings by the military occurred on April 20 when, after appearing at a government hearing on the La Cantuta disappearances (see Section 1.b.), army commander General Nicolas Hermoza verbally attacked Congress and ordered tanks into the streets as a show of force. As a result, Congress dropped its investigation in favor of one conducted by the military. The investigation into the November 1991 killing of 17 people in the Barrios Altos section of Lima was conducted briefly by civilian authorities and then closed due to lack of evidence.

During 1993 there were credible, detailed accusations that the La Cantuta disappearances and the Barrios Altos killings had been committed by an army intelligence unit death squad. In May the third-ranking general of the Peruvian Army, Rodolfo Robles, publicly charged that the death squad existed with the full knowledge and consent of General Hermoza, under the direction of presidential intelligence advisor Vladimiro Montesinos, and maintained informal links to the National Intelligence Service (SIN). Senior government and army officials were alleged to have had knowledge of the unit's existence. The same army officials exercised authority over army judicial officers charged with investigating the allegations.

In October President Fujimori announced that four army personnel had been arrested in the La Cantuta case. However, there were press reports that the four had been promised lenient treatment and large sums of money in return for not implicating higher ranking officers. The Supreme Council of Military Justice did not issue arrest warrants until mid-December, at which time, it claimed, five army officers were detained. By January 1994, the Government announced that eight officers, including General Juan Rivero Lazo, and five enlisted men had been indicted in connection with the case; the Government claimed that the officers were under detention. In December a civilian court judge also indicted 11 army personnel for the killings, but the army would not hand them over to civilian authorities. The Supreme Court was to decide in January 1994 if jurisdiction in the case will be granted to the civilian or the military court.

There are only two confirmed cases in which army personnel were convicted for extrajudicial killings. Although the army stated there were convictions in four additional cases, it was not possible to verify this as military court records remain under seal. In February army Lt. Javier Bendezu Vargas was convicted and sentenced to 10 years in prison by a military court for directing the 1991 massacre of 14 villagers in Santa Barbara. Two subordinates were also convicted but received light sentences. Also in February, a military court convicted army Captain Telmo Hurtado for abuse of authority for his role in leading a 1985 massacre of 69 villagers in Accomarca. He received a sentence of 6 years in prison and expulsion from the army, but there were credible reports that Hurtado was free and back on active duty in the army.

Sendero continued to assassinate civilians, including peasants, farmers, villagers, indigenous people, civil authorities, and public servants. The number of people murdered by Sendero declined somewhat from 958 in 1992 to 516 in 1993. This decline does not appear to reflect any change in Sendero's tactics but is most likely due to

the disorganization and reduced level of operations that followed the capture of Sendero founder Abimael Guzman and other top leaders in 1992.

Sendero forces in the emergency zones stepped up attacks against those participating in rondas. As part of its terror tactics, a Sendero Luminoso column massacred almost 60 members of the Ashaninka tribe and colonists in the jungle province of Satipo, Junin department, on August 19. Many of the victims were members or supporters of rondas; others were women and children. The attackers killed their victims with machetes; they left dozens of others maimed and orphaned several hundred children. Between September 4 and 6, another Sendero column killed 25 civilians—many of them ronda members—and two policemen in several towns in Huanuco department. While most of Sendero Luminoso's victims were civilians, 145 were members of the security forces.

b. *Disappearance.*—Disappearances began to decrease starting in 1991, and dropped more sharply after November 1992. The Coordinadora estimated that there were 2,957 unresolved disappearances between 1982 and 1992; the United Nations estimates 2,640 over the same time period. While some disappearances were investigated, in general the military and police perpetrators acted with impunity. The number of cases of disappearances in 1993 was significantly lower than the previous year. The Public Ministry reported 57 new unresolved disappearances as of December. The Coordinadora, using different tracking methods, reported 44 during that time. (In 1992, estimates of disappearances ranged from 145 to 280.) According to the Public Ministry, the majority of its formal complaints about disappearances implicated members of the security forces in the emergency zones. Testimony from witnesses and survivors indicated that most victims were abducted by groups of plainclothes men and taken to military bases for interrogation. Some were turned over to police and eventual terrorism trials, some were released, and some never reappeared.

For instance, in February 1993, armed masked men abducted two university students in Huancayo. Rony Guerra was thrown into a van and abducted in broad daylight; Milagros Flor Tupac was taken from her house in the middle of the night while her family looked on. The two students were among some 36 in Huancayo who have disappeared after being kidnaped in similar operations since July 1992. Twenty-two were found dead, with many bodies bearing signs of torture.

In other cases, individuals have disappeared after being formally detained by authorities. Alberto Leyva and Lucio Romero were arrested on suspicion of terrorism by the navy in the village of Chio, Ucayali department, on January 15. The navy claimed they were released shortly thereafter; however, neither Leyva nor Romero ever returned to their homes after they were detained.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the Constitution prohibits torture and inhuman or humiliating treatment, brutal treatment of detainees is common. Knowledgeable observers reported that suspected subversives held by government security forces were routinely tortured at military detention centers.

Torture often takes place in the period immediately following detention. Police may hold a terrorism suspect incommunicado for 15 days, a period that can be extended for another 15 days in cases of treason (aggravated terrorism). The law also requires that persons detained for terrorism be interrogated in the presence of a Public Ministry prosecutor. Violations of these standards are frequent, however, especially in the emergency zones (which include Lima). The requirement that an attorney be present during the initial stages of detention and interrogation in treason cases was eliminated by decree law in 1992. Lawyers are still expected to be present when the detainee signs any written document.

A group of law students arrested in Lima in late 1992 and acquitted in late 1993 made credible claims that they were subjected to beatings, sleep deprivation, threats, and taunting by police during 2 weeks while blindfolded and handcuffed. One of the students alleged he was taken to a beach in the middle of the night and thrown into the surf with his hands tied in an apparent effort to force a confession.

In another case, 16-year-old Rafael Flores Vela claimed that, during detention in Tarapoto on suspicion of terrorism on September 13, police beat him with an iron bar for 5 hours during interrogation. The police spent the next 9 days, Flores charged, trying to heal his wounds with anti-inflammatory drugs. They then released him without charges. Flores had to be hospitalized immediately thereafter because both his shoulders were broken. Authorities reportedly opened an investigation of the implicated police officers.

Besides beatings, common methods of physical torture included electric shocks, water torture, asphyxiation, and being hung on a hook from a rope attached to hands tied behind the back. Common forms of psychological torture included sleep deprivation, taunting, and death threats against both the detainee and his or her

family members. Prisoners were almost always blindfolded during torture and not permitted to see their interrogators.

There continued to be credible reports of rape perpetrated by elements of the security forces in the emergency zones. In one case, Maria de la Cruz Pari, detained by police on terrorism charges, was taken to a beach at night and raped during the 15-day interrogation period. When de la Cruz discovered she was pregnant, police claimed that her cousin, also accused of terrorism, was responsible. However, highly credible sources corroborated de la Cruz's story, and the initiation of pregnancy coincided with the period of her detention.

In another incident, villagers of the jungle town of Aucayacu accused soldiers of breaking into nine different houses during the night of March 22, and raping the women and girls they found. A 16-year-old girl filed a written complaint with the local army commander, recounting how a soldier put a rag in her mouth to stop her from screaming during the rape. The girl reported that the commander, "between jokes and laughter," accused her of lying about the incident. Human rights groups continued to document cases of rape by the security forces; some reports indicate rape is used as an interrogation tool. There are no known cases in which a member of the security forces has been punished for rape.

Many victims of Sendero terrorism also showed signs of having been tortured. Torture of those victims often follows a brief "people's trial," normally held in the presence of onlookers as a method of intimidation. There were credible accounts that Sendero tortured victims to death by means such as slitting throats, strangulation, stoning, and burning. Mutilation of the body is common. In the Ashaninka massacre in Satipo, Sendero cut off the ears and fingers of numerous victims.

Prison conditions continued to be poor, despite physical improvements to some of Lima's prisons. Prisoners continued to be exposed to unsanitary facilities, poor nutrition and health care, and harsh treatment by both prison staff and fellow inmates. Picsi prison near Chiclayo, for example, which held twice the number of prisoners for which it was designed, has no running water. The prison in Huancayo is prone to flooding, and electrical wires are exposed in various parts of the building. Detainees, kept in windowless cells, are not allowed outside at Lima's Palace of Justice and are taken to the bathroom only once a day.

Corruption continued to be rampant among prison staff, who have been implicated in offenses such as sexual blackmail, selling narcotics and weapons, and arranging escapes. Prisoners have to bribe guards to get a mattress, and guards routinely subject inmates to beatings, torture, and degrading treatment. The Government announced plans to construct 20 new prisons around the country to alleviate the severe overcrowding due to the high number of terrorism detainees. Construction began on maximum security facilities in Ica, Huaraz, and Cajamarca; the Government also began the renovation of several prisons, including the large Castro Castro facility for terrorism detainees in Lima. The Government claims that these major construction projects will significantly improve prison conditions.

d. *Arbitrary Arrest, Detention, or Exile.*—The new Constitution, the Criminal Code, and antiterrorist legislation delineate the arrest and detention process. However, most if not all protections are suspended in those areas under a state of emergency. In the emergency zones, security forces do not need an arrest warrant, and detainees were often held incommunicado and denied access to an attorney during the interrogation period.

In areas not subject to a state of emergency, a judicial warrant is required for arrest, unless a perpetrator is caught in the act. Persons arrested must be arraigned within 24 hours, except in cases of terrorism, drug trafficking, or espionage, for which the limit is 15 days. Suspected terrorists may be held incommunicado for an additional 15 days (for a total of 30) before arraignment under 1992 treason decrees. If the military is the detaining authority, it must turn over detainees to the police within 24 hours (or as soon as practicable in remote areas). In many cases this law was flagrantly disregarded by the military.

Detainees (except in emergency zones) have the right to choose their own attorney, or the Government must provide counsel at no cost. This does not always occur in practice, and human rights sources report instances in which court clerks were deputized to stand in as public defenders. There is no functioning bail system; a form of provisional liberty is available for persons not accused of terrorism, espionage, or narcotics offenses.

The Public Ministry established a provisional national registry of detainees in 1992 to track cases of persons arrested for terrorism offenses, but at year's end the registry was not yet fully operational.

Following an interruption of its access to prisons in September 1992, the ICRC resumed its operations in March 1993. ICRC representatives were permitted to visit detainees in any place of detention, including prisons, jails, police stations, and mili-

tary bases. In addition, the ICRC had access to the provisional national registry of detainees, the Defense Ministry's detainee registry, and police detention records.

According to the official government newspaper, El Peruano, nearly 70 percent of the country's prison population consisted of detainees awaiting trial. The average delay between arrest and trial on criminal charges was between 26 and 36 months. However, those tried on treason charges by the military courts generally wait no longer than 40 days between the time of detention and the beginning of the trial.

Persons accused of terrorism must remain in custody while awaiting trial, no matter how little evidence there is against them. During this time, only immediate family members may visit them for a total of 15 minutes per month. Since the antiterrorism decrees took effect in 1992, there were numerous instances of individuals arrested and detained for long periods of time with little or no evidence against them. Darnilda Pardave Trujillo was arrested in October 1992 when she tried to leave the country; she did not know there was an arrest warrant out for her. Although her late sister had been a high-ranking member of Sendero Luminoso, there was no evidence that Darnilda Pardave ever belonged to the terrorist organization; police interrogation and a search of her house turned up nothing. Pardave was found innocent by the district attorney, a lower court judge, and the superior court prosecutor. Nevertheless, she was not released until October 29, over a year after she was first arrested.

There were also numerous cases in which police or the military presented detainees to the media as terrorists, parading them around in striped jail clothes. Occasionally such detainees were acquitted because they were innocent or for lack of evidence; many charged that they had been stigmatized by these public displays.

The 1993 Constitution does not explicitly prohibit forced involuntary exile, unlike the 1979 Constitution, which was basically in effect until December 31. Several public figures, however, went into voluntary exile to escape what they perceived to be political persecution.

c. *Denial of Fair Publi Trial.*—The Peruvian legal system is based generally on the Napoleonic Code. Defendants have the right to be present at the trial, although there were cases of trials in absentia. Verdicts are rendered by a judge or, in the case of appeals, a panel of judges, following an investigation, and the filing of charges. Sentences may be appealed, and judges may return cases to lower courts for additional investigation or correction of procedural errors. The judicial branch has never been fully independent, but the 1993 Constitution contains a number of provisions, including an improved system of naming judges, that might lead to a more independent judiciary in the future. Nonetheless, some 70 percent of the incumbent judges and prosecutors were appointed provisionally by President Fujimori after he seized extraconstitutional powers in 1992 and were never confirmed by Congress. Congress appointed an independent tribunal to review the 1992 dismissals of several hundred judicial officials and to examine the qualifications of President Fujimori's appointees. By December its review was complete only at the Supreme Court level, resulting in the dismissal of 30 percent of the President's appointments. Nonetheless, the executive branch continued to play a major role in numerous aspects of the judicial system.

There continued to be widespread charges of corruption and of suborning of judges, prosecutors, police, and witnesses at all stages of the judicial process, including the Supreme Court level. The high cost of litigation also limited access to the judicial system, as did the lack of public judicial services in many isolated areas of the country.

Civilian courts made limited progress in tackling the judicial backlog, a product of inefficiency, lack of infrastructure and personnel, archaic case law and criminal procedure law, and the sharp increase in terrorism cases. According to El Peruano, there were 12,268 detainees awaiting trial throughout the country on September 30. According to the Secretary General of the judicial branch, the case backlog in the Supreme Court alone (including cases held in the Public Ministry for Supreme Court review) was 8,506; the case backlog for the entire judicial branch was estimated at over 100,000.

Sendero and MRTA threats and intimidation of judges were one of the justifications for President Fujimori's overhaul of the antiterrorism trial system in 1992. Terrorism cases are now tried by anonymous tribunals made up of three "faceless" judges. An August 1992 decree law classified many terrorism cases as treason and therefore triable by military courts; the lesser cases are heard by civilian tribunals. Counterterrorism police, with some participation by the prosecutor, decide which cases are tried in military courts and which are tried in civilian courts. According to various human rights observers, approximately 75 percent of terrorism trials in military courts resulted in convictions. Treason convictions generally carry a sentence of life imprisonment. While the 1993 Constitution would permit imposition of

the death penalty, President Fujimori has stated that the Government will refrain from enacting implementing legislation for this provision.

Proceedings in military courts did not meet internationally accepted standards for due process. Military trials are closed to the public and carried out in secrecy. Defense attorneys do not have access to the evidence, nor can they interview police or military witnesses prior to the trial. Military judges rarely have any legal background; they are active duty officers subordinate to their superiors. Military tribunals must pass judgment within 10 days. A case may be appealed to the War Council, which has 10 days to make its decision. A final appeal to the Supreme Council of Military Justice must be acted on within 5 days. These trials are secret and brief, with rules that inhibit the actions of defense attorneys; combined with a system in which the military makes arrests, prosecutes, and passes judgment, they clearly lack important elements of due process. Human rights groups charge that some defendants have been railroaded through military trials and sentenced before their lawyers were even notified that the trial had begun. These flaws have become even more significant because now those convicted of treason can be sentenced to death.

In September the Government hosted a visit by an international panel of distinguished jurists. The jurists studied the Peruvian legal and judicial system to determine whether or not there was adequate due process, particularly in terrorism trials. In December the panel returned to Peru to present its findings and recomendations.

Congress passed a law in November that modified several aspects of previous antiterrorism legislation. The right to habeas corpus, previously annulled for suspected terrorists, was restored at various stages of criminal proceedings, and a 1992 law was modified to permit judges to free persons arrested for terrorism whose judicial investigation (the first stage of criminal proceedings) turns up no evidence. The new laws also permit the high military court to review cases of military convictions of civilians if there is evidence of procedural error. Decree laws promulgated in 1992 that permitted convictions in absentia and prohibited lawyers from defending more than one person at a time for terrorism were canceled.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution requires security forces to have a judicial warrant to enter a private dwelling, but this requirement is suspended in the emergency zones, and security forces in those areas routinely conduct searches of private homes without warrants. The law requires that a Public Ministry prosecutor be present during searches. There were credible reports that on occasion, police planted subversive literature in the homes of individuals they suspected of terrorism but could not otherwise arrest for lack of proof. There were frequent credible reports of illegal telephone wiretaps.

In Lima and other urban areas, the army often conducted "sweep" operations in which targeted neighborhoods were surrounded and sealed off and soldiers conducted house-to-house searches. Persons wanted for a crime and those found with unregistered weapons, subversive material, or without identity documents were detained for questioning.

A number of rural communities—with arms, training and encouragement from the army—have organized self-defense forces,or rondas, to protect themselves against terrorist and bandit incursions. They have had a noticeable impact on curbing Sendero's presence in certain areas of the country. In some parts of Peru, rondas have existed for centuries as a form of social organization and to protect communities from invaders and rustlers. However, many of the newer rondas were organized under the direction of military authorities, with peasants sometimes coerced into participating. Sendero also forced peasants to join its military ranks, often for extended periods, coercing their participation in terrorist attacks and executions.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Sendero Luminoso is the principal violator of humanitarian law in Peru's internal conflict. Sendero frequently used arbitrary violence against civilians and nonmilitary targets. It continued to detonate powerful bombs in public places, indiscriminately killing and injuring dozens of bystanders, and persisted in its practice of entering villages and killing residents. Many of the victims, as in the August massacre in Satipo, were unarmed women and children. In armed confrontations, Sendero rarely took prisoners or attended to the wounded; its normal aim was to kill as many people as possible. Sendero also practiced forced military conscription of both adults and children.

Although the Government stated that its security forces did not have a policy of carrying out actions against civilian targets, noncombatants were the victims of extrajudicial killings (see Section 1.a.). The army also forced peasants to participate in rondas. Military conscription of children is prohibited, and this prohibition was respected by government forces.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The new Constitution provides for freedom of speech and freedom of the press, and the Government generally respects this provision. However, it contains a legal mechanism called "habeas data" which grants any citizen the right to demand access to information he or she considers slanderous. Some journalists see this as a potential tool to censor or harass the press, especially in view of past instances of intimidation of the press through arrests, lawsuits, and other forms of harassment.

The media regularly criticize the Government. With 8 televisionstations, 3 cable systems, 72 radio stations, and 15 daily newspapers in Lima alone, Peruvians have access to a broad spectrum of information and opinion. The Government owns one television network, one radio network, and one daily newspaper. Most of the political parties or factions have access to the press. The television stations, although generally progovernment, provide regular access to opposition figures. The print media are defined by extremes; almost all major newspapers and magazines are either strongly for or against the government.

On several occasions government officials made intimidating statements regarding press freedom. In January President Fujimori announced that the National Intelligence Service would evaluate news reports for errors and "correct" misinformation. The Interior Minister accused journalists writing critical stories about human rights abuses of being "allies of terrorists" and implied they could face legal action. Army Commander General Hermoza threatened to take action over stories reporting his alleged link to the La Cantuta case of disappeared university students. In January two retired army generals were indicted by a military court for defamation when, in press interviews, they questioned the roles of General Hermoza and the President's intelligence adviser Vladimiro Montesinos. One of the retired generals, Luis Cisneros, was eventually cleared of the charges, but the other, Alberto Arciniega, sought refuge at the Argentine Embassy and shortly thereafter was granted political asylum in Argentina. The editors of two opposition magazines were subjects of separate civil defamation suits intended to halt their unflattering coverage of government officials, which the officials considered libelous.

Other journalists have been imprisoned under Peru's antiterrorist laws, most notably La Republica reporter Magno Sosa, arrested in October 1992. Though the evidence against him was thoroughly discredited, he remained in jail for nearly 5 months. Sosa was freed in February, but at least 10 other journalists faced criminal charges over their alleged links to terrorist organizations. Several others have received death threats. While terrorists and drug traffickers were sometimes believed to be the source, opposition journalists say government security forces were also involved.

The Government distributed its substantial advertising outlays as a form of political patronage. Some media owners claim the Government pressured private sector advertisers to boycott antigovernment publications and used tax inspectors to harass the media. Many media owners are involved in other economic activities that require government licensing or involve bidding on government contracts. This resulted in a degree of self-censorship, particularly in the broadcast media.

Human rights groups and the media also documented credible reports that the Government tried to silence debate on the new Constitution before the October 31 referendum, particularly in the emergency zones. There were reports that dozens of persons were arrested for promoting opposition to the new Constitution. All were eventually released, but human rights groups concluded that the Government used the security forces to harass people who vocally opposed the new Constitution (see Section 3).

Opposition media access to government information was restricted. Government press offices refused to send news releases and other information to some magazines or to allow them access to government transportation when the President visited remote parts of Peru or other countries.

The Government generally respected academic freedom as long as it did not involve direct confrontation with security practices. Sendero and, to a lesser extent, MRTA, resorted extensively to threats and abuse against faculty, staff, and students in an effort to gain control of a number of universities. However, since the military took control of campus security at several universities in 1991 and 1992, the terrorist groups have maintained a lower profile. The Government does not interfere in the teaching, discussion, or publication of a variety of opinions; however, all forms of indoctrination by subversive groups are prohibited.

b. *Freedom of Peaceful Assembly and Association.*—These rights are expressly provided for in both the 1979 and the 1993 Constitutions and are normally respected in practice, except in areas under a state of emergency (where the right of assembly is suspended). Public meetings in plazas or streets require advance permission,

which may be denied only for reasons of public safety or health. Municipal authorities usually approved permits for demonstrations in Lima and nonemergency zones. Many unauthorized public meetings occurred, and the police occasionally used clubs, tear gas, and water cannons to break up marches or disperse large or unruly crowds. These tactics were mostly used against striking public service workers.

c. *Freedom of Religion.*—Both the 1979 and the 1993 Constitutions provide for freedom of religion, and this provision is respected in practice. Roman Catholicism predominates in Peru, and the Constitution formally recognizes that church "as an important element in the historical, cultural, and moral development of the nation." The Constitution also establishes the separation of church and state. Conversion to other religions is respected, and missionaries are allowed to enter the country and proselytize. Adherence to a particular faith does not necessarily confer an advantage in secular life.

Sendero Luminoso rejects religion and, in 1993, continued to threaten and intimidate religious workers and organizations. Among Sendero's activities in this regard were direct death threats against priests and other religious workers, acts of vandalism, and destruction of church property. This included the use of some small bombs at Mormon churches in Cuzco in February.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The 1979 and the 1993 Constitutions provide for the right of free movement, and there are no political or legal constraints on foreign travel or emigration. Freedom of movement is suspended in the emergency zones but is generally permitted under control of the army. Nonetheless, travelers may be detained in the emergency zones by authorities at any time.

The 1993 Constitution prohibits the revocation of citizenship. Repatriates (both voluntary and involuntary) are not treated any differently from other Peruvians. Peru has provisions for granting asylum and refugee status; the procedures have been used by small groups of persons in recent years, principally Cubans. Persons granted asylum or refugee status may apply for citizenship. Refugees are not forced to return to countries in which they fear persecution.

On many occasions, Sendero tried to interrupt free movement within the country, conducting "armed strikes" during which civilians were obliged to stay home or risk reprisals. Public and private vehicles operating during such strikes were subject to attack. Sendero's armed strikes were less successful in 1993 than they were in previous years.

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

During 1993 Peru returned to constitutional government. After President Fujimori dissolved Congress and suspended portions of the 1979 Constitution on April 5, 1992, a Constituent Congress was elected in November 1992 to draft a new Constitution. This Constitution was approved in an October 31 referendum by 52 percent of the voters. Organization of American States (OAS)observers issued a press release after the election describing the balloting as fair. Nevertheless, the OAS observers noted police harassment of opposition campaign workers. Human rights groups and the media also documented credible reports that the Government tried to silence debate on the Constitution before the referendum, particularly in the emergency zones. Dozens of people were arrested for promoting opposition to the document, but all were eventually released.

The Constitution provides for the right of citizens to choose and change the laws and officials that govern them. Voting is mandatory by secret ballot for all Peruvians between the ages of 18 and 70. Prisoners and members of the armed forces and police are ineligible to vote. Only groups that advocate violent overthrow of the Government are barred from participating in the political process. Opposition groups representing a wide variety of opinion and ideology were tolerated by the Fujimori administration. However, the April show of force by the army in response to Congress's efforts to investigate the La Cantuta case was a major step backward in the military's post–1980 respect for, and acceptance of, civilian rule.

Countrywide municipal elections were held in January. A wide variety of political party and independent candidates representing the entire political spectrum ran for office. An OAS observer mission, as well as independent domestic monitors, concluded that these elections were conducted freely and fairly, with significant popular participation.

The next elections are scheduled for 1995. Under the new Constitution (unlike the former), President Fujimori may seek reelection.

There are no laws that restrict women and minorities from participating in government and politics; both women and minorities (including indigenous people), for example, are represented in the Congress and some senior leadership positions (e.g.,

Attorney General and Supreme Court justice). President Fujimori is from a racial minority. However, discrimination has often led to the exclusion of these groups from leadership positions in government and business.

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

Numerous nongovernmental organizations (NGO's) dedicated to monitoring and advancing human rights operated freely and independently, although they were often the targets of persecution and harassment. The military often restricted the ability of local human rights workers to investigate human rights abuses; the Government usually ignored human rights groups' requests for information; and many human rights monitors could not visit some key prisons. Legitimate fears of attack by Sendero also limited the ability of human rights monitors to investigate reported cases of abuse.

Some groups are closely identified with the Government. The vast majority of NGO's, however, are independent and generally objective in their views. Several local private human rights groups joined in 1985 to form an umbrella organization known as the National Coordinating Committee for Human Rights, or the Coordinadora. Over 40 groups from around the country are either voting or observer members of the Coordinadora. These groups are widely considered to be credible, thorough, and impartial observers.

Local groups repeatedly denounced Sendero Luminoso as the largest violator of human rights in Peru, while simultaneously documenting the many violations by government forces. Nevertheless, President Fujimori, other government officials, and the progovernment press often unfairly accused human rights groups of being defenders of terrorism and of criticizing only government abuses, not those of Sendero. Strong documentary evidence proves that Coordinadora members have been balanced in their denunciations of abuses by both sides.

Government forces continued to harass or detain local human rights leaders throughout the year. A human rights leader in Ayaviri, Puno department, was detained at a toll booth in May on charges of "being the human rights secretary and participating in suspicious meetings with teachers." The individual, who had survived two Sendero Luminoso attempts on her life, was released shortly thereafter for lack of evidence.

Father Jose Manuel Miranda, a Spanish Catholic priest and member of the Coordinadora's board of directors, was listed in a report by the Interior Ministry as "the Sendero Luminoso coordinator in Ica." Police reportedly tried to implicate Father Miranda in subversive activities in Ica, where he regularly visits prisoners in his capacity as both priest and human rights activist. The Spanish Embassy protested the Government's treatment of Father Miranda, and the Coordinadora requested that the Government and the police specify what evidence or charges they had against Miranda. There was no reply by year's end.

President Fujimori announced in March that he would ask the Congress to draft legislation to regulate NGO's, "including human rights organizations." The next day, a government-party Congressman declared that such legislation was necessary because NGO's "lacked supervision." The Congressman questioned the sources of funding for groups that he claimed attacked Peru's image. All NGO's in Peru are presently registered with the Government and submit an annual report on funding and staffing. New legislation on NGO's was not introduced in 1993.

In response to a request from human rights groups, the Government established a commission, chaired by Justice Minister Vega, to conduct a monthly dialog with the Coordinadora. However, after the first meeting in April, the Government failed to convene the meetings on a regular basis, and downgraded its participation to midlevel representatives. The dialog with midlevel representatives has met more regularly; while it produced few concrete results, the Government agreed in November to review specific detention cases raised in the meetings. Some individuals have been released from prison as a result.

Several foreign NGO's sent representatives to Peru to investigate the human rights situation. The Washington Office on Latin America, Americas Watch, and Amnesty International visited Peru. However, the Government turned down Americas Watch's requests to visit prisons and officials refused to meet with them. In contrast, the Government offered full cooperation to a delegation of the Inter-American Commission on Human Rights that visited Peru in May. The delegation met with a wide array of human rights leaders, government officials, opposition politicians, and individuals wishing to discuss specific cases. Members of the delegation also visited several prisons.

Another positive development was the Government's decision to invite the United Nations Special Rapporteur for Extrajudicial, Summary, or Arbitrary Executions,

Dr. Bacre Waly Ndiaye, who visited Peru in May. The Government facilitated access for the Special Rapporteur, who declared he was pleased with the Government's cooperation. The Special Rapporteur also met with a wide variety of people both in and out of the government and traveled to investigate specific cases.

After the Government limited access to prisons for the ICRC in late 1992, the ICRC suspended its operations. They were resumed in March 1993 with unhindered access under a new agreement with the Government. The ICRC has not reported any attempts to restrict its operations since that time.

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

The 1993 Constitution guarantees equal rights to all citizens and specifically prohibits discrimination based on ethnic origin, race, gender, language, religion, opinion, or economic condition. Nevertheless, discrimination based on sexual preference is pervasive. According to Peru's only gay rights group, the Homosexual Movement of Lima, gays and lesbians are often the target of harassment by police, and hate crimes against them are rarely investigated.

Women.—The Constitution grants women equality with men, and laws on marriage, divorce, and property rights do not discriminate against women. Nevertheless, tradition often impedes access by women to leadership roles in major social, business, and political institutions.

Sexual violence, including spousal abuse, is a chronic problem.A survey by a women's rights group in San Martin department indicated that 94 percent of adult women there had been battered. The Association for the Promotion and Development of Women also asserted that there were on average 35 rapes per month in that department. According to the Judicial Committee of the Peruvian Congress, there were over 10,000 official complaints of mistreatment of women in Arequipa, Peru's second-largest city, during the first 7 months of the year.

A special police center, staffed by policewomen, operates in Lima to provide legal, medical, and psychiatric assistance to abused spouses and children. Police in Lima receive numerous formal complaints of rape daily but estimate that less than 10 percent are reported. Reports indicate that approximately half of all rapes are perpetrated against minors.

A number of women's organizations and feminist groups were active and worked to devise legal and educational means to improve treatment of women in Peru.

Children.—The Government's ability to address children's human rights and welfare is generally inadequate. President Fujimori has on numerous occasions emphasized the need to improve education at all levels. However, public schools remain severely underfunded, and millions of children suffer from malnutrition and live in extreme poverty. In addition, minors can be tried as adults for terrorism offenses (see below).

A large percentage of children are born out of wedlock; many of the fathers fail to support the children or their mothers. In addition, orphans have become common throughout Peru, due in large part to the guerrilla war. It is not unusual for indigent parents to give up their children, either through adoption or by sending them away as house servants. In Lima alone, there are thousands of homeless, orphaned, or abandoned children. As a result of these problems and Peru's economic crisis, many children are forced to work in the informal economy to support themselves (see Section 6.d.). As noted above, reports indicate that approximately half of all rapes in Peru are perpetrated against minors.

Decree law 25564, issued by President Fujimori in June 1992, provides for minors aged from 15 to 18 to be tried as adults for terrorism offenses. Several dozen minors are awaiting trial or serving time in various Peruvian prisons. In October 1993, the Children's Rights Committee of the United Nations reported that Peruvian minors accused of terrorism "do not benefit from the safeguards or guarantees normally offered by the juvenile administration of justice system."

Indigenous People.—The 1993 Constitution prohibits discrimination based on race and guarantees the right of all citizens to speak their native language. However, since the Spanish conquest, Peru's large indigenous population has faced pervasive discrimination and social prejudice.

In general, indigenous people are unable to participate in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. These decisions are made by the central Government in Lima. Colonists, coca cultivators, guerrillas, and business interests steadily encroach on native lands. The civil and political rights of indigenous people are generally protected to the same extent as the rights of other Peruvians. However, many indigenous groups live in isolated areas, which affects the Government's ability to offer them services, security, and enforcement and protection of civil and political rights.

The largest indigenous groups are speakers of Quechua and Aymara (recognized as official languages), but there are several dozen other native language groups. Indigenous people lack access to public services and support in their native lands. Government investment is focused largely on the coast, drawing impoverished migrants to the cities, especially Lima. Groups native to Peru's jungle region find it more difficult each year to cope with the influx of colonists, terrorists, narcotics traffickers, and businesses seeking to exploit natural resources. These groups struggle to maintain their land, environment, native languages and culture. Malnutrition and disease are rampant among many of these tribes.

National/Racial/Ethnic Minorities.—Peru's population includes several small racial minorities, the largest of whom are blacks of African descent and Asians. Blacks, who tend to be concentrated along the coast, in particular face pervasive discrimination and social prejudice, and are among the poorest groups in Peru. This discrimination tends to exclude blacks from leadership roles in government, military, and business institutions. The few blacks who have been relatively successful financially have done so in the sports and entertainment fields.

People with Disabilities.—Although the 1993 Constitution states that disabled persons "have the right to respect of their dignity and to a regime of protection, attention, readaptation, and security," the Government spends relatively little on assisting the handicapped or preventing discrimination against them. There is little public infrastructure with facilities for people with disabilities, such as wheelchair ramps on streets or in buildings, and no law mandating provision of access for them. Disabled persons face discrimination when seeking employment; Lima's streets are often the scene of both physically and mentally handicapped people seeking alms. The government-owned television station is the only one that broadcasts a news program with a sign language interpreter each evening. The number of disabled persons increased dramatically as a result of injuries during the guerrilla war.

Section 6. Worker Rights

a. *The Right of Association.*—Only 5 percent of the total work force is estimated to belong to organized labor unions. (Up to two-thirds of Peruvian workers are located in the informal sector of the economy.) Workers do not need prior authorization to form a trade union nor, by law, can employment be conditioned on union membership or nonmembership. Existing unions represent a cross-section of political opinion. Though some unions have been traditionally associated with political groups, unions are prohibited by law from engaging in explicitly political, religious, or profit-making activities. There are no restrictions on memberships in international bodies.

One of the express intents of the Fujimori administration in drafting the country's new Constitution was to remove Socialist and populist elements from the 1979 Constitution. The new Constitution eliminates the concept of "labor stability" and gives business owners more flexibility in hiring practices. It provides that the State recognizes the rights to organize a trade union, engage in collective negotiations, and strike. These rights are to be exercised democratically, however, and the right to strike must take account of broader social interests. In a November report, the International Labor Organization (ILO) Committee on Freedom of Association (CFA) indicated that a number of Fujimori administration decree laws could restrict the right of association. These provisions set minimum numbers of employees to form an occupational union, require that candidates for union office in an enterprise have worked at least 1 year in the company, and contain prohibitions on all political activities, on probationary workers joining unions, and on membership in more than one union.

Employees exercising management or decisionmaking authority are excluded from the right to organize or strike, as are the police and military. A strike must be approved by a majority of all concerned workers in a company, whether union members or not, in a secret ballot. A new vote must be taken upon petitionof 20 percent or more of the workers. The relative infrequency of strikes in 1993 reflected the country's economic depression and an underemployment rate which exceeds 70 percent. Few workers were willing to strike when there were dozens of unemployed available for each job in the formal sector of the economy. Reprisals against striking workers were reportedly infrequent.

Union members and officials continued to be targets of terrorist assassination and intimidation attempts. The Peruvian labor movement and its leaders have been generally hostile to terrorist groups and fought their infiltration into the labor movement. Union officials suspected of terrorist links have been detained by the Government. The ILO's CFA continued to request a judicial inquiry into the deaths of teachers following their arrest by the army in 1991, but was satisfied that the terrorist perpetrators of the murder of labor confederation general secretary Pedro

Huilca had been convicted. The CFA noted that it lacked the means to second guess the Government's report that Juan Andahua Vergara, another union leader said to have been murdered in 1992, died of natural causes. There were no allegations of union leaders or members being killed by government forces in 1993 because of their union affiliation.

b. *The Right to Organize and Bargain Collectively.*—The 1993 Constitution recognizes the right of public and private workers to organize and bargain collectively. However, these rights must be exercised in harmony with broader social interests. Labor regulations promulgated prior to the ratification of the new Constitution provide that workers may form unions based upon profession, employment, industry, or geographic location. Probationary, apprentice, or management employees are excluded from union membership. A minimum of 20 members are required to form a union within a company and up to a minimum of 100 members is required for larger union groups. The amount of paid leave that union officials may devote to union business on company time is limited to 30 days per year.

The Government set up a system of conciliation and arbitration to resolve disputes in collective bargaining impasses. Union officials have complained that their proportionate share of the cost of arbitration exceeds their resources. Some union officials believe that increasing numbers of companies utilize a policy of hiring workers on temporary, personal services contracts to prevent union affiliation. However, employers deny the accusation of antiunion bias and assert that labor stability provisions of the law have made long-term commitments to workers too expensive.

Employees cannot legally be dismissed for union affiliation or union activities. Special regulations permitting greater flexibility in application of the Labor Code in export and duty free zones provide for use of temporary labor as needed, flexibility in labor contracts, and a wage system based upon supply and demand.

New collective agreements must remain in force at least one year but parties can agree to a longer period for all or a portion of that contract. Agreements automatically lapse upon expiry unless the parties expressly agree otherwise. The parties have the option to make any part or any clause of the agreement "permanent." If an agreement is permanent, renegotiation is not required. A prerequisite for the conclusion of a collective agreement at the industry or trade level is a majority in terms of both the numbers of workers and enterprises.

Companies may propose changes of work schedules, working conditions, and wages in collective bargaining agreements based on "extraordinary" circumstances (not statutorily defined but case law demonstrates that this is limited to economic circumstances in which the continuity of the company's activity is at grave risk). As part of the law, however, companies must follow certain procedures before making any such modifications. Prior to submitting a petition to the Ministry of Labor, an employer must first negotiate directly with the union and attempt to find alternative measures. The employer must set forth in writing the extraordinary circumstances, proposed modifications, and causes for justification. If these negotiations fail, the employer may request the Ministry to rule whether the cause of the proposed modification is extraordinary and present evidence to support the claim. Workers have the right to disagree with the employer's claims and present any evidence they wish.

Prior to accepting a petition the Ministry of Labor can refer the case to conciliation. Then the Ministry makes a determination on whether extraordinary circumstances exist; if this determination is negative, the parties are directed to continue negotiation. In the event of a positive decision, workers have the statutory right to appeal to the Ministry and, if necessary, the judiciary. The Government reports that since the implementing regulation was enacted in March, there were no modifications to collective agreements based on economic necessity.

In November the ILO's CFA stated that many provisions of the Fujimori administration's Decree Law No. 25593 dealing with labor were not in conformity with international norms on the right to organize and bargain collectively and recommended their modification. The ILO expressed concern about the Government's power to cancel union registration administratively, the 1-year minimum validity of labor agreements, the automatic lapsing (unless negotiated as permanent) of all prior negotiated salary and work rule provisions of collective agreements, the excessively broad definition of essential public services, permitting nonmembers to participate in union strike votes, and the Government's power to suspend strikes under certain circumstances.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited, as is imprisonment for debt. However, there were periodic reports of the practice of forced labor in remote mountainous Andean and Amazonian jungle regions of the country. In response to one complaint filed with the ILO, the Government acknowledged the existence of such practices but blamed them on a lack of

collaboration by local authorities and employers, and a shortage of resources to enforce existing regulations.

d. *Minimum Age for Employment of Children.*—Education through primary school is compulsory and free. Workers from 16 to 21 years of age are subject to special provisions in the labor law. Their apprenticeship cannot exceed 18 months; and they must be paid at least the minimum wage, should be accorded specialized training, and can comprise no more than 15 percent of a company's work force. Due to the country's economic conditions, an estimated 90 percent of school-age children work, most in the informal economy without government supervision of wages or conditions, in order to help support their families. There have been reports of children working in remote gold mining operations as well as in the informal segment of the textile industry, but little informationis available on the extent of these practices.

e. *Acceptable Conditions of Work.*—The 1993 Constitution provides that workers should receive a "just and sufficient" wage to be determined by the Government in consulation with labor and business representatives and "adequate protection against arbitrary dismissal." The Constitution also provides for a 48-hour workweek, a weekly day of rest, and yearly vacation. Discrimination in the workplace is prohibited. The minimum wage (applicable only in the formal sector of the economy) is fixed by the Government in consultation with labor and business representatives. The minimum wage, which has not been raised since February 1992, was $34 per month, which is generally considered grossly inadequate to support a worker and family.

While occupational health and safety standards exist, the Government lacks the resources to monitor compliance. With underemployment rates above 70 percent in the informal unorganized sectors of the economy, what one worker might consider a dangerous situation many others would willingly accept for sake of employment. Compensation for industrial accidents generally is worked out individually between the worker and owners. Reforms eliminating the need to prove culpability to obtain workman's compensation for injuries were too new for their effectiveness to be determined by year's end.

ST. KITTS AND NEVIS

St. Kitts and Nevis, a member of the Commonwealth of Nations, is a small two-island state with a democratic, parliamentary form of government. The Constitution provides the smaller island of Nevis considerable self-government, as well as the right to secede from the Federation if certain enumerated procedures are followed. The country is governed by a Prime Minister, a Cabinet, and a Legislative Assembly. General elections must be called at least every 5 years. The Governor General, with largely ceremonial duties, is the titular Head of State. In national elections held on November 29, Prime Minister Kennedy Simmonds and his People's Action Movement won four parliamentary seats. The St. Kitts Labor Party, led by Dr. Denzil Douglas, also won four seats and polled a majority of the popular votes. However, Prime Minister Simmonds formed a coalition with the Nevis Reformation Party to retain control of the Government.

Security forces consist of a small police force, which includes a 50-person Special Services Unit that receives some light infantry training, and a small coast guard. The police were unable to contain violence after the disputed elections, but members of the Regional Security System (RSS) from neighboring Eastern Caribbean islands restored order.

St. Kitts and Nevis has a mixed economy based on sugar cane, tourism, and light industry. Most commercial enterprises are privately owned, but the sugar industry (the country's largest economic enterprise) and 85 percent of all arable land are owned by a state corporation. Economic growth continued at about 6 percent, due partly to agricultural exports and to investor confidence in plans to develop further a deep water port facility and the southeastern peninsula of St. Kitts.

Human rights continued to be generally respected during 1993. However, the Governor General imposed a state of emergency following violent protest demonstrations over the appointment of the minority coalition Government. The 12-hour curfew also imposed was gradually lifted, and the state of emergency was withdrawn after 14 days. The Government continued to restrict access of the political opposition to government-controlled media.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Law enforcement authorities abide by the constitutional prohibitions against the use of torture or other forms of inhuman or degrading treatment or punishment. Family members, attorneys, and clergy are permitted to visit detainees regularly.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and this provision is respected in practice. The law requires that persons detained be brought before a court within 48 hours. Even under the special powers granted during the 14-day state of emergency, detainees were afforded their constitutional rights to a court appearance within 48 hours. Few curfew violators were detained and less that 10 people were arrested in connection with the demonstrations.

There were no reported cases of exile.

e. *Denial of Fair Public Trial.*—The Constitution provides that every person accused of a crime must receive a fair, speedy, and public trial, and these requirements are generally observed. The judiciary, a part of the Eastern Caribbean legal system, is highly regarded and independent. Final appeal may be made to the Privy Council in the United Kingdom. There are no military or political courts. Legal assistance is available for indigent defendants.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Neither the Government nor the police interfere arbitrarily in the private lives of individuals. Judicially issued warrants are required to search private homes.

Section 2. Respect For Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and the press, and these provisions are, for the most part, respected in practice. However, the Government owns the only radio and television station on St. Kitts, and these media generally did not publicize adequately rallies and conventions held by the opposition political party. There is a religious television station and a privately owned radio station on Nevis.

St. Kitts and Nevis does not have a daily newspaper; each of the major political parties publishes a weekly or biweekly newspaper. The papers are free to criticize the Government and do so regularly and vigorously. International news publications are readily available.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly. Organized demonstrations, rallies, and public meetings sponsored by political parties occur regularly, usually taking place without government interference. However, during 1993, opposition parties complained of government intimidation at political rallies in the form of excessive police presence or armed nonparty supporters. After a postelection demonstration turned violent, the Government imposed a state of emergency. The state of emergency, aimed at crowd control and violence avoidance, prohibited public gatherings of more than two people and all political rallies. The state of emergency successfully quelled the violence and was suspended after 14 days.

c. *Freedom of Religion.*—The Constitution provides for the free exercise of religion, and religious practices are not restricted. All groups are free to maintain links with coreligionists in other countries.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Travel inside and outside the country is unrestricted.

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

Citizens are able to change their government by peaceful means. A vigorous multiparty political system exists in which political parties are free to conduct their activities. Periodic elections are held in which all citizens 18 years of age and older may register and vote by secret ballot.

The Legislative Assembly has 11 elected seats; 8 for St. Kitts and 3 for Nevis. Before the November 29 elections, Prime Minister Kennedy Simmonds' People's Action Movement (PAM) held a majority of seats, but the dismissal of the Deputy Prime Minister following charges of corruption and growing support for the opposition St. Kitts Labour Party created a hotly contested race for political leadership. The PAM won only four of eight seats at stake in St. Kitts and came in second in the popular vote. The St. Kitts Labour Party, led by Dr. Denzil Douglas, won the

remaining four seats and also polled a majority of the popular votes. The Concerned Citizens' Movement (CCM) won two of the three Nevis seats; the Nevis Reformation Party won the remaining one. Prime Minister Simmonds formed a coalition with the Nevis Reformation Party to retain control of the Government. However, since that coalition represents less than half of the total seats in parliament, it is vulnerable to a vote of no confidence by the combined opposition parties.

The island of Nevis has considerable self-government and its own legislature. In 1992 Vance Amory and the CCM won control of the Nevis Assembly by defeating the Nevis Reformation Party, which was closely allied with the PAM. The two national parliament seats won by the CCM in the November 29 election gave Amory the options of forming a government with either St. Kitts party or joining the Labour Party to support a successful no-confidence vote.

Although there are no de facto or de jure impediments to the participation of women in leadership roles in government or political parties, St. Kitts and Nevis has only one female member of parliament. Women also hold such high government offices as permanent secretary and are active within the political parties.

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

While there are no governmental restrictions, no local human rights groups have been formed. There were no requests for investigations or visits by international human rights groups in 1993.

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

Women.—The role of women in society is not restricted by law but is circumscribed by culture and tradition. The Government created the Ministry of Women's Affairs to help redefine the role of women in society, to ensure that women's rights are promoted, and to provide counseling for abused women. According to a Ministry official, violence against women is a problem, but many women are reluctant to file complaints or pursue them in the courts. Despite this reluctance, there were publicly reported cases of both domestic violence and rape in 1993 and a few convictions. A special police unit works closely with the Ministry of Women's Affairs to investigate domestic violence and rape cases. The Government does not condone abuse of women and it is not a common practice.

Children.—The Government has adopted through legislation most of the provisions of the U.N. Convention on the Rights of the Child. An estimated 20 percent of national revenue is allocated to child development issues.

People with Disabilities.—Although there is no legislation to protect the disabled or to mandate accessibility for them, the Government and the Constitution prohibit discrimination in employment, education, and other state services.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for the right of all workers to form and belong to trade unions. The police, civil service, and other organizations are permitted to have associations which serve as unions. The major labor union, the St. Kitts Trades and Labour Union, is affiliated with the opposition St. Kitts Labour Party and is active in all sectors of the economy. There is also an independent teachers' union, a union representing dockworkers in the capital city, and a taxi-drivers' association.

The right to strike, while not specified by law, is well established and respected in practice. There were no major strikes in 1993. Unions are free to form federations or confederations and to affiliate with international organizations. The islands' unions maintain a variety of international ties.

b. *The Right to Organize and Bargain Collectively.*—Labor unions are free to organize and to negotiate for better wages and benefits for union members. Antiunion discrimination is prohibited, but employers found guilty are not required to rehire employees fired due to antiunion discrimination. However, the employer must pay lost wages and severance pay. There is no legislation governing the organization and representation of workers, and employers are not legally bound to recognize a union, but in practice employers do so if a majority of workers polled wish to organize. Collective bargaining takes place on a workplace-by-workplace basis, not industry wide. The Labour Commission is prepared to mediate all types of disputes, including over wages, rights, or interests, between labor and management on an ad hoc basis. In practice, however, few disputes actually go to the Commission for resolution. If neither the Commission nor the Minister of Labour can resolve the dispute, legislation allows for a case to be brought before a civil court.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution forbids slavery and forced labor, and they do not exist in practice.

d. *Minimum Age for Employment of Children.*—The minimum legal working age is 14. The Labour Ministry relies heavily on school truant officers and the Community Affairs Division to monitor compliance, which they do effectively. Local law mandates compulsory education up to the age of 16.

e. *Acceptable Conditions of Work.*—Minimum wage rates for domestic servants and retail store employees were established by law in 1984 and updated in 1989. The minimum wage is $37.04 per week for domestic workers and $33.33 per day for skilled workers. These provide an adequate, though Spartan, living for a wage earner and family; many workers supplement wages by keeping small animals such as goats and chickens. Most people live in extended families where there may be more than one wage earner. The Labour Commission underta' es regular wage inspections and special investigations when complaints are received; employers found in violation are required to pay back wages.

The law provides for a 42- to 44-hour workweek, but the common practice is 40 hours in 5 days. Although not required by law, workers receive at least one 24-hour rest period per week. Workers are guaranteed a minimum annual vacation of 2 weeks. While there are no specific health and safety regulations, the Factories Law provides general health and safety guidance to Labour Ministry inspectors. Disputes over safety conditions are settled by the Labour Commissioner.

ST. LUCIA

St. Lucia is a multiparty, parliamentary democracy and a member of the Commonwealth of Nations. For almost three decades (except for a hiatus between 1979–82), the Government has been led by Prime Minister John Compton, whose United Workers Party (UWP) first came to power in 1964. His party defeated the main opposition St. Lucia Labour Party in 1987 and again in April 1992. The UWP currently holds 11 seats in the 17-member House of Assembly.

The Royal St. Lucia Police, which is the only security force in the country, includes a small Special Services Unit with some paramilitary training and a coast guard unit. The police are controlled by and responsive to elected government officials. Although the police have traditionally demonstrated a high degree of respect for human rights, in 1993 there were a few instances of alleged physical abuse by police and prison officials.

The economy is largely based on the export of bananas, which also represent the principal source of foreign exchange earnings. To offset overdependence on this source, St. Lucia diversified into other types of agriculture, tourism, and, more recently, into light manufacturing and construction. Economic performance in all sectors was relatively strong during 1993. Unemployment, unofficially estimated as high as 20 percent, remains a source of potential instability.

Most human rights were respected during 1993, but there continued to be some reports of police abuse of prisoners and detainees. Violence against women remained a problem.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no confirmed reports of political or other extrajudicial killings in 1993.

In August 1992, a Dominica-born prison officer in the capital city of Castries shot dead an inmate serving a 20-year jail term for rape, then was himself found dead in an apparent suicide. The prison officer had intervened in an altercation between two inmates and was attacked by one of the prisoners. The officer left the prison, returned with his personal firearm, and shot the prisoner who assaulted him. The matter was to be considered by an official commission of inquest in late 1993 or early 1994.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution specifically prohibits torture, and no such incidents were reported. However, there has been an increase in the number of convictions based on confessions in St. Lucia in recent years, which may reflect an effort to force confessions in lieu of other investigative approaches. There were occasional credible allegations of physical abuse of prisoners by law enforcement officials prior to and during incarceration. In one incident, a former St. Lucian government minister accused police

of beating his two sons at a public event in September 1992 and filed a civil suit against the officer allegedly involved. At year's end, this matter was before the court.

In July police investigated allegations by a 14-year-old girl that she was raped by policemen in a police station in the northern part of the island. The girl had been picked up twice before for loitering but was not being detained on charges at the time of the incident. On October 7, paramilitary policemen (Special Services Unit) shot dead two farmers during a scuffle to clear a blockade farmers had erected on the road to protest low banana prices. Responsibility for this incident was still being investigated as of year's end.

d. *Arbitrary Arrest, Detention, or Exile.*—The Government adheres to the constitutional provisions prohibiting arbitrary arrest or imprisonment and requiring a court hearing within 72 hours after detention. There were no reports of arbitrary arrest or other forms of extralegal detention, or of forced exile in 1993.

e. *Denial of Fair Public Trial.*—The Constitution requires public trials before an independent and impartial court and, in cases involving capital punishment, the provision of legal counsel for those who cannot afford a defense attorney. Criminal defendants are entitled to select their own legal counsel, are presumed innocent until proven guilty, and have the right of appeal. Both constitutional and statutory requirements for fair public trials are followed. The regional West Indies Court of Appeal, a circuit court long noted for its impartiality, serves as St. Lucia's Appeals Court. The Privy Council in the United Kingdom serves as the ultimate court of appeal.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—There were no reports of arbitrary intrusion by the State into the private lives of individual citizens. Authorities consistently observed constitutional prohibitions against arbitrary search, seizure, and entry.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Constitutional provisions for free speech and press are respected in practice. The Government neither interferes with the operations of the press nor censors the content of the three privately owned major newspapers, which cover the spectrum of political opinion and are often highly critical of the Government. The one local television station is also privately owned and covers a wide range of views. In addition, viewers may receive cable television service which provides broadcasting from a variety of sources. Radio St. Lucia is government owned and operated, but the programming staff has been allowed a large measure of autonomy.

b. *Freedom of Peaceful Assembly and Association.*—Freedom of association and of assembly are provided for by the Constitution. Permits for public meetings and demonstrations are necessary if meetings are to be held in public places such as streets, sidewalks, or parks. Permits are routinely granted. When permits are denied, it is normally because the police are concerned with the number and location of demonstrators and the number of police available who are trained in crowd control. Refusal to issue a permit is rare and generally stems from the failure of the organizers to request a permit in a timely manner, normally defined as a 48-hour notice.

In 1991 and 1992, the opposition St. Lucia Labour Party objected strongly to denial of marching permits on a few occasions by the Police Commissioner. The party occasionally disregarded the decision and held its demonstration anyway. There was a similar incident in November when the opposition party planned a march in support of protesting banana farmers but was denied a permit by the Police Commissioner.

c. *Freedom of Religion.*—The majority of the population is Roman Catholic. Other denominations are free to maintain places of worship, train clergy, establish religious schools, and engage in the full range of activities normally associated with religious organizations.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—These rights are provided for in the Constitution and honored in practice.

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

St. Lucia's parliamentary system provides for genuine choices among parties, policies, and officials. Although there are two main parties, several other political organizations also participate in free elections, which are held at least every 5 years by secret ballot. The opposition St. Lucia Labour Party plays a significant role in the country's political life and holds 6 out of the 17 seats in the House of Assembly.

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

While there are no local human rights groups in St. Lucia, there are no government restrictions which would impede their establishment. International human rights organizations filed no reports or requests for investigations in 1993.

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

Government policy is basically nondiscriminatory in the areas of housing, jobs, education, and advancement opportunities. There are no legal restrictions on the role of women or minorities.

Women.—General awareness of the problem of violence against women has increased. Sexual harassment and battering are included as curriculum topics in some secondary schools. The police force asked for help in conducting a workshop for officers responsible for investigating rape and other crimes against women. Police and courts enforce laws to protect women against abuse, although police generally tend to be reluctant to intervene in domestic disputes. Lack of statistical data and possible reluctance on the part of some victims to report cases of domestic violence or to press charges make it difficult to gauge its true extent.

The St. Lucia Crisis Center monitors abuses (physical, mental, and emotional), and deals with such issues as incest, nonpaymentof child support, alcohol and drug abuse, homelessness, custody,and visitation rights. The group publicized the plight of battered women and has protested the deaths of women who were victims of domestic violence. Extreme cases of this sort are not common. The Crisis Center is also working to establish a shelter for battered women and homeless girls.

The Women's Affairs Division of the Ministry of Community Development and Social Affairs has responsibility for governmentpolicy in this area. Its objectives include protecting rights of women in domestic violence cases, ensuring—in compliance with U.N. conventions—that no discrimination takes place against women, and guaranteeing equal treatment in employment and overall equal status with men. The Division is also pursuing implementation of the National Policy Statement on Women adopted by Parliament in March 1991. In 1993 other activities included the establishment of an income-generating project for unemployed women and an AIDS training workshop.

Children.—A Children's Rights Act was passed in 1992 which details the Government's generally strong commitment to children's rights and welfare. However, the Government lacks the resources, organization, and skills needed to effect much positive change in this area. The problems most affecting the welfare of children in St. Lucia are domestic violence and incest.

People with Disabilities.—Awareness of the rights of the disabled has risen in recent years, but representatives of the National Council for the Disabled say that public education should be increased. There is no specific legislation protecting the rights of disabled, but the Council is pressing for development of a bill that would increase educational opportunities and guarantee access to public facilities for disabled people. There is no rehabilitation facility in St. Lucia, although the Ministry of Health operates a community-based rehabilitation program in people's homes.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution specifies the right of workers to form or belong to trade unions under the broader rubric of the right of association. Unions are independent of the Government and are free to choose their own representatives. Union elections are often vigorously contested. All unions are free to publicize their views and choose policies to advance their members' interests. There is no restriction on forming a national labor federation, and several of the major unions in St. Lucia have joined together to form an umbrella grouping called the "Industrial Solidarity Pact." Unions are free to affiliate with international organizations, and some have done so.

Strikes in both public and private sectors are legal if efforts by the Government to resolve disputes fail. Strikes, as well as slowdowns and total work stoppages, do occur from time to time. In 1992, there were disputes between two unions over representation in the electricity company, Lucelec, and in some hotels. The industrial disputes were resolved after the Labour Ministry conducted polls of employees to determine which union had collective bargaining rights. Because St. Lucia does not have trade union recognition legislation, the polls were done based on past practice rather than on local labor law.

Banana farmers staged a violent protest strike in October over what they considered to be inadequate prices. Their dispute was with the St. Lucia Banana Growers' Association and the St. Lucia Government, however, and was not over labor issues.

In November employees at St. Lucia's state owned radio station went on strike following the firing of general manager Alva Clarke. Clarke was fired following the station's airing of a controversial radio call-in show during the banana strike that contained violently antigovernment comments—one caller advocated killing the Prime Minister—that were seen as a breach of acceptable norms of free speech, even in a live on-the-air program. However, striking employees were unhappy not so much with Clarke's firing as with general working conditions and what they considered outdated promotion and personnel management procedures. After 1 week, the station went back on the air after Prime Minister Compton intervened in his position as Minister of Information and promised that worker demands would be addressed.

A second strike was staged in November by employees of the public water and sewage authority. Employees were protesting inadequate severance pay and retirement benefits. Again, the Prime Minister intervened, promising that the employees' concerns would be addressed, and work resumed after 4 days.

b. *The Right to Organize and Bargain Collectively.*—Unions have the legal right to engage in collective bargaining and fully exercise that right. The majority of wage and salary earners belong to unions. During 1989 the Government negotiateda 6-year wage agreement with six unions representing public servants, resulting in unusually harmonious government-labor relations. In the private sector, some companies offer packages of benefits with terms of employment better than, or comparable to, what a union can obtain through negotiation. This is especially true in export processing or industrial free zones (EPZ's). Antiunion discrimination by employers is prohibited by law, and there are effective mechanisms for resolving complaints. Workers fired for union activities must be reinstated. Union organizing and collective bargaining are neither legally nor administratively discouraged in the EPZ's.

Although labor law is applicable in the EPZ's, in practice many firms do not welcome union efforts to organize in the EPZ's. Some of these firms are under foreign management and employ a young, female labor force at relatively low wages. Occasionallya persistent union is successful in winning a poll in an EPZ, in which case labor law applies to collective bargaining agreements in that company.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is illegal and does not exist.

d. *Minimum Age for Employment of Children.*—The minimum legal working age is 14 years, as stipulated by the Women and Young Persons Act. The law is enforced effectively by Labour Ministry officials.

e. *Acceptable Conditions of Work.*—St. Lucia has legislated minimum wage rates for certain occupations only, set by the Wages Regulations (Clerks) Orders, effective since February 1985. Basic office workers receive a legislated minimum wage rate of about $300 (EC$800) per month. The minimum wage is not sufficient to provide a decent standard of living for a worker and family, but almost all categories of workers are paid much more than the legislative minimum for clerks, which is used only as a guide for other professions.

There is no legislated maximum workweek, although common practice is 40 hours in 5 days. Shop assistants, agricultural laborers, domestics, and young persons in industrial establishments have special legislation for hours.

Occupational health and safety regulations are relatively well developed. The Labor Ministry periodically inspects health and safety conditions at places of employment under the Employees Occupational Safety and Health Act of 1985. The Act is enforced through threat of closure of business if violations are discovered and not corrected.

ST. VINCENT AND THE GRENADINES

A member of the Commonwealth of Nations, St. Vincent and the Grenadines is a parliamentary democracy. After defeating the incumbent St. Vincent Labour Party in 1984 elections, Prime Minister James F. Mitchell and his New Democratic Party won all 15 parliamentary seats in general elections held in May 1989. Although some concern was voiced about the resulting absence of any parliamentary opposition, the elections were judged to be free and fair. New elections are to be held by August 1994.

The Royal St. Vincent Police, the only security force in the country, includes a coast guard and a small Special Services Unit with some paramilitary training. The force is controlled by and responsive to the civilian government and generally maintains standards of professionalism that place a high value on respect for human rights.

St. Vincent has a young population, a high rate of illiteracy, and serious unemployment, possibly as high as 40 percent. The major export product is bananas, which also represents the major source of foreign exchange earnings. St. Vincent's efforts toward nontraditional economic diversification have met with some success in new agricultural products, tourism expansion, and in industrial sectors.

The country's human rights problems continued to include police use of physical abuse to extract confessions and a backlog of cases in the overburdened court system.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no political killings and no reports of fatal shootings by the police in 1993.

b. *Disappearance.*—There were no reports of disappearance.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture and other forms of cruel, inhuman, or degrading treatment or punishment, and there were no reports of such practices in 1993. However, a very high percentage of convictions (estimated at 95 percent by the regional human rights group, Caribbean Rights) is based on confessions. This has led to credible charges that physical abuse by law enforcement officials during incarceration is sometimes used to extract confessions.

One case of police misconduct occurred in August 1992 when a female police constable was found guilty of assaulting four ward assistants in a hospital in Kingstown. The women were subjected to vaginal searches in response to a report of missing money by another hospital employee, then taken to a police station but never arrested or charged. This incident sparked a public outrage, and the constable was ordered to pay the complainants, which she did.

Prison facilities are inadequate. Overcrowding and unsanitary conditions remain serious problems.

d. *Arbitrary Arrest, Detention, or Exile.*—According to the Constitution, persons detained for criminal offenses are entitled to a fair hearing within a reasonable time by an impartial court. The Government has made progress in addressing the problem of slow administration of justice resulting from a backlog of cases. In 1993 the Government increased from two to four the number of magistrates in an attempt to reduce the backlog. The backlog at year's end was 21 cases; of over 300 people in jail, fewer than 20 were awaiting trial.

Instances of arbitrary arrest, detention, or exile were not reported.

e. *Denial of Fair Public Trial.*—The Constitution provides for public trials before an independent and impartial court. Criminal defendants are entitled to select their own legal counsel. Indigent defendantsare provided with court-appointed attorneys only when the defendant is charged with a capital offense. Defendants are presumed innocent until proven guilty and may appeal cases to a regional high court system and ultimately to the Privy Council in the United Kingdom. There are no separate security or military court systems. There are no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits arbitrary search and seizure or other government intrusions into the private life of individual citizens. In 1993 there were no reports of such abuses.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and the press. There are two major newspapers and numerous smaller, partisan publications; all are privately owned, and most are openly critical of the Government's policies. In general, the Government does not censor or otherwise interfere with the operation of the press. In 1990, however, the Government withdrew its own advertisements and official notices from the country's leading newspaper to protest the paper's critical treatment of government officials. In 1988 the government-owned radio station canceled a program that the Government considered provocative; the station, with the Government's approval, agreed late in 1989 to reinstate the program, but this has not been done to date. The Government supervises the content of the station's programming, a fact that is often noted by opposition political parties. While the opposition and human rights monitors also complain that they are denied equal access to radio airtime, St. Vincent's television station is privately owned, and its policies regarding coverage of opposition views and political matters in general are considered to be even-handed.

b. *Freedom of Peaceful Assembly and Association.*—These freedoms are provided for in the Constitution and respected in practice.

c. *Freedom of Religion.*—All religions are free to practice and proselytize.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—These rights are provided for by law and honored in practice.

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

Notwithstanding the New Democratic Party's clean sweep of all 15 parliamentary seats in the May 1989 elections, St. Vincent has a genuine multiparty political system, with three major parties. St. Vincent's parliamentary system is based on the Westminister model. However, the incumbent Governor General, supported by the Government, refused to appoint the two opposition members to the Senate as called for by the Constitution. He contended that because there is currently no parliamentary opposition and therefore no leader of the opposition, consultations concerning these appointments could not take place. Elections must be held at least every 5 years, by secret ballot, with universal suffrage. Opposition allegations of irregularities in some recent elections have not been substantiated.

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

Opposition political groups and the Vincentian press often comment on human rights matters of local concern. The St. Vincent Human Rights Association, affiliated with the regional body Caribbean Rights, closely monitors government and police activities, especially with respect to treatment of prisoners, publicizing any cases of abuse. In 1990 it published a booklet on the administration of justice which focused on the delays in the court system and offered a number of recommendations. The Government's response was to appoint an additional (part-time) judge.

The Government is generally responsive to public and private inquiries about its human rights practices.

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

The Constitution provides for equal treatment under the law regardless of race, sex, or religion, and the Government adheres to this provision.

Women.—In 1989 the Government took a significant step forward in terms of wage scales for women by adopting a new minimum wage law calling for equal pay for equal work. The law went into effect during 1990. Violence against women occurs in St. Vincent, but the Government has failed to take steps to determine the seriousness of the problem. Penalties for violent crimes against women are identical to those involving acts of assault perpetrated against men. Depending on the magnitude of the offense and the age of the victim, the penalty for rape is generally 10 or more years in prison. Although some victims of domestic violence such as wife beating are reluctant to press charges, women are increasingly willing to report such incidents to the police and the National Council of Women. The Ministry of Education, Youth, and Women's Affairs has a women's desk which assists the National Council of Women with seminars, training programs, and public relations.

Children.—During 1993 the Government ratified the U.N. Convention on the Rights of the Child. However, the Parliament has not yet passed laws to bring local statutes into compliance with the Convention. The Social Welfare Office is the government agency responsible for monitoring and protecting the welfare of children. The police are the enforcement arm—all reports of child abuse made to the Social Welfare Office are referred to the police for action. Marion House, a social services agency established by the Catholic Church in 1989, provides counseling and therapy services. Its director says that, while the reported level of cases has increased, it is difficult to determine whether this reflects more incidents or increased awareness leading to more reporting. She contends that the problem of child abuse is still underreported. The legal age of consent in St. Vincent is 15.

People with Disabilities.—Fiscal considerations limit support for persons with disabilities. There is no specific legislation covering those with disabilities. Most severely handicapped people rarely leave their house because of the poor road system and lack of affordable wheelchairs. The Government partially supports a school for the disabled which has two branches. A separate, small rehabilitation center treats about five persons daily.

Section 6. Worker Rights

a. *The Right of Association.*—By law, Vincentians have the right to form unions, organize employees, and strike; these rights are generally respected in practice. However, there is no legislation for compulsory recognition of trade unions. Unions are independent of the Government and of political parties. Somewhat more than 10 percent of the labor force is unionized, and no new unions were formed in 1993.

There were no major strikes in 1993. Unions are free to form federations and to affiliate with international labor bodies, and they do so.

b. *The Right to Organize and Bargain Collectively.*—There are no legal obstacles to organizing unions; however, employers are not legally bound to recognize a particular union as an exclusive bargaining agent. Some companies offer packages of benefits with terms of employment better than, or comparable to, what a union can normally obtain through negotiations. The law prohibits antiunion discrimination by employers against union members and organizers. Generally effective mechanisms exist for resolving complaints. Employers found guilty of antiunion discrimination can be prosecuted for firing workers without cause (including for participation in union activities), and workers must be reinstated.

There are no export processing zones in St. Vincent.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is illegal and does not exist.

d. *Minimum Age for Employment of Children.*—The law sets the minimum working age at 16, although a worker must be 18 to receive a national insurance card. This provision, monitored and enforced by the labor inspection office of the Ministry of Labour, is generally respected in practice. There is no known child labor except for children working on family-owned banana plantations, particularly during harvest time.

e. *Acceptable Conditions of Work.*—Minimum wages are set by law and were last promulgated in 1989. They vary by sector and type of work and are specified for several skilled categories, including attendants, packers, cleaners, porters, watchmen, clerks, etc. In agriculture the wage for workers provided shelter is $0.82 (EC$2.25) per hour; skilled industrial workers earn $7.36 (EC$20) per day, and unskilled workers earn $3.68 (EC$10) per day. In many sectors the minimum wage is not sufficient to provide a decent standard of living for workers and their families, but most workers earn more than the minimum. There is no legislation concerning the length of the workweek; however, the general practice is to work 40 hours in 5 days. Workers are guaranteed a minimum annual vacation of 2 weeks.

According to the Ministry of Labour, legislation concerning occupational safety and health is outdated. The most recent legislation, the Factories Act of 1955, has some regulations concerning only factories, but enforcement of these regulations is ineffective due to a lack of inspectors.

SURINAME

Consolidation of democratic constitutional government continued slowly and fitfully following installation of a freely elected Parliament and the inauguration of a democratically elected President in 1991. The Government of President Ronald Venetiaan is composed of ministers drawn from a four-party coalition which holds the majority of seats in the multiparty National Assembly. In May the Government successfully installed a military commander of its own choosing to replace military strongman Desi Bouterse, who resigned as military commander in late 1992, and named its own choices as subordinate commanders.

The Government thus made a significant advance in exercising control over the country's military establishment, which, under Bouterse's leadership, had overthrown civilian governments twice in 10 years (most recently in December 1990). Cooperationbetween the military police and the civilian police improved after the installation of the new military commanders. The military police continued to perform the immigration function at the country's points of entry.

Suriname's economy is largely agricultural but also depends heavily upon export revenues from the key bauxite sector. Real gross domestic product contracted as the economy suffered from rapid inflation, foreign exchange shortages, and a flourishing black market. The Netherlands limited its aid flows because the Government made little progress in implementing the economic structural adjustment program adopted in late 1992.

The number of new allegations of human rights abuses remained low. The principal problems included police mistreatment of detainees, abuse of prisoners, overcrowding of prisons and jails, intimidation of the press, violence against women, and marginalization of indigenous people. The Government failed to call to account human rights abusers from previous regimes.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of political killings in 1993. There were allegations, however, that prison guards beat an escaped prisoner to death after he was recaptured. The nongovernmental human rights group Moiwana '86 took up this case, and the Government investigated possible misconduct on the part of the prison guards or police. The Government had not announced any results of the inquiry by year's end.

The Government reluctantly investigated reports of the finding of the remains of several people killed during the 1986–91 insurgencies in the interior. No results of the investigation were released, and the Government intimated that the claim was part of an effort by a former insurgent group to stir up trouble. Moiwana '86 continued to pursue the court case it instituted in 1992, challenging the validity of the law that conferred amnesty on members of the military and the insurgents for crimes (except crimes against humanity) committed since 1985, but no final judgment was rendered.

The Government took no action to investigate past human rights violations, such as the 1982 killing by the military regime of 15 civic leaders or the 1986 massacre of civilians at the village of Moiwana. On September 10, the Inter-American Court of Human Rights rendered a judgment concerning compensation to be paid to the survivors of seven Maroons (descendants of escaped slaves who fled into the interior to avoid recapture) killed near the village of Pokigron in 1987, for which the Government had admitted responsibility in 1991. The trustees appointed by the Court to oversee payment of compensation plan to begin working out details of implementation with the Government in early 1994. The Court did not render a decision in a second case arising from the killing several years ago of a Surinamese citizen who had recently returned from the Netherlands.

b. *Disappearance.*—During 1993, there were no new allegations of the disappearance of Surinamese citizens, but the Government took no action to investigate earlier allegations of disappearances occurring under previous regimes. Three Colombian nationals believed to be involved in narcotics trafficking disappeared in 1993. The police are still investigating the incident. However, the authorities secured convictions of two soldiers involved in a case thought to be related to the disappearances.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits inhuman treatment or punishment, but human rights monitors continued to express concern about official mistreatment of prisoners. In addition to the death described above, it was also alleged that five other recaptured prisoners were beaten, with varying degrees of severity, by prison guards. One knowledgeable observer stated that prison guards beat inmates with some frequency. No results of the Government's inquiry into charges that guards beat several recaptured convicts had been released by year's end.

Severe jail overcrowding continued to be a serious problem. At police stations where suspects are held pending trial, cells contained as many as four times the number of detainees they were designed for and were very unsanitary. Female prisoners are in the charge of male police officers, and a knowledgeable observer said instances of sexual harrassment are not uncommon.

d. *Arbitrary Arrest, Detention, or Exile.*—According to Surinamese law, a person suspected of committing a crime for which the sentence is longer than 4 years may be detained by the police for investigation for up to 14 days. Within the 14-day period, the accused must be brought before a prosecutor to be formally charged. If additional time is needed for investigating the charge, a prosecutor may authorize the police to detain the suspect for 30 days more. Upon the expiration of the initial 44 days, a "Judge of Instruction" may authorize the police to hold the suspect for up to 120 additional days, in 30-day increments (for a total of 164 days), before the case is tried. The Judge of Instruction has the power to authorize release on bail, but that power is rarely, if ever, used. There were no reports of detentions in contravention of these standards in 1993.

Pretrial detainees constituted 38.5 percent of the total prison and jail population of 1,007. Of those held in police custody, 18.2 percent had already been convicted. Requiring the police to maintain custody of convicted prisoners increases the overcrowding in their facilities.

The military police observed the requirement to hand over to the civil police civilians arrested for committing a crime in their presence. The military police continued to perform the immigration function at the country's borders and airports but no longer investigated civilian crimes.

The convictions of four soldiers for setting fire to a television station and the conviction of a consular officer who claimed links to the former military leadership demonstrated progress in the civilian Government's efforts to consolidate its control of the military and to hold all citizens responsiblefor criminal conduct regardless of their position. The Government's success on January 3, 1994, in arresting a former military police commander wanted on drug charges continued the trend.

Exile is not used as a means of political control.

e. *Denial of Fair Public Trial.*—Although the Constitution provides for an independent judiciary and the right to a fair public trial in which defendants have the right to counsel, the effectiveness of the civilian and military courts is limited. The court system follows the Dutch model. Lawyers in private practice are assigned to defend prisoners and paid from public funds. An accused may be held for up to 164 days before trial, but periodic reviews of the case are required at progressively higher levels of authority. A detainee who is not tried within the 164-day period must be freed. Trials are before a single judge, with right of appeal. There were difficulties within the public prosecutor's office, with two experienced prosecutors departing as the result of disputes with the office's chief. There is little firm evidence of the extent to which corruption has affected the court system, but the entire criminal justice system was subjected to severe strain when the military was ascendant and prominent members were involved in or afforded protection to drug traffickers.

Military personnel are generally not subject to civilian criminal law. A soldier who commits a crime immediately comes under military jurisdiction. Military prosecutions are directed by an officer on the public prosecutor's staff who is assigned that function. Military trials take place in separate courts before a judge and two military personnel. The military courts follow the same rules of procedure as the civil courts. There is no appeal from the military to the civil system. The military police are responsible for all investigations involving military personnel.

Since the change of military command in May, coordination between the military police and the civil police improved, and there were no further instances of military interference in civilian police investigations. The pervasive climate of fear and intimidation that previously prevented cases involving military personnel or drug traffickers from being tried began to dissipate, and prospects for the impartial administration of justice began to improve.

There were no known political prisoners held during the year.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the right to privacy. Warrants, issued not by judges but by quasi-judicial officers who supervise criminal investigations, are required for searches and are obtained in the great majority of investigations. As the new military commander consolidated his control of the armed forces, he curbed invasions of privacy by the military such as illegal monitoring of telephone calls, monitoring of the movements of human rights activists, and threatening government officials, policemen, politicians, human rights workers, and journalists. Although some of the individuals involved in these activities attempted to continue them on occasion, they apparently were not acting with military authority.

In October there was a series of grenade attacks on homes and businesses of several persons prominently associated with the Hindustani political party which belongs to the ruling coalition. Although it was possible the attacks were the result of intraparty quarrels or part of a criminal extortion attempt, they were most likely the work of forces associated with the former military leadership. The police investigation of the incidents, however, was not successful in identifying the principal perpetrators.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and expression of opinion through the printed press or other media. The parliamentary and extraparliamentary opposition criticizes the Government freely.

Suriname's two daily newspapers and most of its radio stations are privately owned. Its two television stations and one of the country's radio stations are publicly owned. After the change of military command, journalists felt that, although government officials might criticize them for their reporting, the Government would not use force against them. However, many members of the media continued to believe that elements associated with the former military leadership would use force against them and therefore avoided filing reports they thought the former military leaders would find objectionable. The leading human rights organization charged in November that the Government prevented the broadcast of two radio programs during the year. One of the journalists involved said the Government warned him about broadcasting erroneous information but later withdrew the accusation.

In May a television station which strongly supported the Government in a confrontation with the military leadership over the naming of the new military commander was attacked and burned in an apparent attempt to intimidate the media. The Government and citizenry quickly came to the support of the station, which was able to resume its broadcasts. Four current or former members of the military, at least one of whom was a bodyguard of former military strongman Desi Bouterse, were convicted and sentenced to prison for the attack.

The Government did not attempt to interfere with publications nor academic freedom. The Guyanese author of a work seized in 1992 by Surinamese authorities on the grounds that it blasphemed the Hindu religion continued to seek compensation in the Surinamese courts. In April a judge declined to issue a summary judgment in his favor. No final judgment had been issued by year's end.

b. *Freedom of Peaceful Assembly and Association.*—The right to assemble peacefully and to form associations for nonviolent purposes is protected constitutionally, and these rights are respected in practice. Official registration of associations is required in many instances and is generally granted. Political and other meetings take place unhindered. Most large public meetings require permits, which are routinely issued.

c. *Freedom of Religion.*—Freedom of religion is provided for by the Constitution and is respected in practice. There is no state religion. Foreign clergy are allowed to minister to both local and expatriate congregations, and missionaries enter the country freely to proselytize. Religious groups maintain international contacts, freely organize trips abroad, and publish periodicals. Adherence to a particular faith is neither a bar to, nor a requirement for, entry into political, economic, or social fields.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Surinamers may change their residences and workplaces freely and travel abroad as they wish. Political dissidents who emigrated to the Netherlands and elsewhere during the years of military rule are welcome to return. Some, but not many, of them have chosen to do so. Citizenship is not revoked for political reasons.

The large majority of refugees who fled into French Guiana during the insurgency in the interior have now returned to Suriname, and the U.N. High Commissioner for Refugees closed its office in Paramaribo. Suriname continued to provide refuge to a small number of Haitian migrants.

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

The Constitution provides for this right, but in the past the military prevented its effective exercise. The Constitution stipulates that power and authority rest with the people and provides for the right to change the government peacefully through the direct election by secret ballot of a National Assembly of 51 members every 5 years. The National Assembly then elects a President by a two-thirds vote. If the legislature is unable to do so, as was the case after the last election in 1991, the Constitution provides that a National People's Assembly comprising members of Parliament and regional and local officials shall elect the President. Although the Surinamese military has twice handed over power to elected civilian governments following coups, one elected government has not yet succeeded another in accordance with constitutional provisions.

The Constitution provides for the existence of political parties, and eight parties or political coalitions are represented in the National Assembly. Although the Constitution proscribes discrimination on the grounds of birth, sex, race, language, or religious origin, there are several factors that limit the participation of Maroons and Amerindians in the political process. Most of the country's political activity takes place in the capital and a narrow belt running east and west of it along the coast. The Maroons and Amerindians are concentrated in remote areas and therefore have limited influence in the political process. Most Surinamese political parties are ethnically based. There is a small Maroon political party which holds three seats in the National Assembly and belongs to an opposition coalition. There are no Amerindian political parties. There are four Maroons, one Amerindian, and three women in the National Assembly. There are no Maroons, Amerindians, or women in the Cabinet.

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

Nongovernmental human rights organizations operated freely in Suriname. After the change of military command, the Government and the military participated in the dedication of a memorial to victims of human rights abuses since the first mili-

tary coup in 1980. Several private participants called for full investigation of the abuses. Nethertheless, the Government initiated no investigations of possible human rights abuses during earlier regimes other than its inquiry into the reported finding of a mass grave near the village of Moiwana, noted above. On occasion the Government reacted with disfavor to calls for investigations into past possible human rights violations.

The National Institute of Human Rights, funded by the Government but authorized to act independently, is widely regarded as inactive and ineffective. Nonetheless, its chairman stated that Cabinet members often implement its recommendations. When the Institute's five members' terms expired, the Government extended their tenure indefinitely and failed to appoint new members.

The Government failed to implement several recommendations by the Inter-American Commission on Human Rights that it investigate killings during the tenure of the military regime. The Government welcomes visits from foreign and international human rights groups. It has not had to deal with any outside requests for human rights investigations or charges that it has violated human rights.

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

The Constitution and laws do not differentiate among citizens on the basis of their ethnic origins, religious affiliations, or other cultural differences. In practice, however, several groups within Surinamese society suffer some form of discrimination.

Women.—Women have a legal right to equal access to education, employment, and property. Nevertheless, social pressures and customs inhibit the full exercise of these rights, particularly in the areas of marriage and inheritance. Surinamese law does not differentiate between domestic violence and other forms of assault, and the Government has not specifically addressed the problem of violence against women. However, violence against women is a problem throughout society. The private foundation "Home for Women in Crisis Situations" has been consistently oversubscribed by women from all the country's ethnic groups and their children. It expanded its capacity from 7 to 15 rooms with international and private assistance but was not successful in securing government support.

Children.—An estimated 50 percent of the population is under the age of 18, but government efforts to attend to the human rights and welfare of children are not highly developed. About 18 percent of the Government's expenditures were for activities that would promote the welfare of children. In the capital, where most of the country's population is concentrated, there are some orphanages, and a privately funded shelter for sexually-abused children was opened in 1993. Elsewhere, distressed children must usually rely on the resources of their extended families.

Indigenous People.—Amerindians and Maroons are formally able to participate in Suriname's political process and society on an equal footing with the country's other inhabitants. In practice, however, most of the members of these two groups suffer a number of disadvantages and have only limited ability to participate in decisions affecting their lands, cultures, traditions, and natural resources. Suriname's political life, educational opportunities, and jobs are concentrated in the capital and its environs, while the majority of Amerindians and Maroons live in the interior.

Government services became largely unavailable, and much of the infrastructure was destroyed, in the interior during the 1986–91 insurgencies; progress in reestablishing services and rebuilding the infrastructure was very slow. Although the accords ending the insurgencies provided for the appointment of a Consultative Council on the Development of the Interior, including representatives of the Maroon and Amerindian communities, the Government has not yet appointed that council. Representatives of the Amerindian community complained in September that they were not consulted about the grant of a large timber concession to an Indonesian company in areas they inhabited. The Government did not respond to Amerindian complaints about the timber concession.

People with Disabilities.—In general, Surinamese society has not yet addressed the question of people with disabilities. There are some training programs for the blind and others with disabilities. However, there are no laws concerning access for disabled people and no provisions for making private or public buildings accessible to them. Neither are there laws mandating that they be given equal consideration when seeking jobs or housing.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution protects the right of workers to associate and to choose their representatives democratically. At least 40 percent of the work force is organized into unions, most of which belong to one of the country's six major labor federations. Unions are independent of the Government and play an

active role in politics. A small Labor Party, which is independent of the labor movement but includes the chairmen of two of the most influential labor federations in its leadership, is part of the ruling four-party coalition and provides three Cabinet members.

There are no restrictions on unions' international activities. Several Surinamese labor federations were reaccepted as affiliates of international trade union organizations in the late 1980's, after having been suspended for collaboration with the military regime earlier in the decade.

The Constitution protects the right of nongovernment employees to strike. Civil servants have no such right to strike or mount other labor actions, but in practice they are able to do so. Strikes in both the public and private sectors were common as workers tried to secure wage gains to protect their earning power from rapid inflation.

b. *The Right to Organize and Bargain Collectively.*—These rights are explicitly recognized by the Constitution and respected in practice. Collective bargaining agreements cover approximately 50 percent of the labor force. The law prohibits antiunion discrimination by employers, and there are effective mechanisms for resolving complaints of such discrimination. Employers must have prior permission from the Ministry of Labor to fire workers, except when discharging an employee for cause. Dismissals for cause are individually reviewed by the Labor Ministry, and if it finds the discharge unjustified, the employee must be reinstated.

There are no special economic zones in Suriname.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, and there were no known instances of it in 1993.

d. *Minimum Age for Employment of Children.*—Surinamese law sets the minimum age for employment at 16 years. Enforcement of this law by the Ministry of Labor and the police is sporadic and only partially effective, however. Those under 16 years of age are often employed as street vendors, newspaper sellers, and shop assistants. School attendance is compulsory until the age of 12. However, both in the capital and in the country's interior some school-age children do not have access to education because of lack of transportation, facilities, or teachers.

e. *Acceptable Conditions of Work.*—Suriname has no minimum wage legislation. The Government's lowest wage for unskilled laborers will not provide a decent living for a worker and family. Work in excess of 9 hours per day or 45 hours per week on a regular basis requires special government permission, which is routinely granted. Such overtime work earns premium pay. One 24-hour rest period, usually but not necessarily Sunday, is required per week.

A 10- to 12-member inspectorate of the Occupational Health and Safety Division of the Ministry of Labor is responsible for enforcing legislated occupational safety and health regulations. There is, however, no law authorizing workers to refuse to work in circumstances they deem unsafe. They must appeal to the inspectorate to declare the circumstances unsafe. Resource constraints and lack of trained personnel preclude the Division from making regular inspections of Surinamese industry. Accident rates in local industry do not appear to be high, and the key bauxite industry has an outstanding safety record.

TRINIDAD AND TOBAGO

Trinidad and Tobago, a member of the Commonwealth of Nations, is a parliamentary democracy in which political and civil rights are provided for by the Constitution and generally respected in practice. Free and fair general elections have been held at regular intervals since independence from the United Kingdom in 1962. The country is governed by a bicameral Parliament and a Prime Minister, who is the leader of the majority party in the lower house. The President, whose office is largely ceremonial, is elected by Parliament. Local matters on the island of Tobago are handled by a 12-member elected House of Assembly.

The police service and the defense force are under the control of and generally responsive to civilian authority embodied in the Ministry of National Security. An independent body, the Police Service Commission, controls all personnel decisions in the police service, and the Ministry has little direct ability to effect changes in senior positions. A Scotland Yard team found evidence of widespread corruption in the police service. Some members of the police service were responsible for extrajudicial killings and other human rights abuses, usually committed with impunity.

The country's mixed economy is based primarily on the hydrocarbon sector, but efforts continued to diversify the economy into agriculture, manufacturing, and tour-

ism. The Government historically owned many businesses wholly or partly, but an extensive divestment program gained momentum during the year. Several state-owned corporations were partially or completely privatized, and the Government contemplated further divestment, particularly in the energy sector and public utilities.

Trinidad and Tobago citizens have and exercise a wide range of freedoms and individual rights, but there continued to be incidents of extrajudicial killings, beatings, intimidation, and other abuses by the police. There were no investigations nor any other followup by Government, and the perpetrators of such abuse enjoyed impunity. The administration of justice suffered from police corruption, allegations of favoritism, and prolonged delays. Violence against women remained a severe problem, unaddressed by the Government.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killings.*—There were no reports during 1993 of killings for political motives by the Government or opposition groups. However, there were extrajudicial killings and other abuses of authority by the police. The police service did not publicly release statistics on police shootings, but the local press reported over a dozen shooting incidents involving police officers, approximately half of which resulted in fatalities. In several of these cases, the victims were unarmed. The law requires a public coroner's inquest in a case of death by unnatural causes only when a coroner finds the circumstances warrant it; otherwise it is not mandatory. In practice, inquests were seldom pursued. Despite the existence of a police Internal Investigations Unit, there are no mandatory investigations of police shootings or killings.

In September officers of the narcotics unit shot and killed Alim Mohammed and Zainool Bushrooram during a marijuana eradication raid in central Trinidad. The officers claimed they were fired upon and the two men were killed in the ensuing battle. Weapons were recovered at the scene. Eyewitnesses, however, asserted that the dead men were unarmed and that the initial shots were fired by individuals who then fled the scene. There was no inquest into this shooting.

There were no reports of deaths resulting from abuse by officers of persons in police custody, but an alleged drug trafficker died in the custody of Coast Guard personnel. Although his cause of death was listed as a ruptured spleen, there was credible evidence that the injury resulted from a severe beating administered during a Coast Guard interrogation. There was no further investigation of the circumstances.

A Scotland Yard probe uncovered evidence of corrupt activities by individual police officers, including collusion with narcotics traffickers and drug dealers. It failed, however, to uncover evidence to support the allegation that there was a drug cartel operating within the police services. The investigation was abruptly halted in June. The Ministry of National Security stated that the next stage of the investigation would be handled by selected local officers, but no local followup investigation took place.

In the case of a police constable shot to death during a 1987 training exercise in which only blank ammunition was to have been used, the victim's mother alleged that her daughter witnessed a shadowy transaction involving two government ministers and a high-ranking police officer the day before. After an inquest that lasted nearly 5 years, the chief magistrate referred the case back to the police Internal Investigations Unit. The Scotland Yard probe reportedly uncovered new evidence that may lead to a criminal trial.

b. *Disappearance.*—There were no reports of politically motivated disappearances in 1993.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution forbids the Government from imposing or authorizing cruel and unusual treatment or punishment. Under law, any evidence obtained by such means is inadmissible in court.

However, there continued to be credible allegations and charges in court that some police officers had physically abused detainees. The law permits victims of such treatment to sue for civil damages and to file criminal charges against the police officers involved; such suits are occasionally initiated. Damages can be awarded and police officers found guilty of misconduct are subject to disciplinary action. There were credible reports, however, that citizens who lodged complaints against police officers were subjected to reprisals.

In two separate incidents, American citizens lodged complaints against police officers alleging that they were verbally abused and intimidated by the officers. There were also numerous press reports of police intimidation and abuse of suspected

criminals and some members of the general public. Disciplinary actions were rarely pursued based on these allegations.

An American citizen prisoner in a Trinidadian jail was reportedly beaten by several prison officers after minor transgressions. This report prompted questions in Parliament, and the prison service conducted an internal investigation into the matter. Several prison officers received official reprimands.

Trinidad and Tobago courts sentence convicted felons to corporal punishment as well as prison sentences in approximately 50 cases a year. Men convicted of rape, assault with a deadly weapon, or aggravated robbery are subject to floggings administered in private by prison officials. The law states that flogging must be administered within 9 months of sentencing but cannot be conducted while an appeal is pending; since appeals are routinely filed but rarely heard within 9 months of initial sentencing, in practice floggings seldom occur.

In 1993 there was one reported flogging of a minor. The individual, an 11-year-old boy, had been apprehended making a delivery of over 200 rocks of crack cocaine. The magistrate ordered the boy to be flogged as punishment, and the sentence was carried out a few days later. The flogging was condemned by local human rights organizations and prompted considerable media attention.

Overcrowding in prisons continued to be a problem, with, in some cases, 11 to 13 men in a 6- by 9-foot cell. Several prisoners died of Acquired Immune Deficiency Syndrome (AIDS), while others suffered from contagious skin diseases. Construction is under way on a new maximum security facility which will accommodate 2,000 inmates and help alleviate the overcrowding.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution specifies that a suspect has the right to be informed promptly of the reason for arrest or detention, which in practice has normally meant within 48 hours. Court orders may be obtained by the police to hold a person longer than normal in order to gather additional evidence. However, there continued to be credible reports that persons were detained incommunicado in excess of this period, without the police having obtained a court order. Arrests without a warrant are permitted when a person is apprehended committing an offense or when reasonable suspicion exists that an offense has been or is about to be committed. A 1991 court ruling held that police must allow a person in police custody to contact an attorney "as early as possible, and in any event before an interrogation takes place."

Detainees generally are allowed access to a lawyer and to family members, but police sometimes deny access if they believe it would impede an investigation. There continued to be charges in the courts and the press that police violated these procedures in specific cases. Persons arrested have the right to a judicial determination of the legality of their detention, and courts have found for complainants in some cases of illegal detention and awarded damages.

The Government is appealing a June 1992 decision that upheld the amnesty that resolved the 1990 coup attempt by the Jamaat al-Muslimeen. Based on this decision, the courts had ruled that the detention of 114 Jamaat members was illegal and ordered the Government to pay damages and court costs.

The Minister of National Security may authorize preventive detention in order to prevent actions prejudicial to public safety, public order, or the defense of Trinidad and Tobago and must state the grounds for the detention. A detainee under this provision has access to counsel and may have his detention reviewed by a three-member tribunal established by the Chief Justice and chaired by an attorney. The Minister must provide to the tribunal the grounds for the detention within 7 days of the detainee's request for review, which shall be held "as soon as reasonably practicable" following receipt of the grounds. The preventive detention option is not known to have been abused.

Exile is forbidden by law and not practiced.

e. *Denial of Fair Public Trial.*—The Constitution specifies that persons accused of crimes receive a fair and public trial. The judiciary is independent and not subject to outside interference. Appeals may be made to the court of appeals and eventually to the Judicial Committee of the Privy Council in London. Criminal defendants enjoy a presumption of innocence and the right to confront witnesses and present evidence. These rights are generally respected in practice. All criminal defendants have the right to an attorney. Legal assistance is available from attorneys registered with the Legal Aid and Advisory Authority of the Ministry of Social Development and Family Services for those who prove that they cannot afford representation. Judges may also appoint attorneys in the courtroom to represent defendants without counsel.

Criminal defendants may be freed on bail pending trial unless charged with murder or treason or detained under state of emergency regulations. The presiding magistrate may suspend bail after consultation with the prosecution and defense.

Due to inadequate resources and the current structure of the judicial system, both criminal and civil cases are often delayed, sometimes for as long as 6 years. All criminal trials are preceded by a preliminary inquiry which determines whether there is sufficient evidence to proceed with a jury trial. Strict rules of evidence and the requirement that all witnesses who will testify during the trial give testimony before the inquiry add further delays to the process.

Certain serious offenses, and all appeals, are tried before a high court, which suffers from a shortage of judges and a large backlog of cases. Some defendants spend many months or even years in jail awaiting their actual trial.

There are no political prisoners in Trinidad and Tobago.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such interference, a prohibition generally respected in practice. However, although judicially issued warrants are required for searches (except under state of emergency regulations), this procedure is not strictly followed. The state-owned telephone company has the ability to monitor telephone calls, and informed observers believe that the police use this facility for domestic intelligence purposes. There are no laws authorizing such monitoring, however, so evidence obtained in this manner may not be used in court.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of expression, and this right is protected in practice by the independent judiciary, a democratic and pluralistic political system, and independent and privately owned media.

According to some journalists, the interlocking directorates of local corporations result in self-censorship by publishers. They also argue that Trinidad's strict libel laws, based on preindependence British models, are prone to unpredictable and excessive damage awards and constitute de facto censorship. In December 1993, Minister of Planning Lenny Saith filed a libel suit against a local daily for articles it printed delving into his personal financial dealings. The newspaper retracted parts of the stories. The threat of libel suits limits the scope of much investigative reporting.

The two major daily newspapers are sometimes critical of the Government in their editorials. Their news coverage appears to report accurately criticism by opposition parties, trade unions, and private citizens. The widely read tabloids are extremely critical of the Government.

The three television stations, as part of their licensing agreements, are required to broadcast informational programming produced and provided by the Government. The Government-owned station has, over the years, been accused by the opposition of favoring the ruling party. There are currently seven radio stations operating in Trinidad and Tobago, one of which is government-owned.

The import or circulation of publications may be prohibited under the Sedition Act, but the law has rarely been invoked in recent years. A Board of Film Censors is authorized to ban films it considers to be against public order and decency or contrary to the public interest. This includes films which may be controversial in matters of religion, seditious propaganda, or race.

Academic freedom is respected and protected by law.

b. *Freedom of Peaceful Assembly and Association.*—These freedoms are protected by law and respected in practice. Registration of private organizations is not required. Permits are required in advance for street marches, demonstrations, or other public outdoor meetings and are routinely granted.

c. *Freedom of Religion.*—The right to practice one's religion is provided for by the Constitution and is respected in practice. There is no state religion and no religious test for public office. There are large groups of Christians, Hindus, and Muslims, and these and other religious groups are allowed to maintain association with organizations and persons in other countries and to perform religious travel. Religious groups are generally free to establish places to worship and to engage in religious training, education, and publishing. Missionaries are permitted to enter the country and proselytize.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Residents are generally free to emigrate and to travel within or outside the country, as well as to change residence and workplace.

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

The citizens of Trinidad and Tobago choose their government by secret ballot in free and fair multiparty, multicandidate elections held, as required by the Constitution, at intervals not to exceed 5 years. Elections for the 12-member Tobago House of Assembly are held every 4 years. The Constitution extends the right to vote to

citizens as well as to legal residents with citizenship in other Commonwealth countries, who are at least 18 years of age. There are no restrictions on the participation of women in political activities. Women hold many positions in the Government and political party leadership.

The Government is formed by the party holding the majority of seats in the lower house of Parliament. The Parliament consists of an elected House of Representatives, whose 36 members represent individual voting constituencies; and a 31-member Senate appointed by the President, 16 on the advice of the Prime Minister, 6 on the advice of the leader of the opposition, and 9 at the President's discretion. The Prime Minister is Head of Government; the President, elected by Parliament, is Head of State, a largely ceremonial position.

Prior to December 1988, each election had been won by the People's National Movement (PNM); in December 1991, the PNM was voted back into office after a 5-year hiatus. The opposition United National Congress won 13 of the 36 parliamentary seats, the highest proportion it has ever held. Elections for the Tobago House of Assembly were held in December 1992, and 11 of the 12 seats were won by the National Alliance for Reconstruction (NAR), the party that ruled the country between 1986 and 1991.

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

A number of nongovernmental human rights groups operate freely without government restriction or interference. Caribbean Elections Watch, founded in 1990, promotes free and fair elections in the Caribbean. The Caribbean Institute of Human Rights, headquartered in Trinidad, is a regional organization composed of human rights monitors who collect information throughout the region and report on Caribbean human rights matters. The Ombudsman is an officer of Parliament empowered to investigate complaints of violations of human rights law or policy and to report his findings to Parliament.

International human rights organizations are free to visit and discuss human rights with governmental and nongovernmental representatives.

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

The Constitution prohibits discrimination based on race, sex, language, or social status, and the Government respects these prohibitions.

Women.—Discrimination based on sex is illegal. Many women hold positions in business and the professions, as well as in government and political parties. Women's groups speak out publicly on all aspects of public life. Women make up approximately 36 percent of the paid labor force. Collective bargaining agreements cannot be registered with the Industrial Court if they exhibit wage disparities between men and women.

Physical abuse of women and children by family members was reported to be extensive. Parliament passed a domestic violence bill in August 1991 which provided for the filing of restraining orders against abusive family members, a court hearing within 7 days of filing, and criminal penalties for violation of restraining orders. Additional legislation will be required, however, to ensure that adequate mechanisms are in place to enforce the bill. There are several privately operated shelters for battered women which receive a minimal amount of government assistance.

Children.—The Government is committed to assuring the human rights and welfare of children. Protection of children from abuse in the home is provided by the Domestic Violence Act. Public assistance legislation provides supplemental income to unemployed and indigent parents based on the number of children. In practice, however, if parents do not have the funds to buy books and uniforms, their children do not attend school. There is no evidence of abuse of children by any government agencies, nor are there any societal practices that violate children's human rights. The Government's commitment to children's welfare is limited only by the scarcity of available resources.

National/Ethnic/Racial Minorities.—Trinidad and Tobago includes various ethnic and religious groups that live together peacefully, generally respecting each other's beliefs and practices. However, racial tensions continue between Afro-Trinidadians and Indo-Trinidadians, with each group comprising over 40 percent of the population. The private sector is dominated by Indo-Trinidadians and people of European and Middle Eastern descent. Indo-Trinidadians also predominate in agriculture. Afro-Trinidadians are employed in disproportionate numbers in the civil service, police, and military. Since Indo-Trinidadians constitute the majority in rural areas and Afro-Trinidadians are the majority in urban areas, competition between town and country for public goods and services often takes on racial overtones. Indo-

Trinidadian opposition politicians complained that Afro-Trinidadians receive a disproportionate share of government benefits.

Against the backdrop of a perceived crime wave in central Trinidad, in May Member of Parliament Hulsie Bhaggan publicly linked the increased crime, particularly sexual offenses, to racial animosity against Indo-Trinidadians on the part of Afro-Trinidadians. Ms. Bhaggan's allegations, and the subsequent police denial, heightened racial tensions for several months and provoked the organization of vigilante village watch groups throughout the region. These groups were responsible for several assaults against Afro-Trinidadian males whom they suspected of banditry. In almost all cases, these suspicions proved groundless. In July the psychological research center at the University of the West Indies released a report of the crime situation that found no connection between increased crime in the area and racial motivations.

Religious Minorities.—Although Hinduism is the second largest religion in Trinidad and Tobago, there are no sixth-form Hindu secondary schools to prepare students for university; there are 18 Christian and 2 Muslim sixth-form facilities. Hindu leaders blame the lag in the performance of Hindu students on government failure to provide adequate facilities and opportunities for the Hindu population. Members of the Muslim community also charged religious discrimination in non-Muslim government secondary schools which prohibit young women from wearing the jeelab (head covering) or chador (head covering and shawl) in the classroom. School administrators responded that all students are required to wear identical uniforms and that preferential treatment contradicted school policy.

People with Disabilities.—There is no legislation that specifically protects the employment rights of the disabled, but there exists a body of social services legislation that affords pensions and public assistance for disabled persons unable to find employment. The Government provides substantial funding for private schools and institutions that provide education, child care, and support for disabled children and young adults. The Government has not enacted legislation to assure accessibility for the disabled to government services. The Government released a draft policy in the fall of 1993 listing proposed improvements to the existing policy toward the disabled. The draft was still under discussion at year's end.

Section 6. Worker Rights

a. *The Right of Association.*—The right of association is respected in law and practice. There are 32 active labor unions, with a total membership comprising approximately 32 percent of the work force. The unions are independent of government or political party control, and they freely represent their members' interests. Union members are free to publicize their views and determine their own programs and policies, including their international affiliations.

Workers are permitted, upon expiration of a conciliation period, to strike, and employers are permitted to lock workers out. After a strike or lockout has been in progress for 3 months, either of the parties involved may request the Minister of Labor to refer the question to the Industrial Court, which is part of the independent judiciary, for a binding decision. Strikes and lockouts are not permitted in essential public services (as defined in the Industrial Relations Act), and the Minister of Labor may apply for an injunction to halt any labor action he finds contrary to the national interest; in practice, this has never happened. Workers in essential services with labor grievances may call on the conciliation services of the Ministry of Labor or may take their cases directly to the Industrial Court. However, such cases are not generally processed more quickly than those in the private sector. Workers in essential services may also file civil suits against the Government.

In 1993 members of the Steelworkers' Union staged a 6-week strike against the island's only steel manufacturer. The strike concluded in August when the majority of the membership voted to accept the company's offer.

The PNM Government's decision to proceed aggressively with plans to privatize many state-owned industries led to marked antagonism between several significant unions and the Government. Both the Oilfield Workers Trade Union and the National Union of Government and Federal Workers repeatedly threatened crippling industrial action in efforts to avert the planned privatization of the electrical and water utilities. A government decision to streamline Trinidad's ports resulted in dismissal of two-thirds of the port's workers, who were provided with a voluntary separation plan.

b. *The Right to Organize and Bargain Collectively.*—The constitutional right of workers to organize and bargain collectively is well established and freely practiced. In fact, collective bargaining is the predominant method by which wage levels are established in most industries. Antiunion discrimination is prohibited by law. However, there is no legislation that mandates the rehiring of an employee in a wrongful

dismissal case. The Minister of Labor acts as an impartial conciliator in collective bargaining impasses. There are a few complaints each year to the Ministry of Labor about personal antiunion activities, usually involving the suspension or dismissal of an employee who alleges the action was taken at least in part because of union activity. The Ministry of Labor is generally able to resolve those cases brought to it.

Legislation for the establishment of free trade zones, enacted by Parliament in 1988, was implemented in 1992. All Trinidad and Tobago laws, inclusive of those affecting working conditions and the right of workers to organize and bargain collectively, are applicable in free trade zones.

c. *Prohibition of Forced or Compulsory Labor.*—Although there is no domestic law prohibiting forced or compulsory labor, it is not practiced.

d. *Minimum Age for Employment of Children.*—Legislation prohibits the employment of children under the age of 12, and children aged 12 to 14 are permitted to work only in family businesses. Education is compulsory until the age of 12. Children may begin apprenticeship at age 15 and regular employment at age 17. The probation service within the Ministry of Social Development and Family Services is the entity responsible for compliance, but enforcement of these restrictions was lax. School-age children were often seen vending on the streets and at the beach.

e. *Acceptable Conditions of Work.*—Legislation enacted in November 1991 significantly broadened the categories of workers covered by minimum wage standards. There is no national minimum wage, but there do exist legislated minimum wages for specific sectors. The lowest such rate is that for domestics which is $26.78 (TT$150) for a 44-hour week. Very few sectors are covered by these rates, and it appears that even in sectors where there is a legislated minimum, most workers earn more than the minimum. The lowest pay rate for government workers covers apprentice woodsmen and is $12.74 (TT$71.35) for an 8-hour day.

Enforcement of the minimum wage law is entrusted to the Labor Inspectorate. The legislation also provides for 3 months maternity leave for household and shop assistants, as well as overtime pay, holiday pay, 2 weeks' vacation leave, and 14 days' sick leave per year. Wage levels in sectors not covered in the law are set under collective bargaining agreements and provide a decent living for workers and their families. The most poorly paid workers, including those working in minimum wage jobs, usually have secondary sources of support, often from their families.

The standard workweek in Trinidad and Tobago is 40 hours; the minimum wage law sets a 40-hour workweek for workers who fall within its jurisdiction, while collective bargaining agreements set the standards in other industrial and service sectors. Additional hours are considered overtime and are remunerated at a negotiated rate. Daily rest periods and paid annual leave form part of most employment agreements. There are no legal restrictions on overtime work.

Occupational health and safety is governed by the 1948 Factories and Ordinance Bill, which sets requirements for health and safety standards in certain industries and provides for inspections to monitor and enforce compliance. Workers who file complaints with the Ministry of Labor regarding illegal or hazardous working conditions are protected under the Industrial Relations Act of 1972 to the extent that, should it be determined upon inspection that conditions exist in the workplace which present hazards to life or limb, the worker is absolved in refusing to comply with an order which would have placed him or her in harm's way. Government inspectors investigate complaints of hazardous working conditions.

URUGUAY

Uruguay is a constitutional republic governed by an elected President and a bicameral legislature with an independent judicial branch. Its longstanding democratic tradition was interrupted by 12 years of military rule from 1973 to 1985. On March 1, 1990, following a free and fair election in November 1989, power was transferred from one elected civilian president to another for the first time since the return to constitutionalgovernment in 1985. Political parties, the press, labor unions, private interest groups, and other nongovernmental groups function freely, and political debate is vigorous and unrestricted.

The small military establishment, consisting of an army, an air force, and a navy, is under the supervision of the Ministry of Defense. The military does not participate in domestic security matters unless ordered to do so by the civilian authorities. Domestic security and public safety matters are under the jurisdiction of the Interior Ministry, which administers all the country's police departments. The police were again responsible for physical abuse of detainees in 1993.

A middle income country with a per-capita gross domestic product of $3,900 in 1993, Uruguay's economy is heavily dependent on agricultural exports and agroindustry. The economy grew by 7.9 percent in 1992 and was projected to grow by 4 to 5 percent in 1993. The economy is a mixture of private enterprise and state entities; private property rights are respected. The current administration attempted to carry out a program of modernization and reform of the economy in order to improve its competitiveness in world markets. Privatization, a key element of the program, was set back when a proposal to privatize the telephone company was roundly defeated in a referendum in December 1992.

Uruguayans enjoy a broad range of individual rights and liberties. However, reports of police abuse of detainees persist, and few—if any—police have been convicted and punished for such abuse. Prison conditions remain generally poor, but some improvements were made in the country's largest prison. Increased attention to the issue has publicized the high level of violence against women. The small Afro-Uruguayan community faces social, economic, and cultural impediments to advancement.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—No cases of politically motivated killing were reported.

b. *Disappearance.*—No known or reported incidents of politically motivated abductions or disappearances occurred in 1993.

The 1986 Expiry Law, which was endorsed by a general referendum in 1989, blocks investigations into killings, torture, and disappearances which occurred during the military regime. In March the Inter-American Commission on Human Rights, an arm of the Organization of American States, found this law incompatible with treaty obligations under the American Convention on Human Rights. The Uruguayan Government strongly disputed the report, and there is very little will among politicians or the general public to reopen this subject.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits brutal treatment of prisoners. However, there were reports of physical abuse of detainees by police. Physical abuse is most often alleged in the hours immediately following an arrest. Minors are thought to be particularly vulnerable to abuse.

In March, after having confessed to 14 robberies, a detainee was taken before a Montevideo judge for processing. He retracted his confession and charged that the police had tortured him with an electrical device. The judge ordered an immediate search of the police station, and the device was found. Four policemen were charged with personal injury and suspended from their jobs. The internal investigation was still in progress at year's end.

In 1992 the Interior Ministry established an internal section responsible for monitoring police conduct. The judicial and parliamentary branches of government also investigate specific allegations of abuse. Nonetheless, human rights monitors insist that many cases of abuse go unreported and that police are seldom convicted and punished for such abuse.

Conditions in prisons and juvenile detention facilities generally remained poor. Complaints commonly voiced by government and independent human rights investigators included delapidated buildings and equipment, poor sanitary conditions, inadequately staffed and equipped on-site clinics, and a lack of training, educational, and recreational opportunities. A shortage of resources and to some extent poor prison administration hamper improvement. One local group that monitors prison conditions cited some improvement in the country's largest prison but said that conditions in prisons outside the capital remain poor.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution requires the police to have a written warrant issued by a judge before they can make an arrest. The only exception is when the accused is apprehended during commission of a crime. The Constitution also guarantees the accused the right to a judicial determination of the legality of detention and requires that the detaining authority explain the legal grounds for the detention. A detainee may be held incommunicado by the police for 24 hours before being presented to a judge, at which time he or she has the right to counsel. If the detainee cannot afford a lawyer, a public defender is appointed. The judicial process must begin within 48 hours; failure to comply has led to the release of accused persons. If the crime carries a penalty of at least 2 years in prison, the accused person is confined during the judge's investigation of the charges unless the authorities agree to release the person on bail, or until the case is closed. These constitutional provisions are generally respected in practice.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, headed by a Supreme Court, which supervises the work of the lower courts. There is a parallel military court system that operates under a military justice code. Two military justices sit on the Supreme Court but participate only in cases involving the military. Military justice is applied to civilians only during a state of war or insurrection. The independence of the judiciary is well respected in practice.

All criminal trials must open with a public statement of the charge by the prosecutor or the complainant. Trial proceedings were formerly based on written arguments, which were not normally made public, but the defense attorney had access to all documents that formed part of the written record. Oral argument, introduced in 1990 and now increasingly used in the Uruguayan system, has resulted in a more open and transparent legal process. Under Uruguayan law, there is no provision against self-incrimination, and the defendant may be compelled to answer any questions posed by the judge. All convictions may be appealed by the defense attorney or prosecutor to a higher court which may acquit the person of the crime, confirm the conviction, or reduce or increase the sentence.

Uruguay has no political prisoners and does not punish political activity.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution protects the right to privacy. It states that the home, absolutely inviolable at night, may be entered and searched only with a judicial warrant during the day. Protection for private papers and correspondence is equally strong, and a warrant is required for confiscation. These rights and safeguards are generally respected in practice. In August, however, the Minister of Defense resigned after some of his subordinates were placed under house arrest for electronic eavesdropping without his authorization. The subordinates were purportedly trying to discover who was responsible for a series of 1992 bombings, allegedly carried out by a radical faction within the armed forces.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and press. All elements of the political spectrum freely express their viewpoints in both the print and broadcast media. Montevideo has 8 daily newspapers and 6 important weeklies; there are approximately 100 weekly and a few daily newspapers elsewhere.

Montevideo has one government-affiliated and three commercial television stations. There are about 110 radio stations and 20 television stations in the country. A 1989 law stipulates that expression and communication of thoughts and opinions are entirely free, within the limits contained in the Constitution and the law, and outlines methods of responding to "inexact or aggravating information." The same law calls for from 3 months to 2 years of imprisonment for "knowingly divulging false news that causes a grave disturbance to the public peace or a grave prejudice to economic interests of the State" or for "insulting the nation, the State, or their powers."

In June this law was used to prosecute three reporters for slandering the President; they were sentenced to 6 months' probation. In November a retired general was sentenced to 8 months' probation after a newspaper published his "open letter to the President" criticizing cuts in military retirement pay. This law, and its intermittent application, serve as notice that there are certain limits on freedom of expression and that the limits will be enforced.

The National University is autonomous, and academic freedom is generally respected.

b. *Freedom of Peaceful Assembly and Association.*—The law protects freedom of assembly and association.

Formerly banned groups, such as the Tupamaros (a terrorist movement active in the 1960's and early 1970's), freely organize and express their opinions. Public marches and demonstrations are allowed with permits from the Ministry of the Interior and occur without official harassment or intimidation.

c. *Freedom of Religion.*—Freedom of religion, provided for by the Constitution, is respected in practice. Most Uruguayans who practice a religion are Roman Catholic. Members of other religious groups exercise their faiths unhindered, and missionaries are free to proselytize. Uruguayans who profess agnosticism or atheism express their views freely.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Internal and foreign travel and emigration are unrestricted. Uruguayans who left the country during the military regime and wish to return are encouraged to do so. All of the prominent political figures exiled by the military regime have returned.

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

Uruguayan citizens have the right and ability peacefully to change their government. Uruguay is a multiparty democracy with mandatory universal suffrage for those 18 years of age or older. Voting is not restricted by race, sex, religion, or economic status. The Colorado party, the National (Blanco) party, the Broad Front coalition, and the New Space coalition are the four major political groupings. Each allows ideological divisions within the party, and each such division may field its own slate of candidates in general elections. The electoral system combines a primary and a general election in a double simultaneous vote. Each party fields different lists of candidates; in essence, voters express a preference for a party and for a list of candidates rather than for an individual candidate.

The winning list of the party that receives the most votes wins the presidency and a proportion of seats in the Senate and Chamber of Deputies corresponding to the percentage of votes that the party as a whole received. A party therefore may run multiple presidential candidates, each with his or her own slate of legislative candidates. National and provincial elections are held simultaneously every 5 years. Blacks and women face de facto impediments to participation in politics and employment in government (see Section 5).

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

Local human rights groups, some of which could not operate openly under military rule, now function freely and without restriction. A prominent local human rights group, Service for Peace and Justice (SERPAJ), was legalized in early 1985 after operating underground for 2 years during the military regime. Another group, the Legal and Social Institute of Uruguay, consists of lawyers and social workers who focus on juridical aspects of human rights cases. Both groups began by investigating killing, torture, and disappearances that occurred during the military regime. They now investigate and report on many other aspects of human rights, including police abuse, prison conditions, and rights of women and children.

The Government is open to inquiries from such organizations and does not restrict the activities of human rights investigators.

The Government has also fully complied with U.N. Human Rights Commission inquiries dating from the military regime period and is a strong supporter of, and participant in, human rights activities in international forums such as the United Nations and the Organization of American States.

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

Discrimination based on race, sex, religion, language, or social status is prohibited by the Constitution and by law. A law passed in 1989 prohibits discrimination against the disabled. Despite these prohibitions, discrimination based upon sex and race exist.

Women.—Uruguayan women enjoy equality under the law but face a number of forms of discrimination stemming from traditional attitudes and practices. Recent surveys show that the work force remains segregated by gender and race. Women make up about a third of the work force but tend to be concentrated in lower paying jobs. They attend the National University in large numbers and often pursue professional careers. About 50 percent of Uruguay's judges are women, but women are underrepresented in other professions such as engineering or architecture. Women are also found at the highest levels of the Uruguayan private or public sectors, but they remain largely marginalized from mainstream politics and underrepresented in most important government and political party offices. Conscious of these problems, the Government established the National Institute for Women to collect data on women's issues and to address these issues more effectively.

Uruguayan society is increasingly sensitive to the question of violence against women. Each year, the police process about 1,700 domestic violence cases (including violence against children). Nongovernmental organizations estimate, however, that the actual number of cases is probably 10 times that figure. Rape statistics have increased sharply, possibly because victims are more willing to report the crime. The Interior Ministry has a women's division in the police force concerned exclusively with crimes against women and minors. The Penal Code mandates prison sentences from 3 months to 3 years for the crime of "private violence." Many women are unable to make and sustain complaints under this law, however, especially when they continue to reside with their partners. Two private shelters for battered women have been opened in Montevideo. Some private women's rights groups offer counsel-

ing services, and the Montevideo municipality operates a 24-hour hot line for victims of domestic violence.

Children.—The Government is committed to protecting the rights and welfare of children. There are no patterns of government abuse, although there continue to be some reports of police abuse of detained minors. In 1992 approximately 10.5 percent of the national budget was designated for preuniversity education; another 1.8 percent was allocated to the National Institute for Minors, which has responsibility for most other programs concerning the welfare of minors. A local human rights group estimates that there are approximately 1,000 street children in Montevideo. There are another 100 in juvenile institutions. These institutions offer very little in the way of education, rehabilitation, or training. An estimated 60 percent of adult prisoners have formerly passed through the juvenile justice system.

National/Racial/Ethnic Minorities.—Approximately 6 percent of Uruguay's population, or 180,000 people, belong to the country's black minority. Blacks are underrepresented among elite groups, particularly the bureaucratic, political, and academic sectors of society. One report put the number of black university graduates at 65 and black professionals at fewer than 50. They lack the educationalopportunities and social and political connections necessary for entry into these groups. Black leaders say that 75 percent of employed black women work as maids. Most citizens do not believe that discrimination against minorities is a problem in Uruguay, and the Government has not addressed this issue.

People with Disabilities.—There are approximately 250,000 persons with disabilities in Uruguay. A law covering the rights of the disabled was passed in 1989 but had not been implemented by the end of 1993. The law is mostly declarative, i.e., it does not stipulate specific remedial measures or sanctions for not complying with these measures. There is legislation requiring that 4 percent of public sector jobs be reserved for the disabled. However, only the municipality of Montevideo has made efforts to comply with this law.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution guarantees the right of workers to organize freely and encourages the formation of trade unions. Civil servants and employees of state-run enterprises, as well as private enterprise workers, may join unions. An estimated 17 percent of the work force is unionized. Labor unions are independent of government and political party control.

Uruguayan workers, including some civil servants, have the right to strike. Parliament did not approve proposed legislation that would have required workers to vote by secret ballot on whether to strike. The Labor Ministry office which assists in mediating collective and individual labor disputes is increasingly attempting to stay out of private sector negotiations; members of the Parliament's labor commissions occasionally mediate labor disputes on an ad hoc basis.

There was significant strike activity in 1993, including one in the construction industry which lasted almost 3 months. The Government may legally compel workers to work during a strike if their work is considered an essential service. An essential service is defined as one whose interruption "could cause a grave prejudice or risk provoking suffering to part or all of the society." While no institutionalized mechanism exists for resolving complaints against employers, discrimination by employers, including arbitrary dismissals for union activity, generally is prohibited. In 1992 rubber workers' unions and the Inter-Union Workers Assembly-National Workers Association (PIT-CNT) filed a complaint with the International Labor Organization (ILO) alleging that the Government had not investigated the dismissal of trade union officials following a strike. In May 1993, after examining the complaint and the Government's response, the ILO's Committee on Freedom of Association concluded that the case did not merit further consideration. Its conclusion noted Uruguay's lack of statutory provisions in this area and said that, while the current system of protection against antiunion practices "does not infringe ILO Convention No. 98," it "could be improved in so far as accelerating the procedure."

There are no restrictions on a union's right to affiliate with international trade union bodies. The largest trade union confederation, the PIT-CNT, is by choice not officially affiliated with any of the three world federations. Many individual unions are affiliated with international trade secretariats.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining ceased during military rule. From the return of civilian rule until March 1992, industrial contracts were negotiated on a sector-wide rather than a plant-by-plant basis, under the auspices of a salary council, a tripartite organization composed of representatives from government, labor, and management. The government representatives played an active role in mediating these negotiations in some sectors; in others, they functioned more as observers. Since March 1992, contracts may be negotiated on a

plant-wide or a sector-wide basis, with or without government mediation, as the parties wish. Union leaders believe that the government presence ensures contracts will be fulfilled and generally object to reducing it in contract negotiations.

Workers employed in Uruguay's five special export zones are fully covered by all labor legislation. There are no unions in any of these zones, but there are as yet relatively few workers in traditionally organizable occupations.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited by law, and there is no evidence of its existence.

d. *Minimum Age for Employment of Children.*—Children are protected by a Child Labor Code, violations of which are punishable by fines of up to $500. Children as young as 12 may be employed if they have a special government work permit. Children under the age of 18 may not perform dangerous, fatiguing, or night work, apart from domestic employment. Salaries and hours for children are controlled more strictly than those for adults. Children over the age of 16 may sue in court for payment of wages, and children have the legal right to dispose of their own income. Children working in the expanding informal sector as street vendors or others with no fixed place of work or in the agrarian sector are generally less strictly regulated and receive lower pay.

e. *Acceptable Conditions of Work.*—A legislated minimum monthly wage is in effect in both the public and private sectors and appears to be effectively enforced. The minimum wage is adjusted whenever public sector wages are adjusted, usually once every 4 months. The minimum wage as of September 1 was $86 (365 pesos). It functions more as an index for calculating wage rates than as a true measure of minimum subsistence levels and would not provide a decent standard of living for a worker and family.

The standard workweek is 48 hours for a 6-day week. The Basic Labor Law stipulates 48-hour weeks for industrial workers and 44-hour weeks for industrial office workers and commercial personnel, with a 36-hour break each week. This law is generally adhered to and adequately enforced. Industrial workers receive overtime compensation for work in excess of 48 hours. Workers are entitled to 20 days of paid vacation after a year of employment.

Workers are protected by legislation regulating health and safety conditions; it is enforced by the Ministry of Labor and Social Security in a generally effective manner. Some labor regulations cover urban, industrial workers more adequately than rural and agricultural workers.

VENEZUELA

Venezuela is a republic with an active multiparty democratic system, a free press, well established unions, and a longstanding commitment to democracy. These factors enabled the country to withstand the impeachment of a president in 1993 and two attempted coups in 1992. For more than 35 years, power passed peacefully between two large political parties through open elections. Two-party dominance ended on December 5, however, when former President Rafael Caldera was elected President with the support of a diverse coalition of small and medium-sized parties. The new Congress due to convene in January 1994 will be comprised of four major political groupings. The December 5 elections were generally characterized as fair and open, although allegations of fraud cast doubt on results for some state and national legislative contests.

The security apparatus has civilian and military elements, both accountable to popularly elected authorities. One of the branches of the military, the National Guard, has arrest authority and supplies the top leadership for one of the country's police forces. The National Guard is also responsible for guarding the exterior of prisons, maintaining order during times of civil unrest, and monitoring frontiers. In addition, independent police forces are operated by the Ministry of Justice, state governments, and many municipalities. Both police and military personnel were responsible for human rights abuses.

The public sector dominates Venezuela's economy, particularly the petroleum industry, which accounts for some 22 percent of the gross domestic product. The Government undertook major economic restructuring to reduce its dependence on oil exports, privatize many public sector firms, and enable domestic business to compete more effectively in international markets.

Venezuelans traditionally have enjoyed a wide range of freedoms and individual rights, including a free press, active unions, and free elections, but serious human rights abuses continued in1993. They included arbitrary and excessively lengthy detentions, abuse of detainees, extrajudicial killings by the police and military, the

failure to punish police and security officers accused of abuses, corruption and gross inefficiency in the judicial and law enforcement systems, deplorable prison conditions, a lack of respect for the rights of indigenous people, and discrimination and violence against women. In addition, the courts made no progress in prosecuting those responsible for many extrajudicial killings during the two 1992 coup attempts, the November 1992 massacre at Reten de Catia prison, or the 1989 urban riots.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of targeted political killings, but extrajudicial killings by the security forces continued. The Venezuelan Program for Action and Education in Human Rights (PROVEA), one of Venezuela's most respected human rights organizations, reported 187 extrajudicial killings from October 1992 through September 1993. At least eight of the victims were under 15 years of age. According to PROVEA, 66 of the killings were carried out by the metropolitan police, 33 by state police, 22 by the Intelligence Police (DISIP), 21 by the National Guard, 16 by the Judicial Technical Police (PTJ), 11 by the armed forces, 8 by municipal police, and 10 by other branches of the security apparatus. The perpetrators act with near impunity, as the Government rarely brings charges against them. If the perpetrators are prosecuted, sentences issued are frequently light, or, more commonly, the convictions are overturned during the appeal process. Unlike common prisoners, police charged with crimes rarely spend much time in prison.

In the La Vega borough of Caracas, a group of five hooded men, alleged by witnesses and family of victims to be local police officers, committed seven killings in a 2-week period, four of them in one night. In a sweep through La Vega near midnight on May 16, the men moved from house to house, fatally shot Orlando Aliendre, wounded two passersby, and then killed 17-year-old Jorman Saavedra. Two witnesses, Douglas Guevara and Jordan Perdomo, were also shot and killed as they ran from the scene. Surviving witnesses, although reluctant to speak to authorities out of fear of reprisals, identified a specific sergeant in the local metropolitan police as leader of the group and matched the killers' clothing and equipment with that of the police. The local police chief reportedly dismissed the allegations by simply stating that no one in his unit belonged to such a group. An investigation by the Ministry of Justice Police moved slowly and failed to identify any suspects by the end of the year.

Simple interactions with local police often proved fatal. In February in the city of Maracaibo, an officer of the Zulia State Police allegedly shot 17-year-old evangelist Juan Gabriel Rincon in broad daylight. According to witnesses, the officer stopped the youth on the street and asked to see his identity card. The officer reportedly brandished a loaded hand gun and, in the ensuing conversation, threatened to kill Rincon's sister who was accompanying him. Rincon intervened and was fatally shot. The police officer was jailed, and criminal proceedings were initiated against him.

No one was prosecuted for the 34 extrajudicial killings that occurred during two attempted coups in 1992. Investigations of the killings moved slowly, impeded by a resistant bureaucracy. Likewise, no one was prosecuted or even held responsible for the November 1992 killing of at least 63 prisoners at Reten de Catia prison. The National Guard stormed the prison and allegedly fired indiscriminately after having heard that coup leaders had distributed arms there (a police investigation noted that only one gun and numerous knives were later inventoried). While the Government officially reported 63 prisoners killed at Reten de Catia, human rights groups asserted that the fate of 25 additional prisoners remained unknown.

Although almost 5 years had elapsed, no progress was made on charges of extrajudicial killings by security forces during the riots of February and March of 1989. The Government maintained that 276 people died, while human rights groups documented some 400 cases of persons who were killed or disappeared during the disturbances. At least 68 of those killed were buried anonymously in mass graves in a Caracas cemetery. Some human rights organizations accused the authorities of intentionally disposing of the bodies in unmarked graves to conceal the identity, cause and manner of death of the victims and thus protect the perpetrators from prosecution. Although the bodies were exhumed in 1991, only three have been positively identified. Approximately 300 cases regarding the 1989 killings remained under consideration in both military and civilian courts, but only 1 has been adjudicated: a police officer was found guilty in 1991 of homocide and sentenced to 1 year's imprisonment. The Committee of Family Members of Victims of the Riots (COFAVIC) continued to seek a thorough investigation and prosecution of the cases.

The Government and the courts, however, made no substantial effort to hasten proceedings.

A military court of appeals ruled in March that the 1988 shooting deaths of 14 fishermen by Venezuelan security forces in the town of El Amparo near the Colombian border was an excessive use of force, not a deliberate massacre as alleged by 2 survivors. Fourteen of the police and military officials responsible for the deaths were sentenced to 7½ years in prison, roughly half of which they had already served. Local and international human rights groups and the victims' representatives expressed dissatisfaction with the verdict, asserting that the court had disregarded crucial evidence and testimony demonstrating that the event was a deliberate massacre.

b. *Disappearance.*—There were no reports of politically motivated disappearances in 1993. The press and human rights groups, however, reported the unrelated disappearances of two members of the military. Military authorities claimed both were cases of desertion, while family members asserted the soldiers had been killed as a result of foul play on the part of the military. One of the disappeared soldiers allegedly had information that his superiors were involved in narcotics trafficking.

No progress was made towards resolving the cases of military personnel who disappeared around the time of the November 1992 coup attempt. Likewise, there were no prosecutions resulting from the unrelated disappearances in 1992 of Jonathan Salazar Rojas or Junior Rafael Barco, both of whom allegedly disappeared while in police custody.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture is prohibited by law, but physical abuse of detainees continues. This abuse reportedly includes the use of electric shock, beatings, rape, and near suffocation, usually during the interrogation of detainees. In its annual report on Venezuela released in November, Amnesty International maintained that torture and ill-treatment are widespread and sometimes resulted in death. Most of the victims come from the poorest and least articulate parts of society, but political activists, student leaders, and members of grassroots organizations have also reportedly been victims of torture and ill-treatment as a result of their activities. PROVEA documented 105 cases of torture from October 1992 through September 1993. Red de Apoyo por la Justicia y la Paz, another human rights organization, reported 90 incidents of torture from March through May alone. All of the major human rights groups asserted, however, that these numbers are low because many victims remain silent about abuse due to fear of retribution.

According to PROVEA, 32 of the reported torture incidents were carried out by DISIP, 18 by the Technical Judicial Police (PTJ), 17 by the National Guard, 17 by the armed forces, 13 by state police, 7 by the metropolitan police, and 1 by municipal police. Amnesty International asserts that torture continues in Venezuela, primarily because the courts failed to investigate complaints of torture properly and bring those responsible to justice. In addition, a number of human rights groups report that the lack of independence of the Institute of Forensic Medicine, which is part of the PTJ, prevents forensic doctors from being impartial in their examinations of cases where torture may have been involved. Very few cases of torture have resulted in convictions.

Prison administration is very poor due to underfunding, poorly trained staff, and corruption among prison officials. There are 33 prisons for an inmate population that numbered 25,610 in August. Of this number only 9,747 had been sentenced. In 1991 the Attorney General's office assigned representatives to the 14 worst prisons to monitor conditions. The increase in violence and the persistence of deplorable living standards in the prisons, however, indicate that these representatives faced severe difficulties in improving conditions. Funding for prisons remained extremely low.

Numerous prison riots occurred in 1993 due to poor prison conditions such as extreme overcrowding, inadequate diet, minimal health care, and physical abuse by guards and other prisoners. Weapons and illegal drugs are easily smuggled into most prisons, and violence within the prison system is growing. PROVEA reported that from October 1992 through September 1993, 195 prisoners were killed and another 387 wounded by other prisoners (these figures do not include victims of the November 1992 Reten de Catia massacre). PROVEA acknowledged, moreover, that these figures were conservative, reflecting only incidents covered in the press or received firsthand by PROVEA. At least one expert on Venezuela's prisons asserted that the total number of violent prison deaths for the year approached 600.

In June a brutal revolt took place at the Barcelona prison when two groups of inmates, armed with pointed sticks and guns, fought each other for control of the prison. As a result of the bloody confrontation, 6 inmates were killed and about 20 wounded. According to the police report, the bodies of the dead were found decapi-

tated. On January 3, 1994, a riot in Sabaneta prison in Maracaibo left at least 104 prisoners dead and another 80 wounded. Sabaneta had come to be known as "the prison of death," since throughout 1993 at least 71 prisoners were killed and 100 wounded in almost daily incidents of violence.

d. *Arbitrary Arrest, Detention, or Exile.*—Although the right to judicial determination of the legality of detention is provided by law, arrested persons or those under investigative detention legally can be held for as long as 8 days without a formal detention order. During this time detainees may be held incommunicado and, according to human rights groups, are sometimes physically and psychologically abused. On the eighth day of detention, a judge, taking the police investigation into account, issues a formal arrest order; if no evidence is found, the police release the person. Arbitrary arrests and arrests without proper warrants are common, and time limits for holding persons are frequently exceeded.

Prisoners often have to pay fees extorted by prison officials for transportation to judicial proceedings at which formal charges are made. Detainees without money to pay such unauthorized charges are sometimes unable to get to their judicial hearings. In addition, the 1939 Vagrancy Law permits the detention for up to 5 years, without warrant, trial, or judicial appeal, of people deemed by the police to be a danger to society but against whom there is no evidence of a punishable crime. According to human rights groups, the law is open to arbitrary and discriminatory interpretation and practices. It was used in the past to detain political dissidents, and in November 1992 the head of the Caracas Metropolitan Police threatened to use this law against two human rights activists if they persisted in their activities. The more common application of the law, however, is against poor people with criminal records who are detained during police sweeps. Amnesty International noted that detainees under this law, placed in jail merely on the basis of suspicion, are frequently victims of torture.

e. *Denial of Fair Public Trial.*—Although the right to a fair trial is provided by law and some procedural safeguards exist, the accused bears the burden of proof regarding innocence. Lengthy pretrial detention of 2 to 4 years and case backlogs are the norm. The justice system is overburdened, corrupt, and inefficient. The law provides public defenders for those unable to afford a defense attorney, but there are not enough public defenders in the country to meet this obligation. The Judicial Council, the governing body of the judicial branch, stated that there are 150 public defense attorneys with an average of 170 active cases each. Because of the unequal distribution of cases, some defenders handle as many as 250 cases.

The judicial process is written, requiring the costly and time consuming production of voluminous reports by judges, attorneys, and witnesses at every stage. Some Venezuelan leaders and legal experts also blame delays and other irregularities on corruption and the use of personal influence. The civilian judiciary is legally independent, but connections to the established major political parties are important in the judicial selection process, and political parties can and do influence judicial decisions in particular cases. This overburdened justice system also suffers from a lack of public credibility.

Civilians charged with armed subversion can be tried by military courts as insurgents. There is neither a statute of limitations nor a requirement for a speedy trial for cases in military courts, although persons convicted under the military justice system have the same right of appeal to the Supreme Court as those prosecuted under the civilian system. Military judges are appointed by the Supreme Court. The lack of deadlines in the military system, combined with its procedural secrecy and tendency to "close ranks," makes it unlikely that defendants undergo an impartial or timely prosecution. These factors resulted in military offenders receiving impunity for extrajudicial killings and other human rights abuses.

In March the Supreme Court declared unconstitutional the decree which established accelerated military tribunals for persons allegedly connected to the November 1992 coup attempt. The cases of the 87 individuals (both military and civilian) convicted by the special tribunals were placed in regular military courts (where the cases remain), while the 109 acquitted were not retried.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Venezuela has constitutional safeguards protecting citizens against arbitrary interference with privacy, family, home, and correspondence. In general, these safeguards are effective and were respected in 1993. After the 1992 coup attempts, however, the following constitutional safeguards were briefly suspended: freedom of travel, freedom of speech, the right to strike, personal security and liberty, inviolability of one's home, the right to assembly, and the right to demonstrate. In recent years, there were many complaints of telephone surveillance, although there were few reported cases in 1993. Both private individuals and the security forces have been accused of illegal wiretapping.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Venezuela has a free and lively press, which frequently criticizes the Government and denounces instances of government interference in the media. The Constitution provides for freedom of the press and free speech, and in 1993, these liberties, along with academic freedom, were widely honored, although some restrictions exist.

Particularly in the months prior to the suspension from office of President Carlos Andres Perez, the Government met regularly with media owners to discuss issues considered sensitive, resulting in some self-censorship. Journalists claimed that the Government indirectly practiced censorship throughout the year by denying reporters access to many government buildings and officials. Journalists and local human rights groups also asserted that security forces specifically targeted and used excessive force against reporters covering public demonstrations.

In April the Government suspended two satirical television programs for allegedly broadcasting scenes with "explicit sexual connotations" in a time frame when that type of programming is not allowed. Most in the media argued, however, that the suspension was aimed more at the political satire and parodies of government inefficiency featured in these programs. A week after the suspension, the Supreme Court overturned the Government's action, and the programs returned to the air. Bombs damaged the homes of two journalists known for being highly critical of the Government, one of whom received a series of telephone threats. Subsequent police investigations failed to identify those responsible for the bombings. In June the Government banned for alleged security reasons the broadcast of an interview by a popular journalist with former coup plotter Hugo Chavez.

The media continued to criticize the Government for abuse and restrictions that occurred in reaction to the two 1992 coup attempts. In the aftermath of the February 1992 attempt, the Government temporarily imposed censorship, seized some publications, screened articles, and briefly impeded the distribution of newspapers. During the November 1992 attempt, the Government temporarily closed a radio station which it charged had broadcast messages of support for the coup forces. Two journalists were allegedly killed by security forces and others reportedly beaten while covering the coup attempts and related civil unrest. Investigations and court cases regarding the abuse of journalists moved slowly. In February a group of journalists formed the Committee of Human Rights of the National Association of Journalists to monitor the investigations and court cases and promote respect for human rights and the freedom of information.

Venezuela has 4 nationwide television networks (2 of which are government owned, although only 1 was functioning), 2 cable companies, 9 regional television stations, over 300 radio stations, and numerous newspapers and magazines, with 12 dailies in Caracas alone. The Government is a significant source of advertising revenue for the media, but there appear to be no recent instances in which government advertising was channeled for political ends.

b. *Freedom of Peaceful Assembly and Association.*—The constitutional provision for freedom of peaceful assembly and association is normally respected in Venezuela; however, this provision was suspended after the February 1992 coup attempt although it was restored the following April. Public meetings, including those of all political parties, are held generally without interference, but demonstrations often attract police intervention. Professional and academic associations operate without interference. Permits are required for public marches but are not denied for political reasons.

PROVEA reported 1,047 peaceful demonstrations from October 1992 through September 1993. Of these, 157 were reportedly either stopped or repressed by security forces. During these demonstrations, about 720 people were detained, 308 wounded, and 5 killed. All of these casualties were attributed to government security forces. In January security forces in Caracas were criticized for throwing tear gas canisters into a school bus full of children caught in a university student demonstration.

c. *Freedom of Religion.*—The population is predominantly Roman Catholic, although other religious groups enjoy freedom of worship and proselytize actively. Foreign missionaries, both Catholic and Protestant, are active throughout the country.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens and legal residents are free to travel within the country and to go abroad and return. Venezuela traditionally has been a haven for refugees, exiles, and displaced persons from many European, Caribbean, and Latin American countries. They are given normal residence status and may be expelled only because of criminal activities.

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

Venezuela is a multiparty democracy with a government freely elected by secret ballot. Suffrage is mandatory for all those 18 years of age or older, and the political process is open to all. Elections for President and the Congress were held successfully on December 5. For the first time, half of the members of the House of Deputies were elected by name, based upon the provisions of an electoral reform law approved in 1989; the rest were elected proportionately from party slates. Elections for the President, Congress, and state legislative assemblies are held every 5 years.

Charges of irregularities and fraud as well as delays in proclaiming the winners marred the 1992 state and local elections and the 1993 national elections. The Supreme Court ordered new gubernatorial elections in two states (these elections took place in May); however, Supreme Court decisions are still pending in the cases of 4 other state gubernatorial contests. In addition, individuals and political parties have alleged voting irregularities in several congressional contests in the 1993 elections which may result in ballot recounts or new elections in some districts. The domination of the electoral institutions by the traditional political parties and the absence of automated vote counting machines have undermined public confidence in the fairness and transparency of the election process.

In May President Carlos Andres Perez was removed from office through constitutional means due to allegations of corruption, the first time an incumbent President had been so removed in modern Venezuelan history. Congress named Ramon J. Velasquez as President until the February 1994 inauguration of the new President.

Political views are freely expressed, and persons from the entire political spectrum contend for positions ranging from municipal council seats to the presidency. The two largest parties are centrist: the Democratic Action (AD) and the Social Christian (COPEI) parties. Although AD and COPEI remain the two largest political parties, the results of the December elections represented a major defeat for the traditional parties (which lost considerable ground in the national Congress). The principal victors in the 1993 elections were the political alliance supporting President Caldera (Convergencia/MAS) and the working class-oriented CAUSA R Party. Due to the number of presidential candidates and the nature of the voting system, President Caldera was able to win with only about 31 percent of the vote.

Women and minorities participate fully in government and politics, albeit not in proportion to their representation in society. There are no legal impediments to their free participation, but traditional attitudes produce some de facto impediments. Women and minorities are promoted into high-level positions at a slower rate than nonminority men. Indigenous people have traditionally not been fully integrated into the political system owing to lack of knowledge of how it works, low voter turnout, and residency in areas far from the capital and other cities. Indian rights advocates have noted that few indigenous people work in government agencies responsible for Indian affairs.

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

A number of local human rights groups are active throughout the country and vigorously criticize perceived government inadequacies in redressing grievances. The groups operate free of government restriction and interference, although some have complained of police harassment in the past. Two regional groups—the Latin American Foundation for Human Rights and Social Development and the Federation of Families of Disappeared Persons—have offices in Caracas and likewise operate free of government intervention.

International human rights groups also act free of government restriction and have openly conducted investigations in Venezuela. Late in the year, both Amnesty International and Americas Watch released comprehensive reports on Venezuela's human rights problems. The reports received extensive coverage in the local press, although the Government appears to have largely ignored the findings.

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

Women.—The Constitution prohibits discrimination on the basis of gender, and the Civil Code was reformed in the 1980's to make women and men legally equal in marriage. Women comprise roughly half the student body of most universities, have advanced in many professions, including medicine and law, and have gradually torn down many of the barriers that previously prevented them from fully participating in political and economic life. Women's rights groups are active in Caracas and throughout the country. Women, nonetheless, are still underrepresented in political positions and in the top ranks of the labor unions and private industry.

Many Venezuelan women also face socially ingrained discrimination that prevents them from receiving fair treatment in the workplace and under the law. The Labor Code specifies that women may not be discriminated against with regard to remuneration or working conditions, may not be fired during pregnancy and for a year after giving birth, are entitled to unpaid leave (and compensation from the social security agency) for 6 weeks before the birth of a child and 12 weeks after, and are due 10 weeks of unpaid leave if they legally adopt children under 3 years of age. According to the Ministry of Labor and the major labor federation, these regulations are enforced in the formal sector, though social security payments are normally delayed.

There is a high level of violence directed against some Venezuelan women. Women's groups point out the rape is extremely difficult to prove, requiring at a minimum a medical examination within 48 hours of the violation. Few police officers are trained in how to deal responsibly with rape victims. Likewise, although there are laws that protect women against domestic violence, the police generally are unwilling to intervene to prevent abuse. The 40 percent of women who fall below the official poverty line often have no choice but to stay with abusive spouses for economic reasons. Although Venezuela theoretically has an elaborate web of social programs, few poor women and families receive more than nominal assistance. In addition, poor women are generally unaware of and have little access to legal protections available to them.

Children.—Many Venezuelan children face extreme hardship. The Government scaled back its expenditure on education, health, and social services, leaving many impoverished children with no government assistance. The Central Office of Statistics and Information (OCEI) reported that 72 percent of children remain in school past the sixth grade and 49 percent past the ninth grade. According to a 1993 study sponsored by the United Nations Children's Fund (UNICEF), about 206,000 children under the age of 18 loiter in the streets and another 176,000 beg for money.

While Venezuelan law provides for universal free education, children's rights groups assert that the Government dedicates insufficient funding to primary and secondary education. About 50 percent of an already tight education budget reportedly goes to universities, 45 percent to pay the salaries of education staff and administrators, and only 5 percent to primary and secondary school students and the maintenance of their schools. Government agencies responsible for the welfare of children are understaffed, and many reform institutions for young delinquents are in deplorable condition.

According to children's rights groups, the recent increase in poverty has increased stress on families and led to a rise in abuse against children by parents or others. Neighbors are often hesitant to report cases of child abuse, however, due to a fear of becoming involved with authorities and ingrained attitudes regarding family privacy. Special procedures in the judicial system generally assure that children are removed from abusive households once a case has been reported.

Indigenous People.—The Constitution provides for special laws governing "the protection of indigenous communities and their progressive incorporation into the life of the nation." Nonetheless, indigenous people are not able to protect their civil and political rights or to influence decisions affecting their lands, cultures, traditions, and the allocation of natural resources. While there are a few indigenous congressmen who are members of the dominant political parties, indigenous people are underrepresented in Government. Indigenous groups were not successful in obtaining legislation they sought to preserve ancestral lands and cultures or to enact proportional representation to provide more ethnic minorities in the country's legislative bodies.

Although Venezuelan law prohibits discrimination based on ethnic origin, members of the country's indigenous population frequently suffer from inattention to and violation of their human rights. Venezuela is home to about 315,000 indigenous people in 25 ethnic groups, according a special census conducted in 1992. The Wayuu ethnic group, which makes up well over half of the indigenous population, resides in the western part of the country on the banks of Lake Maracaibo and the Gulf of Venezuela. Other groups populate the dense jungle of the Orinoco and Amazon river basins and the marsh along the Caribbean coast.

In August at least 16 Yanomami Indians were killed by illegal Brazilian gold miners who crossed the border into southern Venezuela. The massacre resulted from a feud related to the miners' persistent incursions into Yanomami-protected territory. The press and human rights groups strongly criticized the Government for its neglect to protect the Yanomamis, as authorities had been repeatedly informed of the miners' incursions and the potential for conflict.

Many of the country's indigenous people live isolated from modern civilization and lack access to basic health and educational facilities theoretically available to all

Venezuelans. Their communities are plagued by high rates of cholera, hepatitis-B, malaria, and other diseases. Tourists and other outsiders inadvertently introduce new viruses to Indian populations with unprepared immune systems: The common cold often becomes bronchitis, and chicken pox can be fatal. In addition, few indigenous communities hold titles to their lands, and many have been displaced in recent years by government-sponsored projects. Rivers have been polluted by fertilizer and machinery, and habitats plowed down for strip-mining and large-scale farming.

The Yabarana tribe, one of the smallest indigenous groups with only 237 members, is in danger of extinction. Government- condoned ranching in Yabarana territory turned many of the fields of corn and yucca that members use for subsistence into grazing ground for cattle. The Yabarana petitioned the courts and government agencies but were not successful in having the cattle removed. The plight of the Yabarana is paralleled by numerous ethnic communities throughout the country who face hardship and even extinction due to encroaching development.

People with Disabilities.—Rights for the disabled are very limited. According to local advocates, the disabled are discriminated against in many sectors, including education, health care, and employment. Disabled people report having been expelled from public university programs and turned away at hospitals, even for the treatment of afflictions unrelated to their disability. The physically impaired have minimal access to public transportation, and ramps are practically nonexistent even in government buildings.

In 1993 the Government passed the first comprehensive law to protect the rights of the disabled. The new law requires that all newly constructed or renovated public parks and buildings provide access for the disabled. Among other important provisions, the law forbids discrimination in employment practices and in the provision of public services. The Government did not make a significant effort to inform the public of the new law or to try to change the societal prejudice against the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—Both the Constitution and labor law recognize and encourage the right of unions to exist. The comprehensive 1990 Labor Code extends to all public sector and private sector employees (except members of the armed forces) the right to form and join unions of their choosing. The Code mandates registration of unions with the Ministry of Labor, but it reduces the Ministry'sdiscretion by specifying that registration may not be denied if the proper documents (a record of the founding meeting, the statutes, and the membership list) are submitted. Only a judge may dissolve a union, and then only for reasons listed in the law, such as the dissolution of a firm or by agreement of two-thirds of the membership.

One major union confederation, the Venezuelan Confederation of Workers (CTV), and three small ones, as well as a number of independent unions, operate freely. About 25 percent of the national labor force is unionized. There are no restrictions on affiliation with international labor organizations, and many union organizations play active international roles. The CTV's top leadership includes members of several political parties. The majority are affiliated with the country's largest party, the AD. The CTV and the AD party reciprocally influence each other. The CTV, however, repeatedly demonstrated its independence from the Government (in which the AD held the presidency and a plurality of the seats in the Congress) and from the AD party (as evidenced by its frequent criticism of the Government's economic policies).

The right of public and private sector employees to strike is recognized legally but may only be exercised by public servants if it does not cause "irremediable damage to the population or to institutions." The Labor Code allows the President to order public or private sector strikers back to work and to submit their dispute to arbitration if the strike "puts in immediate danger the lives or security of all or part of the population."In recent years workers seldom resorted to strikes, but a perceived decline in living standards increased the willingness of workers to consider them seriously. During 1993 most strikes occurred among government employees. With the exception of a prolonged strike by public schoolteachers, which was settled through Labor Ministry mediation, the threat to strike was sufficient in most cases to achieve a resolution satisfactory to the workers.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining is protected and encouraged by the Labor Code and is freely practiced. According to the Code, employers "must negotiate" a collective contract with the union that represents the majority of their workers. The Code also contains a provision stating that wages may be raised by administrative decree, provided that the Congress approves the decree.

The law prohibits employers from interfering with the formation of unions or with their activities and from stipulating as a condition of employment that new workers must abstain from union activity or must join a specified union. Complaints regarding violations of these articles of the law are heard by Ministry of Labor inspectors, who can impose a maximum fine of twice the minimum monthly wage for a first infraction. Under the Code, union officials have special protection from firing. If a judge determines that any worker was fired for union activity, the worker is entitled to back pay plus either reinstatement or payment of a substantial sum of money, which varies according to his years of seniority.

Labor law and practice is the same in the sole export processing zone as in the rest of the country.

c. *Prohibition of Forced or Compulsory Labor.*—There is no forced or compulsory labor. The Labor Code states that no one may "obligate others to work against their will."

d. *Minimum Age for Employment of Children.*—The Labor Code allows children between the ages of 12 and 14 to work if given special permission by the National Institute for Minors or the Labor Ministry. Children between the ages of 14 and 16 may work if given permission by their legal guardians. Minors may not work in mines, smelters, or in occupations "that risk life or health," in occupations that could damage intellectual or moral development, or in "public spectacles."

Those under 16 years of age must by law work no more than 6 hours a day or 30 hours a week. Minors under age 18 may work only during the hours between 6 a.m. and 7 p.m. The law is enforced effectively by the Ministry of Labor and the National Institute for Minors in the formal sector of the economy, but much less so in the informal sector, which by the end of 1990 (latest available figures) accounted for 41 percent of total employment. According to a UNICEF study, some 1 million children work in the informal sector, mostly as street vendors; there is no other occupation in which employment of children is believed to be substantial.

e. *Acceptable Conditions of Work.*—Venezuela has a national urban minimum wage rate and a national rural minimum wage rate. The monthly minimum wage, effective February 1992, was $95 (9,000 bolivars) for urban workers and $63 (6,000 bolivars) for rural workers. Mandatory fringe benefits are added to these minimum figures; they vary with the workers' individual circumstances, but in general increase wages by about one-third. In the past, this combined income provided a living wage. However, in 1993 unions, arguing that purchasing power declined significantly over the last several years, called for an increase of up to 50 percent in the minimum wage. Only domestic workers and concierges are legally excluded from coverage under the minimum wage decrees. Under the Labor Code, the rates are set by administrative decree, which Congress may either suspend or ratify but may not change. Minimum wages are enforced effectively in the formal sector of the economy by the Ministry of Labor, but compliance is generally not enforced in the informal sector.

The 1990 Labor Code reduced the standard workweek to a maximum of 44 hours, and requires "two complete days of rest each week." Some unions, such as the petroleum workers, have negotiated a 40-hour week. Overtime may not exceed 2 hours daily, 10 hours weekly, or 100 hours annually, and may not be paid at a rate less than time and a half. These standards are effectively enforced by the Ministry of Labor in the formal sector.

The 1986 health and safety law still awaits implementing regulations and is not enforced. The delays are due largely to concern that the law provides penal sanctions against management when violations of health and safety occur and ambiguity in the law over what constitutes a violation. The Labor Code states that employers are obligated to pay specified amounts (up to a maximum of 25 times the minimum monthly salary) to workers for accidents or occupational illnesses, regardless of who is responsible for the injury. It also requires that workplaces must maintain "sufficient protection for health and life against sicknesses and accidents," and it imposes fines of from one-quarter to twice the minimum monthly salary for first infractions. Enforcement of the law by inspectors from the Ministry of Labor appears to be effective. Workers can remove themselves from dangerous workplace situations without jeopardy to continued employment.

EAST ASIA AND THE PACIFIC

AUSTRALIA

Australia has a federal system of government and a long history as a multiparty parliamentary democracy. Federal, state, and local police carry out their functions in accordance with the requirements of the law, which respects and safeguards individual human rights.

Australia has a developed economy, which includes manufacturing, mining, agriculture, and services, providing most Australians with a high per capita income. A wide range of government programs offer assistance for the minority of relatively disadvantaged citizens, but fiscal constraints are affecting the amount made available. People are free to hold private property, pursue economic and personal interests, associate with others, and organize trade unions.

Basic human rights are ensured by law and respected in practice. The Government is firmly committed, both domestically and internationally, to the promotion of, and respect for, human rights.

In part as a result of the April 1991 report of the Royal Commission, which investigated the deaths of Aboriginals while in custody, the Government administers many programs aimed at improving the socioeconomic conditions of Aboriginals and Torres Strait Islanders (ATSI), who together form about 1.6 percent of the population, and addressing longstanding discrimination against them.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Killing for political motives by the Government or by political organizations does not occur.

The April 1991 Report of the Royal Commission investigating the deaths of ATSI in custody stated that, although the deaths were not caused deliberately, police and prison officials showed callous indifference and remarkable insensitivity, which contributed significantly to the deaths. The Commission also found that although ATSI died at approximately the same rate as others in prison, ATSI persons were arrested at a rate 29 times that of whites.

In a report issued in August, the Australian Institute of Criminology stated that deaths among the overall population in custody have not fallen in the period since the Royal Commission completed its work. The Institute noted that during the last 2 years, the overall number of deaths had been essentially constant: 61 in 1991 and 62 in 1992.

In contrast, however, Aboriginal deaths in custody were reported to have fallen from 11 in 1991 (18.0 percent) to 7 in 1992 (11.3 percent). Further, the rate of deaths per 1,000 persons in custody was significantly lower for Aboriginals than for others—a notable improvement over previous data attesting to a somewhat higher rate of deaths among Aboriginal prisoners.

b. *Disappearance.*—There have been no instances of political disappearances.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Australian law prohibits all these practices, and this prohibition is generally respected. In April 1991, however, the Royal Commission investigating ATSI deaths in custody indicated it had found credible evidence that ATSI had frequently been mistreated while in custody, and it recommended several steps to reduce the number of arrests and improve the treatment of ATSI prisoners to avoid further deaths. During 1993 federal and state authorities continued to address the problem of deaths and mistreatment of Aboriginals in custody by means of police reform, including improved detention procedures and training courses in Aboriginal culture.

d. *Arbitrary Arrest, Detention, or Exile.*—Australian law prohibits arbitrary arrest and imprisonment. This prohibition is respected in practice.

e. *Denial of Fair Public Trial.*—Australia's well-developed system of federal and state courts is fully independent. Both in law and in practice, defendants receive due process, including a presumption of innocence, a right to confront witnesses, and a right of appeal. On the other hand, previous practice in federal and state cases has not always required that the Government pay for an indigent defendant's lawyer.

All Australian states except New South Wales have obliged people involved in criminal cases to meet a merit test before qualifying for legal aid. The purpose of the merit test is to save the Government from "wasting funds on unwinnable cases." Under these procedures, many, but not all, defendants in serious criminal cases have been found to deserve legal counsel. If the case was considered futile, the defendant was denied counsel at public expense. An unfavorable decision could be appealed to a panel of independent lawyers and social workers appointed by the Legal Aid Commission.

The High Court has stated that it would be an exceptional case in which a person accused of serious charges could be tried fairly without a lawyer. In 1993 the State of Victoria took account of this decision by abolishing a previous restriction whereby counsel would not be provided if the cost was thought likely to exceed a specified amount, which at the end of 1993 equated to about $130,000.

Defendants, including ATSI, appearing before an Australian Defense Force magistrate in cases subject to military jurisdiction, are exempt from the merit test. The Government maintains offices of special legal counsel for persons of ATSI descent, who are always entitled to receive legal aid.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Under Australian law and in practice, no search may be conducted without a judicially issued warrant. The Government does not interfere with the privacy of family, home, or correspondence.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—A democratic political system, an effective judiciary, and diverse, vigorous, and independent news media combine to protect freedom of speech and press and full academic freedom. But Australia does not have a bill of rights, and journalists are sometimes subjected to court proceedings aimed at compelling them to reveal confidential sources. In May a South Australian journalist was fined about $3,200 for refusing to reveal sources for a published report alleging that criminal behavior was involved in financial losses by the State Bank of South Australia. In September a New South Wales journalist received a 2-month suspended sentence for refusing to reveal sources for an article on police corruption.

b. *Freedom of Peaceful Assembly and Association.*—Australia does not have a written Bill of Rights but is a party to the International Covenant on Civil and Political Rights, which provides for freedom of assembly and expression; these freedoms are respected in practice.

c. *Freedom of Religion.*—Australians have complete freedom of religion. A provision in the Constitution precludes the adoption of an official state religion.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Australia imposes no restrictions on movement within or outside the country. The rights of emigration and repatriation are also protected.

The Government removes from Australia boat people whose applications for asylum or humanitarian admission are denied. In late 1992, the Australian High Court upheld the Government's right to detain boat people pending adjudication of their cases. As of September 30, 1993, Australian authorities had granted refugee status to 141 boat people, including 8 children born in Australia, out of some 540 applications from persons who had arrived since 1989, primarily from Cambodia, China, and Vietnam. Two hundred forty-one boat people were still being held in various detention camps, pending court decisions.

In an August 13 submission to Parliament's Joint Standing Committee on Migration, the Department of Immigration and Ethnic Affairs stated, "It is of concern that some unauthorized arrivals have been held in detention for very long periods: in some cases for more than 3½ years." The Attorney General's Department addressed this same point in its own submission to the Joint Standing Committee, noting the requirement of the International Covenant on Civil and Political Rights that detention not be excessively long. At the request of the Joint Standing Committee, the Canberra office of the U.N. High Commissioner for Refugees (UNHCR) also submitted comments, indicating that detentions were unduly prolonged in some cases and possibly contravened Article 31 (1) of the 1951 Convention Relating to the Status of Refugees.

The status of 19,000 Chinese, who had been students in Australia at the time of the 1989 Tiananmen Square massacre, and their 9,500 dependents, was regularized

in November 1993 when the Australian Government granted them permanent resident status. Prior to the regularization of their status, they had received a clear commitment that none would be returned to China against their will, unless they broke the law. They had also been given provisional status through the granting of temporary residence permits valid for 4 years.

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

Australians elect representatives to a two-chamber Federal Parliament as well as to numerous state and local bodies through free and open elections. Voting, by secret ballot, is compulsory in general elections for Australians 18 years of age and older; voters who do not at least collect ballots may be fined, and fines are in fact levied.

Indigenous people are able to participate fully in Australia's political processes. They do so as voters, members of political parties, and candidates for elected office.

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

A wide range of local nongovernmental organizations concerned with human rights operates freely, and the Government permits unimpeded access to all international groups investigating alleged human rights violations. Australia actively promotes human rights.

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

Women.—Analysts and commentators state that violence in the home, mainly carried out by men against women, has enormous social and economic costs. Previous estimates suggested that domestic violence may affect as many as one Australian family in three or four, but government officials stress the impossibility of providing an accurate national profile of the number of women who are victims of domestic violence, because of underreporting and the lack of an agreed method for collecting statistics.

The Government continued its community education campaign aimed at ending violence against women, operating under a 3-year budget of about $2.3 million. The National Committee on Violence Against Women produced a national strategy focused on the role of all levels of government in eliminating violence against women; it was endorsed by ministerial councils consisting of federal and state ministers with similar responsibilities.

The Sex Discrimination Act of 1984 prohibits discrimination on the basis of sex, marital status, or pregnancy, and in late 1992 Parliament enacted amendments which significantly strengthened it. Separate 1986 legislation on affirmative action obliges employers to provide equal employment and equal promotion opportunities for female employees.

Because of widespread concern about perceived bias against women in the legal system, the Australian Law Reform Commission initiated an inquiry into the equality of women before the law. Women's rights and welfare are promoted by community-based women's organizations, women's advisers in each of the states, and by the Government's Office of the Status of Women.

Children.—The National Child Protection Council, a Commonwealth-funded body which also includes representatives of state governments as well as community members, promotes and conducts research on the prevention of child abuse and child neglect. The Council is examining the feasibility of a National Community Education Program, and it actively cooperates with nongovernmental organizations.

In September the Government issued a national strategy aimed at preventing child abuse and creating an environment which supports families and communities and helps them meet their responsibilities to care for and protect children.

In a report made public later in that same month, a senior judge of the Family Court of Australia strongly criticized the State of Victoria's plan to reduce funding for child protection services by $5 million. Adverse findings included charges that the Children's Court was threatened by primitive conditions, overcrowding, overwork, and a lack of resources; that insufficient resources were being allocated for the introduction of mandatory reporting of child abuse; and that the state government had "virtually abandoned the care and protection" of homeless adolescents.

Indigenous People.—The Racial Discrimination Act of 1975 prohibits discrimination on grounds of race, color, descent, or national or ethnic origin, and most Australians have equal access to government services. In practice, however, ATSI continued to suffer abusive treatment and widespread discrimination. As a remedial measure, on both the federal and state level, police training now includes more emphasis on race sensitivity.

Because the Aboriginal population is the most disadvantaged group in relation to education, housing, health, and employment, the federal and state governments provide special services which supplement the broad range of programs that are available to all Australians. These special services are aimed at improving socioeconomic conditions among ATSI.

Parliament established the Aboriginal and Torres Strait Islander Commission to give ATSI more control over many government programs intended for their benefit and also set up the Council for Aboriginal Reconciliation, which is coordinating a 10-year program to promote better understanding between ATSI and other Australians. In September the State of Western Australia announced a plan aimed at quadrupling the number of Aboriginal police officers over a 5-year period.

Observers affiliated with Aboriginal groups generally supported federal and state programs but tended to describe them as underfunded. Further, they noted that much of the underlying problem of racial discrimination stemmed from deeply rooted personal attitudes and views, expressing doubt that government programs, although valuable in themselves, will produce notable results in the short run. In addition, these observers questioned whether federal and state police authorities had shown sufficient diligence and energy in pursuing police reform.

Spokespersons for Aboriginal groups also stressed the need for appropriate and nondiscriminatory legislation that would assist in resolving property disputes involving Aboriginal groups who claimed traditional ownership of land as a matter of native title under common law. In their view, it would not be sufficient for federal and state governments to guarantee existing titles and award financial compensation to Aboriginal groups whose interests might have been adversely affected by the Crown's past land grants (e.g., freehold title, pastoral leases, mining leases). Instead, they asserted, the principles of justice and nondiscriminatory treatment required that Aboriginal groups be entitled to recover actual ownership as a result of lawsuits that met criteria (e.g., ongoing and uninterrupted access to and use of the land) established by the High Court in its landmark Mabo Decision (1992), which, in part, had been based on provisions of the Racial Discrimination Act.

The Government continued its commitment to promote intercultural understanding and to address better the needs of ethnic groups through a national multicultural agenda.

People with Disabilities.—The Federal Disability Discrimination Act (1992) complements state laws prohibiting discrimination. It is administered by the Human Rights and Equal Opportunity Commission, a Commonwealth body whose first Disability Discrimination Commissioner was appointed in February. Federal officials are currently developing a national disability strategy based on the U.N. Standard Rules on the Equalization of Opportunities for Persons with Disabilities. Ensuring access to public buildings is required by the Disability Discrimination Act and, in part, is addressed in building codes. Australian authorities are investigating ways to improve compliance in practice.

Section 6. Worker Rights

a. *The Right of Association.*—Australian law and practice provide workers, including public servants, freedom of association both domestically and internationally. According to figures released by the Australian Bureau of Statistics (ABS) in 1993, 39.6 percent of the work force is unionized. Unions are closely aligned with the Australian Labor Party (ALP), and supply 60 percent of the voting delegates at ALP congresses. However, the Labor Government does not influence union policies, which are often at variance with its own, despite the fact that several key ministers were once trade union officials.

In response to a November 1992 finding by the International Labor Organization (ILO) that the legal requirement for unions to have at least 10,000 workers in order to be registered under the federal system could "unduly influence workers' free choice of unions," the Government repealed this provision on December 16, 1993, with amendments (effective March 1994) to the Industrial Relations Act of 1988. Inter alia, these amendments extended enterprise bargaining to the nonunionized sector and created a labor court to adjudicate secondary boycott and good-faith bargaining questions.

Australian workers enjoy the right to strike, which is well established in practice. This right had not been protected under domestic law. However, the Government included explicit recognition of the right to strike in the December 16, 1993, legislation. In general, industrial disputes are resolved through direct employer-union negotiations or under the auspices of the various state and federal industrial relations commissions whose mandates include compulsory conciliation and arbitration.

According to ABS figures released on December 20, 1993, in the 12 months ending September 1993, there were 631 reported disputes involving 1,065,100 persons and

1,165,800 working days lost. The number of disputes is the lowest on record in a 12-month period since the ABS series was first compiled in December 1981, and represents a 50-year low according to other available statistics. On a proportional basis (working days lost per thousand employees), the coal mining industry experienced the greatest number of labor disputes. Overall, there were no significant strikes in 1993.

b. *The Right to Organize and Bargain Collectively.*—Australian workers are granted the right, by law and in practice, to organize and bargain collectively, and to be represented in negotiating the prevention and settlement of disputes with employers. Workers are also protected by law and in practice from antiunion discrimination. The Government enhanced existing protection against unfair dismissal in its December 16, 1993, legislation, along lines specified in ILO guidelines.

A pattern of centralized minimum wage awards and quasi-judicial arbitration, supplemented by industrywide or company-by-company collective bargaining, has generally prevailed since 1904, when the Commonwealth Conciliation and Arbitration Commission was established. The Industrial Relations Act of 1988 made technical changes in the system, creating a new Industrial Relations Commission which focuses more on its quasi-judicial dispute settlement role. At the same time, the Government has encouraged the spread of decentralized enterprise collective bargaining, in order to relate wage increases more to gains in productivity.

In November 1992, the newly elected Conservative Government in the State of Victoria introduced a series of laws which, the International Confederation of Free Trade Unions alleged, forced 800,000 workers to sign individual employment contracts as opposed to collective agreements and outlawed almost all strikes and limited pickets. Following a strike and protest demonstrations, the Federal Government acted to incorporate most, if not all, of these workers under the federal Industrial Relations Law to protect their trade union rights.

Export processing zones (EPZ's) do not exist in Australia.

c. *Prohibition of Forced or Compulsory Labor.*—Although there are no laws regarding forced labor, Australia fully respects the ILO's conventions concerning forced labor, and forced labor is not practiced.

d. *Minimum Age for Employment of Children.*—There is no federally mandated minimum age for employment, but state-imposed compulsory education requirements, monitored and enforced by state educational authorities, prevent children from joining the work force until they are 15 to 16 years old, except in individual cases involving administrative approval for absence from school because of reasons such as illness, disability, or family hardship. In addition, federal and state ministries of labor monitor and enforce a complicated network of legislation (which varies from state to state) governing such interrelated factors as minimum school-leaving age, minimum age to claim unemployment benefits, and minimum age to engage in specified occupations.

e. *Acceptable Conditions of Work.*—Australia has long had a tradition that workers should be guaranteed a decent standard of living. The degree of wage comparability for women is one of the highest in the world, and pay equity was enacted in legislation passed on December 16, 1993. Although a formal minimum wage exists, it is not used. Instead, most workers are covered by differing minimum wage rates for individual trades and professions, as embodied in a comprehensive system of "awards" determined by the various quasi-judicial state and federal industrial relations commissions, after submissions by union, employer, and government representatives. In many cases involving individual business enterprises, the commissions approve wage rates previously negotiated and agreed upon by employers and unions. Where market conditions warrant, employees are often paid higher wages than those provided for in industrial awards ("over-award payments"). About 80 percent of wage and salary earners are covered by awards. The remaining 20 percent are mostly management-level employees or are self-employed. There are no trades whose awards are below the formal minimum wage.

The lowest current federal award of about US$221 (A$328) per 38-hour week is for clothing workers. Combined with other regularly provided benefits and government entitlements for low-income families, this wage provides a decent standard of living for a worker and his family. Real monetary wages for the average worker declined over the past decade, but a comprehensive social welfare program maintained a social safety net under lower paid workers.

The majority of workers are employees of incorporated organizations. For them, a complex body of federal and state regulations, as well as decisions of the corresponding industrial relations commissions, prescribes a 40-hour or shorter workweek, paid vacations, sick leave, and other benefits, including at least one 24-hour rest period. In a limited number of cases, workplace health and safety standards are also prescribed. Federal or State safety laws apply to every workplace.

An intergovernmental body called the National Occupational Health and Safety Commission (also known as "Worksafe Australia") develops advisory standards and codes of practice which can be a basis for new laws. The Occupational Health and Safety (Commonwealth Employment) Act of 1991 gives a federal employee the legal right to cease work if he or she believes that particular work activities pose an immediate threat to health or safety. Most states and territories have laws that grant similar rights to their employees. At a minimum, private sector employees have recourse to state health and safety commissions, which will investigate complaints and enjoin remedial action as appropriate. Some states and territories also have legislation empowering trained private sector workers (in firms with more than 10 employees) to suspend any activity they deem unsafe.

BRUNEI

Brunei Darussalam is a small, wealthy monarchy located on the north coast of Borneo. The population of roughly 290,000 is predominantly Malay (65 percent). Chinese (15 percent), indigenous peoples (6 percent), and foreign residents (14 percent) make up the remainder. Brunei is a hereditary sultanate ruled by the same family for 600 years. It became a British protectorate in 1888 and fully independent in 1984.

The 1959 Constitution provided for the first delegation of political power by the Sultan. In 1962 the Sultan invoked an article of the Constitution that allowed him to assume emergency powers for 2 years. These have been regularly renewed and remain in force. Although not all of the articles of the Constitution are suspended, the state of emergency places few limits on the Sultan's power. He also serves as Prime Minister, Minister of Defense, Dean of the National University, and chief religious leader.

The police force, which has responsibility for internal security, reports to the Prime Minister's office and is firmly under the control of civil authorities.

Brunei produces an average of 160,000 barrels of oil per day and about 5.5 million tons of liquefied natural gas per year. This bountiful natural resource endowment, in combination with Brunei's small population, gives it one of the world's highest per capita gross national products.

In September Brunei participated in the issuance of the Kuala Lumpur Declaration which, among other things, confirmed the right of "all human beings, without distinction as to race, color, sex, language, religion, nationality, ethnic origin, family or social status, or personal convictions, to freedom of thought, opinion, conscience, and religion." The Declaration also affirmed the right of citizens "freely to determine their political status." Nothing in Brunei's Constitution or laws states that its citizens cannot change their government. In practice, however, citizens do not have this right. Bruneians generally eschew political activity of any kind, knowing that such activity will be disapproved by the Government and ruler and may lead to punishment. Nor do Bruneians genuinely exercise the freedoms of speech, press, and association provided for in the Constitution. Other human rights abuses, including mandatory flogging of prisoners for certain offenses, discrimination against women, and circumscription of religious freedom continued in 1993.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of politically motivated killings.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—In 1988 whipping with a cane became mandatory punishment for 42 criminal and drug-related offenses and for vandalism. Since then sentences of whipping have been handed down and carried out in the presence of a doctor who monitors implementation and has the authority to interrupt and postpone the punishment for medical reasons. The incidence of crime in Brunei is low, and caning is infrequent.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution has no provision for habeas corpus. While legislative provisions granting the right of habeas corpus exist, those provisions, like the Constitution itself, may be superseded, either partially or wholly, through invocation of the emergency powers. No such action has occurred to date. Police officers have broad powers to arrest people without warrants. However, under normal circumstances, a magistrate must endorse a warrant for arrest. Warrants are issued without this endorsement on rare occasions, such as when police are unable to obtain the endorsement in time to prevent the flight of a suspect.

The Internal Security Act (ISA) permits the Government to detain suspects without trial for renewable 2-year periods. The Government has occasionally used the ISA to detain persons suspected of antigovernment activity.

Brunei's prison population is not large. Prisoners are not known to be abused. The several facilities for prisoners range from adequate, for the short-term "lockup," to good, for the long-term prison at Jerudong.

c. *Denial of Fair Public Trial.*—The Bruneian judicial system consists of five levels of courts, with final recourse available through the Privy Council in London. Although there is no trial by jury, procedural safeguards are available, including the right to defense counsel, the right to an interpreter, the right to a speedy trial, and the right to confront accusers. There were no known instances of government interference with the judiciary in 1993 and no trials of political opponents.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Although the Government is empowered by law to intrude into the privacy of individual persons, families, or homes, this rarely happens.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and freedom of the press are not restricted by law, but the Government frequently censors international newspapers and periodicals by removing or blacking out articles or photographs found to be objectionable. In 1993 articles were subject to censorship if they were potentially embarrassing to Brunei's royal family, critical of the Government or the Sultan, or were judged improper by the censors. The growing use of facsimile (FAX) machines makes it increasingly difficult to keep such material from entering Brunei. The independently owned local newspaper practices self-censorship by avoiding issues it knows the Government would object to. The only television station is government owned. (The broadcasts of two Malaysian television stations can also be received.) Because of the almost total absence of criticism or opposing views, the Government's tolerance of political criticism has not been effectively tested recently. In the past it has not hesitated to arrest those who attempted to espouse unwelcome political views.

b. *Freedom of Peaceful Assembly and Association.*—Freedom to assemble for political purposes also has not been seriously tested in recent years. Following the 1967 ban on political parties, the Government allowed two parties to form in 1985 and 1986. The Government severely restricted membership in both parties, disbanding one of them in 1988. The other political party, the Brunei National Solidarity Party, lingers on with a few dozen members.

c. *Freedom of Religion.*—The Constitution states, "The religion of Brunei Darussalam shall be the Muslim religion according to the Shafeite sect of that religion: provided that all other religions may be practiced in peace and harmony by the person professing them in any part of Brunei Darrussalam."

In 1991 the Government began to reinforce the legitimacy of the hereditary monarchy and the observance of traditional Bruneian and Muslim values by reasserting a national ideology known as the Malaya Islam Beraja (MIB) or "Malay Muslim Monarchy," the genesis of which reportedly dates back to the 15th century. The resulting Islamization of Bruneian society has created a variety of impediments to the full and unconstrained exercise of religious freedom called for in the Constitution and in the recent Kuala Lumpur Declaration. Despite constitutional guarantees and the Kuala Lumpur Declaration, the Government routinely restricts the practice of non-Muslim religions by: prohibiting proselytizing; occasionally denying entry to foreign clergy or particular priests, bishops, or ministers; banning the importation of religious teaching materials or scriptures such as the Bible; and refusing permission to expand, repair, or build new churches, temples, and shrines. The Ministry of Education has also restricted the teaching of the history of religion or other courses in religion in non-Islamic schools while requiring courses on Islam or the MIB in all schools.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—While the movement of former political prisoners was restricted during the first year of their release, there were no restrictions on freedom of movement in the country for most citizens, permanent residents, and expatriates. The Government places some contractual restrictions on foreign travel for certain expatriate employees, but this is limited to the first year of the contract. While Brunei has not been willing to accept asylum seekers, it has agreed in principle, and subject to certain reservations, to the Comprehensive Plan of Action adopted by the 1989 International Conference on Indochinese Refugees.

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

Bruneian citizens are unable to change their government through established democratic processes. Under the continuing state of emergency, there is no parliament, and political authority and control rests in the hands of the ruling monarch. Individual citizens may seek to express their views or influence government decisions and policies by petitioning the Sultan or handing him letters when he appears in public. The only form of popular representation lies in a traditional system of village chiefs, who, under a new system inaugurated in 1992, are elected by secret ballot at meetings in which all adults may participate and vote. Once elected, village chiefs serve for life. Candidates must meet 2-year village residency requirements; have a knowledge of Islam, though they need not be Muslims; and have no current or past involvement with any political party. These leaders communicate constituents' wishes through a variety of channels, including periodic meetings, chaired by the Home Affairs Minister, with several officials appointed by the Sultan.

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

There are no government or private organizations in Brunei that deal specifically with the protection of human rights. Given the tight restrictions on freedom of speech and press and the Government's unwillingness to tolerate criticism, any group or individual attempting to investigate and report publicly on human rights issues would face severe constraints. There were no known allegations of abuses or requests to visit by international human rights groups.

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

Women.—Based on Koranic precepts, women in Brunei are denied equal status with men in a number of important areas such as divorce, inheritance, and custody of children. Under the Brunei Nationality Act, citizenship is passed on through the male only. Female citizens of Brunei who are married to foreigners or bear children by foreign fathers cannot pass on Bruneian citizenship to their children, even when such children are born in Brunei. This has resulted in creation of a sizable population of stateless children, estimated at more than 5,000 residents, who are entitled to live in Brunei and be documented for travel by the Government, but who cannot enjoy the full privileges of citizenship, including the right to own land.

Although men are eligible for permanent positions in government service whether or not they hold university degrees, women who do not have university degrees are eligible to hold government positions only on a month-to-month basis. While recent changes eliminated some previous inequities, women in month-to-month positions continue to receive slightly less annual leave and fewer allowances than their male and female counterparts in permanent positions.

There are no separate pay scales for men and women, and in recent years there has been a major influx of women into the work force. Women serve in a wide variety of capacities in Brunei's armed forces, although they may not serve in combat. At the junior and middle levels of Brunei's large government bureaucracy there are now substantial numbers of women. Maternity leaves of 56 workdays are now granted to women regardless of whether they hold permanent or month-to-month positions and may be taken at any time before or after delivery. The number of female university graduates is increasing, and nearly two-thirds of the National University's entering class is female.

A woman now serves as an intermediate court judge, the highest judicial position held by Bruneians, and sat recently with a foreign high court judge in a capital case involving a foreign woman. Nevertheless, at higher levels of the bureaucracy a clear pattern of discrimination exists. Since independence, no woman has been appointed to ministerial rank; and women continue to be passed over despite the fact that there are by now a number of well-qualified candidates for promotion to positions at permanent secretary and deputy minister levels.

Religious authorities strongly encourage Brunei Muslim women to wear the tudong, a traditional head covering, and many women do so. Some Muslim women do not, however, and there is no pressure on non-Muslim women to do so. The incidence of rape or domestic violence against women appears to be relatively low, though the extent to which either may occur and go unreported is not known.

The criminal penalty for a minor domestic assault is 1 to 2 weeks in jail and a fine. An assault resulting in serious injury would be punished by whipping and a longer jail sentence. One area of apparent abuse involves female domestic servants. While the level of violence in Bruneian society is comparatively low, there is less taboo about the beating of servants—or refusing them the right to leave the house

on days off, sometimes on grounds that they "might encounter the wrong company." Since most domestics are foreign workers, who are reasonably well paid and highly dependent on their employers for continued employment, those subject to abuse may be unwilling or unable to bring complaints, either to Bruneian authorities or to their governments' embassies in Brunei. When such complaints are brought, however, the Government is generally quick to take action, including the imposition of fines and punishment.

Children.—While published statistics regarding the welfare of children, and crimes against children do not exist, the strong commitment to family within Bruneian society, the country's high standard of living, and government funding for children's welfare guarantee almost all children growing up in Brunei a healthy and nurturing environment. With a few exceptions involving small villages in extremely remote areas, nutrition standards are high and poverty is almost unknown. Instances of child abuse appear low.

The Government's commitment to the welfare of children is demonstrated in Brunei's hospitals where health care is free for all citizens. This includes rural hospitals and traveling clinics which provide high levels of health care and public health outreach programs. There are excellent prenatal, neonatal, and postnatal programs, free childhood immunization, and rehabilitation and physical therapy programs for injured, sick, or handicapped children.

Indigenous People.—Six percent of Brunei's population is comprised of indigenous peoples. They have long been integrated into Bruneian society, although a few still live in remote jungle areas. They enjoy the same rights of land ownership and access to natural resources as other Brunei citizens and have never possessed, or had a concept of, defined tribal lands. They are free to celebrate traditional festivals and to maintain cultural traditions. Presumably, since most are non-Muslim, they may feel the same discomfort as other minority groups over the Government's active efforts, particularly through the Ministry of Education's directives to schools, to inculcate in all citizens the concept of the MIB. There is no apparent pattern of job discrimination against indigenous peoples, a number of whom have risen to high positions such as deputy director of the Anticrime Bureau, registrar of the University of Brunei Darussalam, and commanding officer of the Royal Bruneian Armed Forces' special combat squadron.

National/Racial/Ethnic Minorities.—Few of the substantial Chinese minority, constituting 15 percent of the population, are citizens. Those having no claims to other nationalities were "British-protected persons" prior to independence, and are now stateless and either permanent or temporary residents. Noncitizens may not own land but may hold property through long-term leases.

The process of obtaining citizenship in Brunei is long and difficult. Many aspirants complain that the Malay-language test required for citizenship is administered so rigorously that it is almost impossible for a nonnative speaker to pass.

In general, however, the Chinese community, which conducts much of the country's commercial activity, has prospered in Brunei. While the Chinese have done well economically, and some hold key governmental positions, including one position at the permanent secretary level, some are reevaluating their position in Brunei, especially the prospects for their children in a society in which ethnic Malay citizens are favored in such areas as government employment and access to the National University, and some Chinese are emigrating.

People with Disabilities.—There are no provisions for easy access to public places and no affirmative legislation for the disabled in Brunei. However, the disabled are well integrated into Brunei society and the workplace, due mainly to past and ongoing efforts of the Government and associations for the disabled to raise public consciousness.

Section 6. Worker Rights

a. *The Right of Association.*—Trade unions are legal in Brunei but must be registered with the Government. Signatures of seven members are required for registration. There are four registered trade unions, all of them in the oil sector, with a total membership amounting to less than 5 percent of the work force. All workers, including civil servants other than those serving in the military and police, may form or join trade unions. Unions are independent of the Government. The Trade Unions Act of 1962 permits the formation of trade union federations in Brunei but forbids affiliation of Brunei's trade unions with labor organizations outside Brunei. An individual contract is required between an employer and each employee, but legal trade union activities cannot be deemed to violate employee contracts. Local legal experts interpret this provision as conferring the right to strike, but there have been no strikes.

b. *The Right to Organize and Bargain Collectively.*—The Government has not prevented the legal registration of trade unions, nor has it dissolved any. There is no government interference with lawful union activity. It is illegal to refuse employment or discriminate against an employee on the basis of membership or nonmembership in a trade union. While unions are legal and easy to register, conditions in Brunei are not conducive to the development of trade unions. There is little interest on the part of workers in forming trade unions, and existing unions are not very active. Brunei law is silent on collective bargaining, and it occurs in only a few industries. There is a lack of those kinds of industries in which unions have traditionally developed. Also, cultural tradition favors consensus over confrontation. Wage and benefit packages are based on market conditions and tend to be generous.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is prohibited by Chapter 93 of the Laws of Brunei, and it is not practiced.

d. *Minimum Age for Employment of Children.*—Chapter XI of the Labour Enactment Laws of 1954 specifically covers the employment of children. Employment of children below the age of 16 is prohibited. Parental consent and approval by the Labor Commission is required for those below the age of 18. Women under 18 may not work at night or on offshore oil platforms. The Labor Department, which is a part of the Ministry of Home Affairs, effectively enforces laws on the employment of children.

e. *Acceptable Conditions of Work.*—Skilled labor is in short supply, and market forces enable most citizens of Brunei to command good salaries. Brunei has no minimum wage. Overtime is paid for work in excess of 48 hours a week, and double time is paid for work performed on legal holidays. Occupational health and safety standards are established by government regulations. Working conditions are subject to inspection on a routine basis and in response to complaints to Department of Labor (DOL) officials. The DOL generally enforces labor regulations effectively. However, in the unskilled labor sector, enforcement is lax, especially for foreign laborers. The DOL is empowered to close any workplace where health, safety, or working conditions are unsatisfactory, and it has done so in the past.

BURMA

Burma is ruled by a highly authoritarian, military regime that has been condemned for its serious human rights abuses. Heading the latest version of a military dictatorship that has presided over the country with an unyielding grip for more than three decades is the State Law and Order Restoration Council (SLORC), which took power in September 1988 after harshly suppressing massive prodemocracy demonstrations. Longtime dictator General Ne Win, whose policies had pushed Burma to the margins of the international community and driven the country into a deep economic decline, resigned shortly before SLORC's emergence. Nevertheless, he continued to wield the power behind the scenes.

The SLORC, headed by the armed forces commander and composed of senior military officers, permitted a relatively free election in 1990. However, it failed to honor the results—which were an overwhelming rejection of military rule—or to cede power to the victorious party headed by prodemocracy movement leaders. Instead, the SLORC attacked the coalition of winning political parties through detentions, house arrests, and intimidation.

Since General Than Shwe became Chief of State in April 1992, the SLORC has taken some modest steps to lessen its harsh rule, including reopening the universities and releasing over 2,000 political prisoners. In January 1993, the SLORC inaugurated a national convention to begin work on a new constitution. However, SLORC officials stage-managed the proceedings and overrode even limited opposition, interrogating and harassing delegates who attempted to deviate from the regime's position, and even sentenced one prodemocracy delegate to 20 years in prison for distributing information critical of the convention proceedings. It seems clear that the SLORC's domination of the convention, which has no mandate from the people, is to ensure adoption of a constitutional blueprint effectively guaranteeing the military's continued hold on power.

The Government reinforces its rule via a pervasive security apparatus led by the Directorate of Defense Services Intelligence (DDSI) and the National Intelligence Bureau (NIB). Control is buttressed by restrictions on contact with foreigners; surveillance of government employees and private citizens; and arrests, detentions, harassment, intimidation, and mistreatment of political activists. The Government justifies its security measures as necessary to maintain order and national unity, al-

though several longstanding insurgent groups have reached accommodations with the SLORC in recent years and the others pose little threat to major population centers.

Burma is primarily an agricultural country, although it also has substantial mineral, fishing, and timber resources. After Ne Win's 26-year rule reduced southeast Asia's richest land to a U.N.-designated "least developed country," the SLORC abandoned the "Burmese Way to Socialism" in 1988, opening up the economy to permit private sector expansion and attract investment and badly needed foreign exchange, which has resulted in a limited improvement in the economy. The Government has hindered development of the private sector, however, by failing to address fundamental problems: restrictions on private commerce; constantly changing rules and regulations; overcentralized decision making; a bloated bureaucracy; a greatly overvalued currency; poor civilian infrastructure; and grossly disproportionate military spending.

There was no marked increase in the level of human rights abuses in 1993, in large measure because the SLORC had already been so successful in intimidating the Burmese people. At the same time, Burmese authorities took only limited steps to correct longstanding, serious human rights violations. The Government's use of forced labor—especially as porters for the army—as well as forced resettlement of civilians continued, causing hundreds of deaths due to disease, harsh treatment, and overwork. Five hundred or more Burmese remained in prison for political reasons, including more than 40 parliamentarians elected in 1990; approximately 200,000 Rohingyas (Burmese Muslims from Arakan State) remained in refugee camps in Bangladesh; a few thousand students and dissidents continued as exiles in Thailand; and roughly 71,000 Burmese live in ethnic minority camps in Thailand near the Burma border.

Nobel Laureate Aung San Suu Kyi remained under house arrest, her fifth year of detention by the SLORC, without being charged or having access to legal proceedings. The SLORC persisted in denying basic freedom of speech and assembly, and arbitrary intrusions into private life remained pervasive. In a closed trial, in October, the regime sentenced 12 dissidents, including one of the delegates to the National Convention, to 20 years in prison for distributing anti-SLORC information.

The SLORC ignored a comprehensive resolution on Burma adopted by consensus in 1993 at the U.N. Human Rights Commission (UNHRC) calling for an end to human rights violations in Burma, the unconditional release of Aung San Suu Kyi and all other political prisoners, and the implementation of the 1990 elections.

On the positive side, the SLORC commuted all death sentences handed down since it took power; released over 700 persons believed to be political prisoners; permitted the first-ever meetings between political prisoners and foreign visitors; and allowed additional family visits to Aung San Suu Kyi. Over 50,000 Rohingyas returned to Arakan State in 1993, and the Government signed a Memorandum of Understanding in November with the U.N. High Commissioner for Refugees (UNHCR) providing for a presence in Arakan State to monitor the repatriation and reintegration of Rohingyas from Bangladesh.

Nonetheless, on balance, in view of the persistent abuses by the SLORC, including its use of forced labor, its wholesale denial of basic political rights, and blatant manipulation of the national convention, Burma must continue to be judged a serious violator of international human rights norms. The expressions of deep concern by the international community about the human rights situation in Burma in successive resolutions adopted since 1991 by the UNHCR and the U.N. General Assembly have failed thus far to have an appreciable impact on the SLORC's behavior.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Although secret, extrajudicial killings reportedly were carried out in recent years, there were no such reports in 1993. As in the past, credible sources reported many deaths among those impressed for forced labor projects and porterage.

There were no confirmed incidents of summary executions of civilians in 1993. In late February, U Win Ko, a deputy-elect of the National League for Democracy (NLD) and finance minister in the opposition National Coalition Government of the Union of Burma (NCGUB), was murdered in Kunming, China. Burmese authorities have denied any involvement, and independent sources suggest other parties were responsible. U Hla Pe, who served as the NCGUB's Minister of Education and Health and Minister of Information, was murdered in Bangkok in mid-June. There is, however, no evidence as to the perpetrators.

b. *Disappearance.*—The number of disappearances in 1993 was probably little changed from the previous year, but accurate estimates are impossible since the Government will not provide information on these cases. Family and friends assume that those who have disappeared are under detention or have died in jail. Family members can generally determine that relatives have been arrested, but the process of obtaining information can take a long time. Some who disappeared were later reported as arrested. Others may have dropped out of sight or quietly attempted to leave the country for fear of arrest.

Authorities rarely responded to inquiries from families concerning the whereabouts and welfare of disappeared or jailed relatives. The few replies routinely consisted of only general statements that such people were arrested for violations of existing laws.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Fragmentary evidence documents that mistreatment of political detainees continued to take place in Burmese prisons and detention centers operated by the security services. There has been a decline in the number of detentions, during which the worst abuse reportedly occurs. Political detainees are held incommunicado, with family or lawyers unable to visit during what can be a protracted pretrial period. The most common forms of maltreatment during this period were sleep and food deprivation coupled with round-the-clock interrogation.

In recent years, severe beatings and forcing prisoners to squat or assume unnatural positions for lengthy periods have also been reported, and techniques designed to intimidate and disorient prisoners prior to interrogation have been routine. Such practices as electrical shocks to the genitals, suffocation, and cigarette burns have also been reported in the past, but there were no confirmed reports of these practices in 1993.

During 1993 there were no reports alleging torture of convicted political prisoners or deaths linked to the conditions of their imprisonment. Khin Maung Myint of the leftist People's Progressive Party (PPP) died in prison in 1993, apparently of natural causes after repeated stays in a prison medical facility despite his family's request for his transfer to a civilian hospital. Interviews by U.S. citizens and Congressional visitors on private travel with SLORC-selected prisoners at Insein prison near Rangoon indicate an overly harsh prison regimen, i.e., little exercise, no reading or writing materials for many if not most prisoners, poor nutrition, years of solitary confinement for some, and illness induced by sleeping on concrete cell floors. Student leader Min Ko Naing, who met with two visiting American Congressmen at Insein Prison in August, displayed the effects of serious physical and psychological abuse. A few prominent prisoners, such as former NLD Chairmen Tin Oo and Kyi Maung, were provided limited reading material and bungalow accommodations. Those interviewed acknowledged receiving medicine as well as supplemental food brought by their families during 15-minute visits permitted every 2 weeks.

The Government continued to bar the International Committee of the Red Cross (ICRC) from visiting detainees or convicted prisoners of any kind.

d. *Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention are practiced routinely by the SLORC. Throughout the year at least scores of political activists were detained for low-level political protests, such as handing out opposition flyers, painting political graffiti, or shouting opposition slogans. Some detentions coincided with the startup of sessions of the national convention or with various political anniversaries. Shortly after the January 9 launching of the national convention, for example, the authorities announced the arrest of 23 activists including Nay Lin, a youth organizer for the Federation of Trade Unions of Burma, who allegedly painted graffiti on a Rangoon wharf. Some students were picked up for staging a brief demonstration on June 7 at a suburban campus of Rangoon University. Several NLD members, including at least one successful candidate in the 1990 election, were detained after taking part in a wreath-laying ceremony at Aung San's tomb. Between June and August, the authorities also arrested 12 persons, including the writer Ma Thida and the successful NLD candidate and delegate to the national convention, Dr. Aung Khin Sint, for distributing opposition literature. In what was widely recognized as a warning to others, all were convicted in mid-October and given harsh 20-year prison sentences.

While most detainees were members of political parties or engaged in overtly political activities, businessmen and other private citizens were also subject to arbitrary detention, particularly as the increase in private economic activity in 1993 led to additional scrutiny of businesses by security forces.

The military again extended the house arrest of former NLD General Secretary and Nobel Peace Laureate Aung San Suu Kyi. The decision was taken under the provisions of the Law to Safeguard the State from the Dangers of Subversive Elements—also the basis for her initial year of house arrest which began in 1989. As

amended in August 1991, the law authorizes 1-year extensions of arbitrary detention without charge or trial for up to 5 years. Aung San Suu Kyi has never been formally charged. The authorities have offered her an opportunity to substitute foreign exile for her current house arrest, but she declined to leave the country. The military Government again allowed her husband and two sons to visit her in 1993. The authorities refused a proposed visit by a group of fellow Nobel Laureates seeking her release.

There is no provision in Burmese law for judicial determination of the legality of detention. Bail may be granted by civilian courts in some circumstances. The number of political detainees not sentenced by year's end was impossible to determine accurately.

e. *Denial of Fair Public Trial.*—Throughout 1993 the Government continued to rule by decree and was not bound by any constitutional provisions guaranteeing fair public trials or any other rights. Until abolished in September 1992, military tribunals exercised jurisdiction over all cases involving defiance of orders issued by the SLORC or local commanders. These tribunals could mete out only three sentences—the death penalty, life imprisonment, 3 years or more imprisonment with labor—regardless of existing laws. On January 1, however, a government decree codified an existing moratorium on capital punishment by commuting all previous SLORC-imposed death sentences to life imprisonment. It also capped all other prison terms at 10 years for anyone convicted during the SLORC era.

After denying for years that it held any political prisoners, in April 1992, the Government announced its intention to free those persons "detained politically" who did not represent a threat to state security. Between that time and the end of 1993, the SLORC announced the release of more than 2,000 persons, although fewer than 200 were publicly identified. The failure to identify most released persons invites suspicions about whether they were actually political prisoners, but opposition activists believe this was generally the case. Reliable sources indicate that some of those released in 1993 were monks imprisoned for participating in 1988 prodemocracy rallies and a 1990 boycott action, including prominent Rangoon Abbot Thu Mingala; prodemocracy businessman Ye Htoon; and numerous Karens and others suspected of supporting the 1991 Irrawaddy Delta insurgency.

The 1992 decree also implicitly acknowledged that political prisoners had been held not only in Rangoon's Insein Prison but also in over 20 upcountry locations—many of which were still believed to hold some political prisoners at the end of 1993. The remaining political prisoners included former military officers Tin Oo and Kyi Maung, both of whom had served as chairmen of the NLD, comedian Zargana, student leader Min Ko Naing, and lawyer U Nay Min.

Since September 1992, civil courts have handled civil and criminal cases, as well as political trials. Civilian courts have reportedly become fairer in handling nonpolitical cases since 1988, but remain plagued by corruption, inordinate delays in processing cases and appeals, and poor training and unprofessional behavior on the part of some court officers.

Some basic due process rights, including the right to a public trial and to be represented by a defense attorney, are generally respected by civilian judges. Judges are appointed by the Supreme Court with the approval of the SLORC (which also names justices to the Supreme Court). At present, judges must be at least law officers with legal training. Defense attorneys are permitted to call and cross-examine witnesses, but their primary purpose is to bargain with the judge to obtain the shorest possible sentence for their clients. Cases, almost all political, which are tried in courtooms in prison compounds are not open to the public. In such cases, while defendants may have access to a defense attorney, counsel appears to serve no purpose other than to provide moral support. Reliable reports indicate that in political cases due process is largely ignored and verdicts manipulated.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The State continued to intrude extensively into the lives of private citizens during 1993. Forced entry and warrantless, unannounced searches of private homes were often conducted. Through its extensive intelligence network, the Government closely monitored the travel, whereabouts, and activities of many Burmese, particularly those known to be politically active. Security personnel selectively monitored private correspondence and telephone calls. Contacts or communications involving foreigners were subject to especially intense scrutiny, and government employees were required to obtain advance permission before meeting with foreigners. Despite some efforts by the Government to improve its image by meeting in October with the head of the British Broadcasting Corporation Far Eastern Service, official propaganda continued in 1993 to take aim at various foreign news services, and private citizens were generally unable to subscribe directly to foreign publications. Two international newsmagazines were distributed through official channels and were avail-

able to the public at large, but censors occasionally banned issues or deleted articles criticizing local conditions or reporting opposition activities. Foreign radio broadcasts remained a prime source of information for the people and even for the military, despite the Government's hostility to this news source. The authorities sought to register the growing number of television satellite receivers but appeared ready to tolerate their use. Some foreign journalists, including television crews, continued to be granted access to the country, but their movements and contacts were closely monitored.

In its most intensive and egregious infringement of privacy rights, the Government continued its program of forced resettlement, involving an estimated half-million urban residents throughout Burma since 1989. While most of those forced to move were described as "squatters," some people had been living in and paying rent on their former home sites for many years and had constructed permanent houses. The Government has made people move, almost totally at their own expense, to "new towns" which are far from their previous residences. "New town" occupants often live on former rice paddy land, subject to flooding in the rainy season, without adequate transportation, medical facilities, shelter, or sanitation. In 1993 conditions at some resettlement sites improved, but, according to international observers, such improvements were often unable to keep pace with the rate of new arrivals. Some outside experts accept the Government's explanation that the resettlement program serves legitimate long-term urban planning objectives, but they do not endorse the forceful methods used to move people.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.—The Burmese Army has battled diverse insurgencies for more than four decades in conflicts that have resulted in widespread human rights violations, including mistreatment and killing of prisoners, rape, neglect of the sick and wounded, impressment of civilians for porter duty, and indiscriminate attack on civilians. While the Government was responsible for the bulk of these abuses (the Burmese armed forces nearly doubled the number of combat units since 1988), insurgent groups have also violated humanitarian principles. Insurgent groups, such as the Karen, Mon, and Karenni, continued to engage in small-scale fighting, mostly in remote areas, to try to gain greater autonomy from the dominant ethnic Burman majority. Some receive limited outside support from private international humanitarian and religious organizations. The Shan United Army (SUA) also claims to be fighting for greater autonomy but engages primarily in drug trafficking. Several former insurgent groups with which the Government now has cease-fire accommodations likewise are important narcotics trafficking organizations. The continued suspension of large-scale military offensives against insurgents in Karen state and elsewhere, together with ongoing government efforts to reach a peace accord with the Kachin Independence Army (KIA), sharply reduced the level of fighting during 1993.

In 1993 the use of forced porterage continued, with attendant casualties. Most of these deaths, roughly estimated to be in the hundreds, were from disease and overwork, though reports of mistreatment and rape were also common. The Burmese military also continued to use corvee labor and prison labor in combat areas. There were unconfirmed reports, for example, that on at least two occasions a combined total of as many as 700 inmates from a prison near Rangoon were taken to work as porters in eastern Burma. Credible reports from multiple sources indicated that porters have carried ammunition, supplies, and the wounded under the harshest conditions. Other well-placed sources also note that they are subject to hostile fire as well as maltreatment at the hands of Burmese soldiers. When porters are wounded, ill, or unable to continue their work, some have been reportedly left unattended to die. At the end of their service, survivors often have had to find their own means to return home. It was also credibly reported that some members of the military used sham threats of impressment to extort money from villagers.

Forced rural resettlement displaced ethnic minority villagers in Karen and Kayah states and contributed to an increase of about 6,000 Burmese in camps on the Thai side of the border. Local sources reported some amelioration of conditions following the completion of the railroad to Loikaw for Catholic villagers in Kayah State who had been resettled in March 1992, and that many returned to their original homes. Reports from Karen State suggest rural relocation schemes continued to play a key role in the Government's counterinsurgency strategy.

Despite this evidence that the Burmese authorities were not prepared fully to implement their obligations under the Geneva Conventions, in April and November the Government for the first time permitted the International Committee of the Red Cross (ICRC) to conduct two short seminars on humanitarian law for groups of military officers.

Antigovernment groups were responsible for violence causing civilian and military deaths, including reported killings of civilians during attacks on villages and am-

bushes or mining of transportation routes. In two separate incidents in February and March, over 100 confirmed civilian deaths resulted from military conflicts involving the narcotics-trafficking Shan United Army. Credible reports indicate Karenni insurgents executed at least eight captured Burmese soldiers, and civilian deaths in a transport train blown up by a land mine were attributed to Mon activists. Additionally, reliable multiple sources indicated that Karen insurgents resorted to forced labor for porterage and impressed youths into military service.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Severe restrictions on freedom of speech and the press persisted throughout 1993. Although the degree of enforcement varied, the Government generally continued to demonstrate little tolerance for opposing views or criticism. Private citizens remained reluctant to express opinions for fear of government informers. The U.N. Human Rights Commission (UNHRC) Special Rapporteur deplored the "pervasive atmosphere of fear and repression" in Burma in his report adopted by the UNHRC in March. The Government exercised strict censorship of all news and publications produced in the country.

Nevertheless, private magazines found it possible to publish articles on once taboo economic subjects, and some former political prisoners were allowed to publish on nonsensitive topics. The government-controlled press and broadcast services continued to publish some limited criticism and satire in 1993. The Government adopted a tolerant approach toward the increasing activities of the United States Information Service in Rangoon, permitting it to distribute publications and organize discussions which treated themes involving human rights and fundamental freedoms. The authorities' actions in attempting to register private satellites dishes and impose fines on the many Burmese who had set up unauthorized satellite television receivers slowed the spread of access to uncensored television news and other programming from abroad. No seizures of satellite receivers, however, were reported in 1993.

The Government made heavy use of its monopoly of television and radio to pursue its political policies and, with the exception of coverage of some aspects of the national convention, did not accord air time to opposing views. The same was true of all newspapers—two national dailies in Burmese and one in English, as well as daily papers published by the Rangoon city government and the Central (Mandalay area) Military Command. A revamping and renaming of the country's main daily in April resulted in increased publication of locally edited international wire service news, but that paper, as well as other newspapers, remained staunchly official organs, with military officials appointing editors and vetting editorials. Especially for domestic news, journalists had to hew to strict publishing and broadcast guidelines. All forms of media—domestic and imported books and periodicals, stage plays, motion pictures, and musical recordings—were officially controlled and censored. Persons working in these fields admitted to exercising self-censorship lest they run afoul of the authorities.

University teachers and professors remained subject to the same restrictions on freedom of speech, political activities, and publications as other government employees. These included warnings against criticism of the Government; instructions not to discuss politics while at work; and strictures against joining or supporting political parties, engaging in political activity, and meeting foreign officials. While all teachers remained subject to dismissal for political disloyalty, some left the profession voluntarily to escape the political pressure.

The universities, closed for several years after the 1988 disturbances, were open for most of 1993. However, they were closed from December 1992 until mid-February in what many believe was a move to avoid student demonstrations during the startup of the politically sensitive national convention. Meanwhile, on the main campus of Rangoon University, fences built around the various faculties prior to the university's reopening remained in place, reportedly to help control potential student unrest. In a move also widely believed intended primarily to disperse and isolate students, a fifth national university opened outside Rangoon in November.

b. *Freedom of Peaceful Assembly and Association.*—The Government does not respect the right to freedom of peaceful assembly. A prohibition on outdoor assemblies of more than five people was unevenly enforced, but political demonstrations were strictly banned.

Political parties were required to request permission from the authorities even to hold internal meetings of their own membership. The military's intimidation generally served to discourage public expressions of antigovernment sentiments. In the few reported instances of unauthorized political activity, security forces generally intervened swiftly to detain or imprison participants in unauthorized meetings and to halt distribution of antigovernment leaflets. The authorities reportedly were quick

to deploy a large-scale force in Mandalay in September when a spontaneous demonstration unexpectedly took on political overtones.

The right of association existed only for those organizations, including trade associations and professional bodies, permitted by law and duly registered with the Government. Moreover, the Government severely restricted the activities of even these organizations. Ten political parties remained formally legal at the end of 1993—down from 75 at the beginning of 1992—but they were virtually paralyzed through arrests, intimidation, and surveillance. In February the authorities permitted a large private funeral to be organized for the wife of one-time oppositionist and former Prime Minister U Nu. While the Government denied visas to two sons living abroad, it permitted a daughter active in the Burmese opposition in India to attend.

c. *Freedom of Religion.*—Freedom of religion is provided for in law. Despite the privileged position of Buddhists in government service, this right is widely observed in practice although there have been human rights abuses against some believers. Buddhist pagodas, Muslim mosques, and Christian churches operate openly with minimal interference, at least in those areas of central Burma accessible to independent observers. Christians, Muslims, and animists are particularly numerous among minority ethnic groups. While generally allowing these groups to practice freely, security services monitor the activities of religious communities. The Government requires all religious organizations to register and subjects religious publications to the same control and censorship imposed on secular ones. Restrictions on unauthorized religious groups remained in force, and the military continued to monitor activities in and around Buddhist monasteries and pagodas. The SLORC has been largely successful in halting political activism among the Buddhist clergy.

Religious groups can and did establish links with coreligionists in other countries, although such links were reportedly monitored by the Government. The Catholic Church, for example, maintained ties to the Vatican. While foreign religious representatives were usually allowed only to obtain visas for short stays, in some cases they were permitted to preach to Burmese congregations. Though permanent missionary establishments have not been permitted since the 1960's, some foreign Catholic nuns and at least one priest continued to reside upcountry, most working in homes for the aged.

As part of its large-scale "urban development" program in recent years, the Government has taken control of several Christian and Muslim properties throughout Burma, including cemeteries. On the other hand, school authorities in Rangoon eventually exempted Muslim students from bowing to their teachers, when those students complained the action resembled a practice used in Buddhist worship.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Although Burmese citizens have the legal right to live anywhere in the country, both urban and rural residents have been subject to arbitrary relocation. Except for limitations in areas of insurgent activity, Burmese citizens could travel freely within the country but had to inform local authorities of their temporary place of residence. People staying overnight with friends or relatives within their home cities or villages were also required to report this to the authorities.

People who failed to report either guests or intentions to stay overnight to the authorities were theoretically subject to a jail term, and arrests were occasionally made. Noncitizen residents, including ethnic Indians and Chinese born in Burma who hold foreigners' registration cards, had to obtain prior permission to travel.

Though travel strictures continued to ease, the Government maintained controls on departure from the country. While the authorities simplified certain requirements for obtaining a passport, other requirements plus bureaucratic procedures and corruption still presented formidable hurdles. Those traveling abroad to work, however, encountered fewer difficulties, particularly as Burmese authorities sought to increase hard currency earnings from the taxes they impose on such persons' earnings. Emigrants, by contrast, were required to reimburse the Government for "educational expenses" before receiving exit permission and were severely limited in what they could take with them.

Burmese citizens who left legally were generally allowed to return to visit relatives, and those wishing to extend their stays found it easier to obtain permission to do so. Even some who had stayed abroad illegally and acquired foreign citizenship found it easier to return to visit or do business. In a move widely believed to be intended to encourage wealthy older overseas Burmese to retire in Burma, the Government announced in May that Burmese abroad would have 2 years to reapply for citizenship lost through naturalization in another country. At about the same time, the Ministry of Home Affairs announced that Burmese abroad holding expired travel documents could obtain new passports or an extension of their old ones.

Obtaining these benefits, however, remained subject to government approval on a case-by-case basis. Moreover, some Burmese living abroad, particularly those who

had traveled or remained abroad illegally, continued to fear subjecting themselves to potential punitive action by Burmese authorities if they should return to Burma. By September, 14 persons had been allowed to resettle in Burma, and another 14 had had their Burmese passports extended or replaced.

In 1993 foreigners were allowed into the country in increasing numbers on an individual, rather than only on a tour group, basis. The authorities also took several steps to liberalize travel for foreigners within Burma, though large areas of the country remained off limits on security grounds. Tourist and family visit visas are routinely granted for 2 to 4 weeks, and can be extended on a case-by-case basis. However, select foreigners, such as human rights advocates and political figures, continued to be denied entry visas unless traveling under the aegis of a sponsor acceptable to the Government. A private voluntary organization, Medecins Sans Frontieres/Holland, is now operating in Burma and has foreign personnel assigned to Rangoon on a permanent basis.

In April 1992, following the flight into Bangladesh of an estimated 265,000 Muslims from Arakan State in order to escape military repression, the Governments of Bangladesh and Burma signed a Memorandum of Understanding providing for the voluntary repatriation of the refugees. However, Burma, unlike Bangladesh, did not accept a role for UNHCR in the repatriation process at that time. In the absence of an adequate international monitoring presence in Burma, most Rohingyas were reluctant to return to Arakan. After a private visit by High Commissioner Sadako Ogata to Burma in late July and subsequent talks between the Burmese authorities and UNHCR representatives,the Government of Burma signed a Memorandum of Understanding with the UNHCR in November which provides that the UNHCR will have a presence in Arakan State and will have access to all returnees. The agreement is intended to cover the monitoring and administration of the return to Burma in safety and dignity of about 200,000 Rohingyas who remain in refugee camps in Bangladesh. Of those who fled between late 1991 and mid–1992, some 50,000 were repatriated to Burma in 1993.

Foreign refugees or displaced persons may not resettle or seek safe haven in Burma. The Government treats people claiming to be refugees as illegal immigrants and expels or imprisons them.

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

Burma is governed solely by the military, and the Burmese people do not have the right or the ability peacefully to change their government. Since 1988 active duty military officers have occupied many important positions throughout the bureaucracy, particularly at the policymaking level. Despite the appointment of several civilians to the Cabinet in 1992, military or recently retired military officers have continued to occupy most cabinet-level positions, numerous director general and subordinate posts, and key positions once held by technocrats in the economic ministries.

In the 1990 election the NLD and associated parties achieved an overwhelming victory. The SLORC subsequently set aside the results and disqualified, detained, arrested, or drove into exile many successful candidates, including most of the NLD leadership. By the end of 1993, 174 of the 485 deputies elected had either been disqualified, resigned under pressure, gone into exile, been detained, or died. At least 46 successful candidates from the election or prominent NLD activists were serving prison sentences In 1992 the SLORC held discussions with selected representatives of the few political parties which had not been banned outright, with a view to staging a national convention to write a new constitution without the participation of most leading members of the democratic opposition. The national convention finally opened on January 9 and continued intermittently throughout the year until September 16, when it finally adjourned until the following January. Of the approximately 700 delegates attending, only about 150 held mandates from the 1990 elections. Members of six of the eight interest groups represented were selected by the SLORC. Using these groups as a majority, the Government forced through its own rules, its own agenda, and finally its own principles for a new constitution, guaranteeing continued military control of the Government. During an intermediate stage, representatives of the NLD and minority groups were able to put forward some proposals clearly at odds with government preferences. But the authorities carefully controlled the level of visible opposition by censoring presentations, declaring unwelcome documents off-limits to the public, forbidding discussion from the floor, and intimidating individual delegates behind the scenes. There has been no genuine public discussion of the process that will be used to arrive at a new constitution.

One NLD victor in the 1990 election and national convention delegate, Dr. Aung Khin Sint, was convicted and sentenced to 20 years' imprisonment for distributing opposition literature to his fellow delegates.

In some regions where government forces exercise limited or no control, including in cases where the Government has reached an accommodation with former insurgent groups, indigenous populations have considerable autonomy in running their own political and economic affairs. Even in government-controlled areas, they generally retain their social and cultural institutions.

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

No internal human rights organizations are allowed to exist. The Government continued to oppose outside scrutiny of its human rights record but permitted somewhat greater access in 1993 for some journalists, nongovernmental organizations, and foreign government officials wishing to examine the country's human rights situation. Burmese authorities allowed UNHRC Special Rapporteur Professor Yokota to conduct another fact-finding mission in the country in November 1993.

In 1991, 1992, and again in 1993, the U.N. General Assembly (UNGA) adopted increasingly strong resolutions urging the Burmese Government to end human rights abuses and undertake genuine democratic reform. The 1993 UNGA resolution called on the Government to release unconditionally Aung San Suu Kyi and other detained political leaders and to respect the expressed will of the Burmese people by implementing the results of the 1990 elections.

The UNHRC Special Rapporteur appointed in March 1992, Professor Yozo Yokota, visited Burma in December 1992 and presented his report in February 1993. He returned to Burma in November 1993 to fulfill his mandate as Special Rapporteur. The report offered a harsh catalog of human rights abuses in Burma and called for far-reaching remedial action. In later reviewing the report, the UNHRC took special aim at the refusal of Burmese authorities to accord Dr. Yokota the "full and unreserved cooperation" and access to persons of his choice that had been conditions of his mission. The Government, for its part, disputed the Special Rapporteur's mandate and rejected many of his findings.

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

Women.—Women in Burma in general have traditionally enjoyed a high status, exercising most of the same basic rights as men and taking an active role in business. Consistent with traditional culture, they keep their own names after marriage and often control family finances. However, participation of women remained low in the minuscule industrial sector and in the bureaucracy; a few professions, such as forestry and geology, are entirely barred to women. Women do not consistently receive equal pay for equal work. There continued to be no women's rights organizations in Burma or government agency specifically devoted to safeguarding women's interests.

There was no nationwide pattern of violence directed specifically against women. However, reliable reports continued to indicate that many Burmese women and children in the border areas were forced or lured into serving as prostitutes in Thailand by criminals and criminal organizations. Recruitment of these women generally occurred in remote areas where Burmese officials were unable to prevent the practice. In 1993, impressment, including of women, for military porterage duties continued, with attendant casualties.

Although Burmese culturally view rape with great abhorrence, in 1993 there continued to be a consistent pattern of reports alleging rapes of ethnic minority women in border areas by Burmese soldiers.

Children.—In mid-July the Government issued a law stipulating children's rights and containing provisions covering their protection and custody, education, employment, and judicial treatment. Burmese authorities also adopted in September a "National Program of Action" for the survival, protection, and development of the country's children. By year's end it remained unclear whether the Government intended to give the program the political impetus needed to ensure the interministerial cooperation and resource allocation required to make it a success.

Government and UNICEF figures indicated the plight of children to be worse than was earlier realized. Infant mortality is high (94 per 1000); 37 percent of children under 3 are severely or moderately malnourished; 31 percent of children aged 5 through 14 suffer from iodine deficiency; only 62 percent of children enroll in primary school; and only 25 percent of children complete the prescribed 5-year course.

National/Racial/Ethnic Minorities.—Burma's numerous ethnic minorities, which have their own distinct cultures and languages, have been underrepresented in the

Government and largely excluded from the military leadership. Despite recently increased government investment in the border areas in road, hospital, and school construction, economic development among minorities continued to lag and many still live at the subsistence level.

Since only people who can prove long familial links to Burma are accorded full citizenship, some people not of ethnic Burmese ancestry, primarily Indians and Chinese, continued to be denied full citizenship and to be excluded from government positions. Individuals without full citizenship are also barred from certain advanced university programs in medicine and technological fields and are often the object of prejudice. However, Indian and Chinese minorities continued to play an important role in the economy—a situation resented by many Burmans.

In Arakan State, some Rohingyas, who in general do not enjoy full citizenship, have also have been denied national identity cards. Though a limited number of outside observers were able to visit Arakan State, albeit on a government-controlled basis, credible reports continued to emerge of discrimination and travel restrictions for Muslims in the area. The well-documented human rights abuses which precipitated the original Rohingya exodus, however, appeared to have largely subsided. At the same time, claims that Buddhists from elsewhere in Arakan State were being resettled nearer the border in previously Muslim areas were reliably confirmed.

Multiple, reliable sources indicated that the military occasionally required minority populations in the border regions to provide without compensation vehicles, equipment, and lodging for soldiers.

Religious Minorities.—The SLORC continued to associate itself closely with the majority Buddhist religion, giving wide publicity to the participation by its members in various Buddhist rites and ceremonies. While this reportedly was a cause of concern among some members of other religions, the Government in fact continued to permit members of the major non-Buddhist faiths to practice their religion. Religious organizations, however, remained subject to registration and censorship controls applicable to the entire population. Restrictions on Muslims in Arakan State appear to be result primarily from their lack of full citizenship and to discrimination on ethnic grounds.

People with Disabilities.—Official assistance to persons with disabilities is extremely limited. There is no law mandating accessibility to government facilities for those with disabilities. A small number benefit from the services of the Mary Chapman School for the Deaf in Rangoon, which recently began receiving government patronage, or from modest religious-associated assistance programs funded through private donations. Most disabled persons, however, must rely on traditional family structures to provide for their welfare, and many become destitute. The principal exception is disabled members of the military, who receive medical attention, rehabilitation, and financial assistance, though most veterans receive such benefits only for a few years after discharge. Reliable reports indicate that high-ranking officers receive better treatment than the rank and file. Since 1986 Burmese authorities have permitted representatives of the ICRC to work in Burma to upgrade provision of orthopedic prostheses. Because of both landmines and train-related accidents, Burma has one of the highest rates of amputees in the world.

Section 6. Worker Rights

a. *The Right of Association.*—In 1993 there continued to be no right of association among workers in Burma. Workers were not free to form or join trade unions of their own choosing, and leaders of unofficial labor associations, such as youth organizer Nay Lin of the Federation of Trade Unions of Burma, were subject to arrest. A new labor law was promised in connection with the drafting of a new constitution, but it is doubtful the document will ensure the right of workers to organize freely. At a minimum, any trade unions which might form are expected to be firmly under government control. Workers are not permitted to strike, and there were no reported instances in 1993 of attempts to do so.

In July 1989, the United States suspended Burma's eligibility for trade concessions under the Generalized System of Preferences program, pending steps to afford its labor force internationally recognized worker rights. In 1990 the U.S. Government declined a formal request to reconsider the suspension.

In June 1993, the International Labor Organization (ILO) Conference cited Burma in a "special paragraph", its strongest form of censure, for its longstanding failure to take "the necessary measures in legislation and practice to guarantee to all workers and all employers without any distinction and without prior authorization the right to organize even outside the existing trade union structure should they so wish."

b. *The Right to Organize and Bargain Collectively.*—Workers continued not to have the right to organize and bargain collectively. Government arbitration boards, which once theoretically provided a means for airing labor disputes, were abolished in 1988. The Government unilaterally sets wages in the public sector. In the private sector, wages are set by market forces. In a job-scarce economy, this means employers determine wage levels. The Government pressures joint ventures not to pay salaries greater than those of ministers or other high-level employees. Joint ventures circumvent this via supplemental pay, including remuneration paid in foreign exchange certificates, as well as through incentive and overtime pay and other fringe benefits. Foreign firms generally set wages near those of the domestic private sector but follow the practice of joint ventures in awarding supplemental wages and benefits.

No special export processing zones exist.

c. *Prohibition of Forced or Compulsory Labor.*—Burma's legal code does not prohibit forced labor. The military routinely employed corvee labor on its myriad building projects and, according to credible reports, officials accepted bribes to excuse some people from work. Forced labor was used in constructing the railroad line opened in 1993 to Loikaw, capital of Burma's Kayah State.

The Burmese Army has for decades impressed civilian males to serve as porters. According to reliable reports, in 1993 the army continued to abduct youths off the streets, chiefly in minority areas but also in some urban areas of central Burma. Women were also occasionally impressed as porters, cooks, and laundresses for soldiers in frontline areas, according to credible reports. Military authorities commonly permitted conscripts and their families to pay them money in lieu of porter duty.

In June a Burmese diplomat in Singapore organized the confinement and forced return to Burma of a group of 11 Burmese seamen transiting Singapore en route from Australia to Thailand after the men prevailed in a wage dispute with the help of the International Transport Federation. All remained free in 1993 but are unable to regain employment abroad.

d. *Minimum Age for Employment of Children.*—Children aged 13 to 15 may work 4 hours a day. The "Child Law" of July 14, 1993, governs most matters concerning children under the age of 16. It gives each such child the right to "engage in work in accordance with law and its own volition." To date, the "law" referred to includes both the Factories Act of 1951 and the Children Pledging of Labor Act, this latter being an Indian law from 1933 still on the books. In theory, the penalty for employers disregarding this regulation was 2 years in prison, but there were no reports of any prosecutions in 1993 for illegally employing children, despite the fact that, in cities, working children were highly visible. They were hired at lower pay rates than adults for the same kind of work, and economic pressure forced them to work not only for their survival but also to support their families. Burmese law requires children to attend school through the fourth standard, usually reached between the ages of 12 and 15. The Department of Basic Education estimated, however, that 38 percent of children aged 5 to 9 never enroll in school. Of those who do, less than 30 percent complete the fourth grade. Two-thirds of Burma's primary schoolchildren, principally in rural areas, leave school for economic reasons. In the higher grades, the drop-out rate for girls is double that for boys.

e. *Acceptable Conditions of Work.*—Depressed economic conditions and lack of attention by government authorities continued to dictate substandard conditions for workers. The Law on Fundamental Workers Rights of 1964 and the Factories Act of 1951 regulate working conditions. There is a legally prescribed 5-day, 35-hour workweek for employees in the public sector and a 6-day, 44-hour workweek for private and parastatal sector employees, with overtime paid for additional work. Workers have 21 paid holidays a year.

Only government employees are protected by minimum wage provisions. The minimum wage was raised in March to $3 per day (20 kyats) at the official exchange rate, but less than $0.20 at the unofficial, free market rate. The Government raised wages for public employees by 25 percent in March, but pay in the state sector remained far below the amount needed to provide a decent standard of living or counter the practice of taking bribes. The actual average wage rate for casual laborers in Rangoon was about twice the official minimum. Wages continued to lag far behind inflation.

To protect health and safety at workplaces, there are numerous regulations pertaining to room size, ventilation, fire hazards, and the availability of latrines and drinking water. In practice, these were seldom enforced, particularly in the private sector.

CAMBODIA

In 1993 Cambodia experienced a democratic and human rights revolution. Despite killings, threats, and intimidation by the Khmer Rouge, 90 percent of voters participated in the free and fair elections in May—the first in decades—thus providing the opportunity for long-term democratic evolution. Political violence and intimidation by forces of the Phnom Penh regime marred the election campaign. However, in the latter half of 1993, the situation dramatically improved and there were no substantiated cases of political killings. The Khmer Rouge (KR) (also known as the Party of Democratic Kampuchea—PDK) insurgency continues to pose an armed threat to the new Government. Moreover, Cambodia lacks the institutions and adequate numbers of trained personnel needed for a mature democracy.

From April 1975 until January 1979 the PDK ruled Cambodia and compiled one of the worst records of human rights abuse in this century. Between one-seventh and one-eighth of the population died of exhaustion, disease, abuse, and execution.

In 1979 the PDK were ejected from power by the invading Vietnamese army. Hanoi installed an authoritarian regime, made up largely of former PDK cadre, called the People's Republic of Kampuchea and later renamed the State of Cambodia—SOC. Vietnamese arms maintained the SOC in power against remnants of the PDK and the non-Communist resistance under Prince Sihanouk. In September 1989, after 11 years of military occupation and stalemate, the Vietnamese withdrew the bulk of their forces.

Under the October 1991 Paris Accords, the United Nations created the U.N. Transitional Authority in Cambodia (UNTAC) and dispatched a 22,000-strong civilian and military peacekeeping force to conduct free and fair elections for a constituent assembly. During this interim period, a Cambodian Supreme National Council (SNC) embodied Cambodian sovereignty. Over 4 million Cambodians voted in the May 1993 elections, although the PDK barred some people in the 10 to 15 percent of the country (holding 6 percent of the population) it controls from participating. Prince Ranariddh's FUNCINPEC Party, the SOC's Cambodian People's Party (CPP), and Son Sann's Buddhist Liberal Democratic Party (BLDP) were the top vote recipients, respectively. The parties represented in the 120-member Assembly formed a Provisional National Government of Cambodia (PNGC) on July 1. The Assembly proceeded to draft and approve a new Constitution which was promulgated September 24. It establishes a multiparty liberal democracy in the framework of a constitutional monarchy. FUNCINPEC and the CPP share power in the new Royal Cambodian Government. The Constitution provides for a wide range of internationally recognized human rights.

In 1989 the State of Cambodia (SOC) began to institute reforms to change the small, predominantly agricultural economy from a centrally planned to a market-oriented system. Legislation in 1989 restored the right to own and inherit property, and agricultural production is now mostly private and family based. These reforms, together with growing foreign investment and international aid, spurred a surge of economic activity, especially in Phnom Penh. Nevertheless, Cambodia remains one of the world's poorest countries. Per capita gross domestic product is less than $200.

In 1993 Cambodia made great strides in human rights. The fledgling independent media grew to include opposition radio and television stations as well as numerous Khmer and foreign-language publications. The membership of indigenous human rights groups swelled, and international organizations such as Amnesty International and Asia Watch were able to visit Cambodia. The remainder of the 370,000 Cambodian refugees who had been living mostly in camps along the Thai-Cambodian border were voluntarily repatriated under the direction of the United Nations High Commissioner for Refugees (UNHCR). In the latter half of 1993, for the first time in decades, there were no political prisoners being held in Cambodia, except possibly persons detained in Khmer Rouge areas. In 1991 and 1992 SOC authorities had released nearly 2,000 political prisoners. Without SOC agreement, implementation, and relinquishing of significant power in this and other areas, Cambodia's human rights progress in 1993, particularly the enormous increase in political openness, and ability to compete would not have occurred.

Nevertheless, during the election campaign, SOC security forces engaged in extensive intimidation and political violence, mostly against the FUNCINPEC and BLDP parties. Between November 1992 and the May elections, UNTAC documented the politically motivated killings of 74 opposition party members. One hundred twenty-six opposition party members were injured during the same period due to political violence. Many of these acts were attributed to SOC police or soldiers. In some cases, the SOC authorities frustrated UNTAC's investigations of these incidents.

The SOC did not take effective action against any of the perpetrators of this violence.

The PDK prohibited the U.N. and international human rights monitors from entering its zones. Based on reports from PDK defectors, it is clear that the 6 percent of Cambodians living under PDK rule enjoy few basic human rights. Moreover, the PDK carried out a violent campaign to destabilize the SOC administration and to discourage Cambodians from voting. PDK violence included the detention of 43 U.N. personnel. Eighteen U.N. personnel died during the mission from hostile action. UNTAC attributed 11 of the killings to the PDK.

Racial violence against ethnic Vietnamese remained an egregious human rights problem. Antipathy toward ethnic Vietnamese is common in Cambodian society and figured in the rhetoric of several political parties. In 1993 PDK armed forces carried out brutal massacres of ethnic Vietnamese civilians which claimed the lives of 70 people. In addition, government armed forces have been guilty of looting the civilian population during campaigns against the PDK armed forces.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Political violence swelled in the period leading up to the U.N.-sponsored May elections and then dropped off dramatically. Violence by SOC authorities directed against opposition political party members began almost immediately with the arrival of opposition parties in Phnom Penh in late 1991. In 1992 members of the FUNCINPEC and BLDP parties were the main targets of this violence, although the Action for Democracy and Development Party and the Liberal Democratic Party also complained of attacks. There was an upsurge of violence between November 1992 and January 1993, apparently coincident with the evident growing popularity and activity of opposition parties in the provinces. During this period UNTAC confirmed the death or injury of 96 FUNCINPEC and BLDP members in politically motivated attacks, many of which were attributed to the SOC.

Political violence crested again beginning in March with the official onset of the political campaign. Between March and the conclusion of the elections at the end of May, UNTAC confirmed that 42 FUNCINPEC and BLDP members were killed and 72 injured in political violence. UNTAC was able to confirm the responsibility of SOC officials or police for 12 of the killings.

Following the elections, there was a short burst of political violence associated with the abortive secession movement led by Prince Norodom Chakrapong. In Prey Veng and Kompong Cham provinces, crowds incited by the secession leaders looted UNTAC buildings and threatened some UNTAC workers. The FUNCINPEC party alleged that several of its members were killed in the violence, a claim that has not been confirmed. SOC authorities took no effective action to apprehend or punish any of the perpetrators of this violence.

Throughout 1993 the PDK continued an aggressive campaign of attacks on SOC officials at the village and commune level in an effort to destabilize the SOC regime. The PDK policy took on greater momentum as the PDK sought to delegitimize the electoral process and terrorize Cambodians to dissuade them from voting. UNTAC confirmed 216 such killings and 342 injuries inflicted by the PDK during UNTAC's mission. (These figures include ethnic Vietnamese victims.) According to one unconfirmed report, the PDK were responsible for killing as many as 10 PDK military defectors.

PDK violence also extended to UNTAC personnel. Eighteen UNTAC employees were killed and 67 injured, although responsibility for these actions could not always be determined.

b. *Disappearance.*—Opposition political parties, especially FUNCINPEC and the BLDP, and the CPP claimed that numerous party activists and local officials disappeared during the course of the election campaign. UNTAC investigated as many of these allegations as possible. UNTAC concluded that, in approximately 12 months from mid-1992 to mid-1993, SOC elements were responsible for the abduction or disappearance of 17 opposition activists. UNTAC also concluded that the PDK abducted 188 Cambodians and ethnic Vietnamese during the same period. After the elections, abductions dropped off.

In one case, SOC military officers abducted four FUNCINPEC activists from their homes the evening of January 31-February 1 in Sangke district, Battambang province. Based on eyewitness testimony, the four were believed to have been taken to a SOC military base by seven SOC officers. SOC officials refused to produce the seven and then obstructed UNTAC's attempts to locate them.

In 1993 the PDK continued its policy of destabilizing the SOC administration by killing and abducting members of the SOC local and provincial administrations. Targets frequently included village heads or local police. Attacks on SOC villages often involved looting as well. Abductions attributed to the PDK also included kidnaping of villagers for ransom and abduction of ethnic Vietnamese who were later killed.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Conditions in Cambodian prisons prior to the arrival of UNTAC in late 1991 were deplorable, including shackling, solitary confinement, poor sanitation, inadequate food, and limited or no health care. Prisoners regularly died from neglect. In 1992 consistent intervention by UNTAC and the International Committee of the Red Cross (ICRC) improved conditions substantially. UNTAC induced SOC authorities to halt the practice of shackling in mid–1992, but they began to practice it subsequently as punishment.

With the departure of UNTAC in late 1993, conditions in Cambodian prisons deteriorated. The ICRC and an indigenous human rights organization, Licadho, took separate actions to improve water, food, and medical treatment. However, by year's end, there were again numerous cases of beri-beri, tuberculosis, and other illness resulting in some deaths.

Torture was not common in Cambodian prisons in 1993. However, there were numerous reports of torture in Battambang Provincial Prison, including burnings and beatings of prisoners, prior to the elections. UNTAC investigations confirmed the allegations. UNTAC issued a warrant for the arrest of Ten Seng, the chief of prison guards. In September UNTAC handed Ten Seng over to Cambodian authorities and, in November, a Cambodian court convicted him of aggravated assault and sentenced him to 1 year in jail.

d. *Arbitrary Arrest, Detention, or Exile.*—Prior to 1993 the criminal justice system in Cambodia was essentially dysfunctional. Warrants for arrest were never employed. Police and secret security forces attached to the then Ministry of National Security arrested people in an arbitrary fashion. Detainees were often held incommunicado. The formal charging of prisoners with crimes was the exception, not the rule.

In September 1992, UNTAC issued a transitional criminal law that outlined basic procedures for arrest and prosecution. The Supreme National Council of Cambodia adopted the law and a slow process of translation and elaboration ensued. Unfortunately, during 1993 the Government never implemented the law, with the exception of the requirement for bail. Corrupt officials often kept the bail money for their own profit.

UNTAC successfully instigated judicial review of numerous cases in which prisoners were held without adequate evidence or charges, resulting in the release of 370 prisoners.

In 1993 in the non-Communist zones, military officers regularly detained individuals accused of crimes and meted out summary punishment on the spot. In June FUNCINPEC authorities completed the construction of a grossly inadequate prison in the FUNCINPEC-controlled zone. Under UNTAC direction, the Kampuchean Peoples National Liberation Armed Forces (KPNLAF) built a prison in Thmar Puok. The PDK is thought to maintain security locations at which prisoners are held. However, little is known about these facilities.

On January 8, UNTAC issued orders to permit a UNTAC special prosecutor to initiate arrests in cases of gross human rights abuses. SOC authorities sometimes frustrated UNTAC's efforts to apprehend SOC officials accused of human rights violations. However, UNTAC successfully arrested four persons. Of the four arrested, one died of natural causes. The Ministry of Justice has accepted the other three for prosecution.

e. *Denial of Fair Public Trial.*—The 1993 Constitution of the Kingdom of Cambodia provides for due process and the independence of the judiciary, and it establishes the principle of presumed innocence. However, Cambodia lacks the trained professionals to implement these principles. The structure of the future judicial system is to be defined by subsequent law.

In 1993, for most of Cambodia, the existing judicial system remained that outlined in the 1989 SOC Constitution, which provides for provincial courts with judges and assessors named by state officials. In practice, the judiciary was directly dependent on political authorities and was an instrument of the Government. This system applied to only about 10 percent of those arrested. For most trials, police files, sometimes including confessions coerced from prisoners, were accepted as prima facie evidence of guilt.

There was no functioning judicial system in 1993 in the areas outside Communist control, where martial law was the rule. No legal system is known to exist in PDK zones.

The Paris Accords mandated the release of all political prisoners and prisoners of war. In 1991 and early 1992, SOC authorities released nearly 2,000, half under ICRC supervision. In 1993 there were no political prisoners held by Cambodian authorities.

f. *Arbitrary Interference with Privacy, Family, Home or Correspondence.*—There were numerous cases of arbitrary forced entry into homes and offices and seizure of possessions including documents by SOC security officials in 1993, particularly in connection with the election campaign. Opposition party offices were often targets. While security forces carried out surveillance of some persons, there was evidence that the large security apparatus developed by the SOC with Vietnamese assistance over the past decade had begun to dissolve.

The competing political parties used various means to increase party membership prior to the May elections. CPP party membership swelled to over 3 million, substantially more than the CPP vote tally at the polls. SOC civil servants, students, and soldiers were regularly coerced into joining the CPP and campaigning for it. However, after the election, this coercion ceased.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Despite the Paris Accords prohibition, cease-fire violations continued in 1993. Villagers and townspeople were frequently victims of indiscriminate shelling principally by SOC and PDK forces in scattered fighting in Kompong Thom, Siem Reap, Preah Vihear, and Banteay Meanchey provinces. Forces of the PDK and also the SOC continued to lay unmarked minefields, adding to an already enormous problem.

The PDK carried out several attacks in 1993 intended specifically to terrorize the general population. On May 5, for example, PDK soldiers attacked the train traveling from Battambang to Phnom Penh. Of the 500 people on the train, 20 were killed and 100 were wounded. The PDK soldiers and local villagers then looted the train. In another raid, PDK soldiers opened fire on a house in which people were watching a video film in Kompong Thom province, killing 20 and injuring 35 others. However, with the high level of banditry in Cambodia, it was not always possible to determine whether actions were those of an armed party to the conflict or simply local criminals.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Before 1992 freedom of speech and press were severely restricted. However, the Paris Accords provided for this freedom for all persons in Cambodia. The SNC codified this right on January 15, 1992. The juridical underpinnings of this fundamental freedom were further defined in the 1993 Constitution. That document states "Cambodian citizens shall enjoy freedom of expression, press, publication and association." However, the Constitution limits free speech by requiring that speech not adversely affect public security and be carried out in accordance with law. The National Assembly has yet to implement legislation to clarify this problem.

In practice, Cambodians enjoyed unprecedented flowering of free speech in 1993. The print media consisted of exactly one government controlled newspaper in 1991. In 1993 there were over 57 different newspapers, bulletins, and magazines produced by the political parties, indigenous human rights organizations, and independent publishers, including one French language and three English language newspapers. The import and sale of foreign publications is unrestricted.

Cambodia has one government-run television station, one commercial television station operated by a Thai concern, a FUNCINPEC television station, and a French-language television station operated by the French Government. Until late September, UNTAC operated an extremely popular radio station which provided independent news and served as an outlet for all 20 political parties. Cambodians also had access to a FUNCINPEC radio station and PDK radio, both of which had limited broadcast ranges inside the country.

Self-censorship remains a concern in Cambodia. With the withdrawal of UNTAC, independent Cambodian media became more guarded in their criticism of the Government. In October a government spokesman warned the media that criticism of the King is contrary to Khmer traditions. While there are no penalties now envisaged, the Constitution declares that the King is "inviolable," possibly laying the basis for future lese majeste laws. The King has disavowed the government criticism.

There is no freedom of speech in areas under PDK control. According to PDK defectors, in some instances people in PDK areas were prohibited from listening to

UNTAC or other radio stations. Given the bloody history of the PDK, Cambodians living under PDK control frequently are afraid to discuss political matters publicly.

b. *Freedom of Peaceful Assembly and Association.*—Freedom of peaceful assembly was assured by the SNC as well as by the new Constitution. During the 1993 election campaign, there were thousands of campaign rallies mounted by the 20 registered political parties in all provinces of the country, despite the threat of Khmer Rouge activities in the cities. During the election, thousands of Cambodians participated in a peace march across the country. Nevertheless, there were signs of resistance to peaceful assembly, mostly by SOC authorities, during the course of the political campaign. There were numerous instances in which local SOC officials demanded the right to approve rallies themselves or stopped rallies that had not obtained advance approval by UNTAC.

Nevertheless, as a sign of changing attitudes, in October 400 to 500 students marched in Phnom Penh to protest government education policies. This was the first such demonstration since students were fired upon by police during protests in December 1991. In October the march took place peacefully, with police clearing the path for the students. Top government officials publicly defended their right to peaceful assembly and, as a result, several other peaceful demonstrations took place in November and December.

c. *Freedom of Religion.*—Buddhism is the state religion. The Constitution provides for freedom of religion and forbids discrimination based on religion.

Buddhism, Christianity, and especially Islam were nearly wiped out under PDK rule from 1975 to 1979. Until 1989 Buddhism made only a slow return as the clergy were still regarded with some suspicion by the ruling CPP. However, in 1989 a Buddhist renaissance commenced with the assistance of the CPP's front organization. Islam has also regained a strong foothold among the Cham population, and mosques are being refurbished around the country. Christianity, ruled "legal" in April 1990, is practiced openly. In 1993 Christian churches began to open in some outlying Cambodian provinces.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Travel within government-controlled parts of Cambodia is unrestricted. The presence of mines and bandits makes travel in some areas perilous, however. The PDK severely restricted travel within its zones, refused UNTAC access to some PDK areas, detained UNTAC personnel who ventured in, and, on occasion, fired on UNTAC personnel overflying PDK zones in helicopters. There were reliable reports that, in some cases, movement by Cambodians in the PDK zones even to neighboring villages required permission from village heads.

UNTAC thoroughly liberalized the SOC's visa and passport issuing procedures. Although corruption continues to be a problem in obtaining travel documents, travel outside Cambodia is not systematically restricted. Exile is expressly forbidden by the Constitution.

In 1992 over 370,000 Cambodians resided in refugee camps in Thailand. As an integral component of the Paris Accords, all the refugees returned to Cambodia in security and dignity under the auspices of the UNHCR in time to participate in the May 1993 elections.

Tens of thousands of ethnic Vietnamese fled Cambodia in early 1993 due to racial violence. Many returned overland after the elections. However, several thousand on boats were stopped by authorities on the Mekong River and were forbidden entry. Although the vast majority of these people were born in Cambodia, the Government insisted it would deal with the ethnic Vietnamese as an immigration issue. At year's end, the problem was still unresolved.

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

In 1993, for the first time in decades, Cambodians had the right and the ability peacefully to change their government. The electoral process conducted by UNTAC culminated in the establishment of the new Royal Government of Cambodia in September.

UNTAC and the Cambodians faced many obstacles. The SOC used political violence and intimidation to cow opposition political parties and to try to frighten the electorate into voting for the CPP. The PDK used propaganda, obstruction, terror, and military attacks to try to prevent the election. PDK soldiers frequently confiscated or destroyed Cambodians' voter cards and threatened voters that there would be consequences if they voted in the elections. These efforts largely failed. While UNTAC was unable to achieve "a neutral political environment," 20 parties competed, 96 percent of eligible voters registered, and, despite PDK threats and foul weather, between May 23 and 28, 90 percent of registered voters cast ballots. Numerous independent observers and the U.N. Security Council declared the elections

free and fair. One clear indication of this was that an opposition party, FUNCINPEC, won 46 percent of the vote compared to only 38 percent for the CPP.

On September 24, the Constitution, drafted and approved by the Assembly, was promulgated, establishing a Constitutional Monarchy with Norodom Sihanouk as King. The Constitution provides for a multiparty, liberal democratic system with separation of powers, an independent judiciary, and a monarch who reigns but does not rule. The document calls for new nationwide legislative elections every 5 years. The Government is now preparing plans to institute elections at the village and commune level.

The new legitimate Government was formed through negotiation between the FUNCINPEC and CPP parties. This compromise, which grants the CPP half of the cabinet positions, was reached against the backdrop of an abortive June secession movement, led by CPP member Prince Norodom Chakrapong. Although the secession movement quickly collapsed, it constituted an illegitimate pressure on the process of forming a new government.

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

Twenty-seven independent indigenous nongovernmental organizations (NGO's) carried out human rights activities in Cambodia in 1993. The four largest of these had combined membership of over 150,000. They engaged in diverse activities ranging from basic human rights monitoring to education to prison visits to public seminars on the new Constitution. By the end of 1993, the NGO's were able to bring complaints to a human rights committee of the National Assembly, and several issued periodic bulletins about their activities.

The effectiveness of the nascent human rights NGO's was magnified by their ability to work with and receive support from UNTAC and the successor U.N. Human Rights Center Field Office in Phnom Penh. UNTAC had a staff of 40 human rights monitors until September, present in all 21 provinces. In addition, 3,400 UNTAC civilian police assisted in human rights investigations. The military component of UNTAC used a strategic investigation team equipped with helicopters to investigate the most egregious human rights violations. Amnesty International, Asia Watch, and the Lawyers Committee for Human Rights also visited Cambodia in 1993.

While human rights investigators moved freely in government-controlled areas, no human rights groups were permitted entry into PDK zones.

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

The new Constitution prohibits discrimination based on race, color, sex, language, religious belief, or political views. However, with no effective means of implementing these guarantees, the most vulnerable elements of Cambodian society are often victims of discrimination.

Women.—The new Constitution contains strong language providing for equal rights for women, equal pay for equal work, and equal status in marriage. In practice, women have equal property rights with men, have the same status in bringing divorce proceedings, and have equal access to education and some jobs. However, tradition still prohibited many women from reaching the highest positions in many areas. Independent women's associations flourished in 1993, and the leaders of two of the most prominent human rights NGO's are women.

International aid workers confirm that violence against women, including rape as well as domestic violence, is common, although there are still no systematic studies to determine the extent of the problem. Authorities normally decline to become involved in such "private" disputes. Prostitution, prohibited by the new Constitution, is nevertheless common in Phnom Penh.

Children.—Children are a vulnerable group in Cambodia. They are often victims of landmines and there is evidence of nascent child prostitution among street children in Phnom Penh. The new Constitution explicitly protects children's rights. Ensuring the welfare of children is also a specific goal of the government's political program. However, the Government must rely on international aid to fund most social welfare programs targeted at children, and, therefore, resources devoted to the goal are modest.

National/Racial/Ethnic Minorities.—Vietnamese and Chinese have long been the largest ethnic minorities in Cambodia. Ethnic Chinese are now well accepted. However, fear and animosity toward the Vietnamese, who are seen as a threat to the Khmer nation and culture, remain among Cambodians. In 1993 the PDK sought to exploit these feelings through a calculated campaign of racial violence directed against ethnic Vietnamese civilians. The PDK, whose legitimacy suffered in the May

elections, sought to show that they were the true nationalists and to provoke opposition to the SOC, which was installed in 1979 by a Vietnamese invasion.

Amnesty International has documented 15 racially motivated attacks in 1993 resulting in 70 deaths and 60 wounded. Innocent women, children, and elderly persons were beaten or shot to death. A typical incident occurred March 10 in the floating village of Chong Khneas on the Tonle Sap lake in Siem Reap province when 20 men entered the village at dusk on boats and opened fire with AK-47 assault rifles on villagers in their houseboats and in a video parlor for 15 to 30 minutes. Eighteen people were killed and 15 were injured.

The Cambodian authorities did not react energetically to these attacks. SOC police just 300 meters from Chong Khneas village did not attempt to intervene. King Sihanouk publicly condemned the killings of ethnic Vietnamese. However, it was only on July 24, after four major attacks, that the provisional government publicly condemned the attacks. Only one person was arrested in connection with all these attacks—and then by UNTAC. (The accused subsequently died of natural causes.) Constituent Assembly members debated whether rights provided for in the new Constitution extended to ethnic Vietnamese. The Assembly decided to defer the matter for future legislation.

People with Disabilities.—Cambodia has the highest percentage of handicapped persons in the world; one in 286 Cambodians is missing at least one limb. Programs administered by various NGO's have brought about dramatic improvements in the treatment and rehabilitation of amputees. Although the handicapped are often looked upon as a burden by poor families, rehabilitation programs have improved how they are perceived. Accessibility for the handicapped is not mandated either legislatively or otherwise.

Section 6. Worker Rights

a. *The Right of Association.*—Eighty percent of Cambodians are subsistence rice farmers. A large proportion of the urban population are engaged in low-level commerce or are self-employed as craftspeople. A majority of salaried workers are employed by the State, although there is a growing service sector and a small industrial sector. The new Constitution provides for the organization of trade unions "as stipulated by law." Until future implementing legislation is passed, the relevant law is the Labor Law passed by the SOC in August 1992.

The 1992 law reflected consultations with the International Labor Organization and international labor law experts and is similar to labor laws in market economy countries. It states that workers have the right to form unions of their own choosing without previous authorization. The law does not require that unions join a single trade union structure and contains no provisions regarding whether a union may participate in political activity. However, there is a wide gap between the provisions of the labor law and the reality of labor conditions in Cambodia today. No other unions currently exist apart from those in the formerly SOC-controlled Kampuchean Federation of Trade Unions, an organization which was inactive in 1993. A new organization of pedicab drivers and other transport workers holds the potential of developing into an independent union.

The new Constitution guarantees the right to strike, "in accordance with law." Implementing legislation is still lacking. During 1993 some workers from state enterprises took action when their factories were sold and closed. They carried out informal strikes which were promptly settled with government intervention, usually via cash payments.

The Labor Law permits unions to join federations but does not address whether they may be affiliated with international bodies. The Kampuchean Federation of Trade Unions is a member of the formerly Soviet-controlled World Federation of Trade Unions.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining is protected under the labor law, although any agreement reached between workers and employers is subject to approval by the Government. However, collective bargaining does not currently exist in practice. Civil servant wages are set by the Government. Wage rates in other sectors are set largely by the market. The Labor Law prohibits antiunion discrimination by employers. A number of offices in the new Government have conducted elections for workers' representatives. They participate in all decisions.

No export processing zones exist.

c. *Prohibition of Forced or Compulsory Labor.*—The Labor Law prohibits forced or compulsory labor, but there is inadequate inspection to enforce it. The Labor Law contains penal sanctions for offenders. There are no reports that domestic or foreign workers are being forced to remain in situations amounting to coerced labor. Prisons in SOC-controlled areas were inspected by UNTAC and international human rights

groups, and there were no reports of prison labor. There are widespread reports that the PDK compels people under its control to serve as porters for military and other supplies.

d. *Minimum Age for Employment of Children.*—The Labor Law states that the minimum age for employment is 16, except for persons under age 16 working in an enterprise in which all workers are members of a family and under the supervision of a father, mother, or guardian. Although penalties exist for violators of these provisions, the Government has not yet established an apparatus to enforce them. Out of economic necessity, persons under the age of 16 years engage in a variety of jobs. These include street trading, construction, and small-scale manufacturing.

e. *Acceptable Conditions of Work.*—The Labor Law does not provide for a nationwide minimum wage. However, it does require that every laborer receive a minimum wage that assures a decent living standard. The wage can vary according to regions. Currently, market-determined wage rates at lower levels are not sufficient to provide a decent living for a worker and family.

The Labor Law provides for a standard legal work week of 48 hours and a 24-hour rest period. The law requires overtime payment at a rate set by the Government. These standards are not enforced and workers commonly work more than 48 hours per week and 8 hours per day. The law states that the workplace should have health and safety standards necessary to ensure the workers' well-being. However, the Government has yet to set specific standards. Penalties are specified in the law, but there are no provisions to protect workers who complain about unsafe or unhealthful conditions. Conditions in factories and small-scale industries are generally poor. Ventilation and lighting are inadequate, sanitation facilities are poor, and noise levels are significantly above international standards.

CHINA

The People's Republic of China (PRC) remains a one-party state ruled by the Chinese Communist Party through a 21-member Politburo and a small circle of officially retired but still powerful senior leaders. Almost all top civilian, police, and military positions at the national and regional levels are held by party members. Despite official adherence to Marxism-Leninism, in recent years economic decision-making has become less ideological, more decentralized, and increasingly market oriented. Fundamental human rights provided for in the Constitution are frequently ignored in practice, and challenges to the Communist Party's political authority are often dealt with harshly and arbitrarily.

Security forces, comprised of a nationwide network which includes the People's Liberation Army, the Ministry of State Security, the Ministry of Public Security, the People's Armed Police, and the state judicial, procuratorial, and penal systems, are poorly monitored due to the absence of adequate legal safeguards or adequate enforcement of existing safeguards for those detained, accused, or imprisoned. They are responsible for widespread and well-documented human rights abuses, including torture, forced confessions, and arbitrary detentions.

A decade of rapid economic growth, spurred by market incentives and foreign investment, has reduced party and government control over the economy and permitted ever larger numbers of Chinese to have more control over their lives and livelihood. Despite significant income disparities between coastal regions and the interior, there is now a growing "middle class" in the cities and rural areas as well as a sharp decline in the number of Chinese at the subsistence level. These economic changes have led to a de facto end to the role of ideology in the economy and an increase in cultural diversity. An example of this is the media, which remains tightly controlled with regard to political questions, although it now is free to report on a wider variety of other issues.

The Government took some positive steps on human rights issues during 1993. It released some prominent political prisoners early or on medical parole; many had served long terms in prison. The Government still has not provided a full or public accounting of the thousands of persons detained during the suppression of the 1989 democracy movement, when millions of students, workers, and intellectuals defied the Government and participated in public demonstrations. Most of these detainees appear to have been released, however, some after serving periods of detention without charges having been brought and some after having completed their prison sentences. The Government says it has released the remaining imprisoned or detained Vatican loyalists among the Catholic clergy. Although it continues to restrict the movements and activities of some elderly priests and bishops, the Government announced in November that two priests, whose movements had been restricted, were

free to return to their homes. The authorities also allowed a number of prominent political dissidents to leave China in 1993. In November the Government announced it would give positive consideration to a request from the International Committee of the Red Cross (ICRC) to visit China.

Nevertheless, the Government's overall human rights record in 1993 fell far short of internationally accepted norms as it continued to repress domestic critics and failed to control abuses by its own security forces. The Government detained, sentenced to prison, or sent to labor camps, and in a few cases expelled from the country, persons who sought to exercise their rights of freedom of assembly and speech. The number of persons in Chinese penal institutions considered political prisoners by international standards is impossible to estimate accurately. In 1993 hundreds, perhaps thousands, of political prisoners remained under detention or in prison. Physical abuse, including torture by police and prison officials persisted, especially in politically restive regions with minority populations like Tibet. Criminal defendants continue to be denied legal safeguards such as due process or adequate defense. In many localities, government authorities continued to harass and occasionally detain Christians who practiced their religion outside the officially sponsored religious organizations.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were accounts of extrajudicial killings by government officials in 1993. A few cases resulted in severe punishment for the officials involved and were widely publicized as admonitory examples. Local officials beat to death an Anhui farmer in February after he protested the level of taxes and fees. Those found directly responsible for the beating, including a local public security official, received long prison terms and, in one case, a death sentence. Other officials were dismissed or disciplined. Also, in another well-publicized case, the powerful local Communist party secretary of a village near Tianjin was sentenced in August to 20 years in prison for obstruction of justice and other offenses related to a December 1992 beating death. Those who actually took part in the beating also received long prison terms.

The official responses to other cases served to cover up abuses, however. Credible reports indicated that a Shaanxi man beaten by public security officials in March, during a raid on an unauthorized Protestant gathering, died as a result of his injuries and the lack of timely medical care while in police custody. An official autopsy ascribed the death to an unrelated illness.

Because the Government often restricts access to such information, it is impossible to determine the total number of such killings. However, according to a credible report issued in 1993 by a human rights group, at least 12 persons died in 1992 as a result of torture while in police custody.

b. *Disappearance.*—There were no reported cases in 1993 in which persons who disappeared were suspected to have been killed by officials, however, the Government has still not provided a comprehensive, credible public accounting of all those missing or detained in connection with the suppression of the 1989 demonstrations.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Cases of torture and degrading treatment of detained and imprisoned persons persisted. Both official Chinese sources and international human rights groups reported many instances of torture. Persons detained pending trial were particularly at risk as a result of weaknesses in the legal system, including the emphasis on obtaining confessions as a basis for convictions and the lack of access to prisoners, even by family members, until after formal charges are brought, a step that can be delayed for months. Former detainees have credibly reported the use of cattle prods and electrodes, prolonged periods of solitary confinement and incommunicado detention, beatings, shackles, and other forms of abuse against detained women and men.

While generally refusing to allow impartial observers to visit prisoners, officials stated that internal monitoring and laws to prevent and punish abuses continue to be strengthened. Procurator General Liu Fuzhi said in March that 2,800 procuratorate offices had been set up in jails and detention centers to safeguard the welfare of detainees. In response to a call by the Chairman of the National People's Congress (NPC), a national-level procuratorial conference held in Shanghai in early April focused on measures to improve the Procuratorate's supervision of law enforcement personnel and government officials who violate the civil rights of citizens. In August the Guangdong provincial public security bureau issued a regulation forbidding police torture during interrogations. In April China told the U.N. Committee Against Torture that 339 cases of torture to extract confessions were investigated during 1992, 209 cases were reported to the Procuratorate with a view to prosecu-

tion, and 180 prosecutions were brought. No information on convictions or punishments was provided. While Chinese officials said in December that 23 prison officials had been punished in serious cases of mistreatment of prisoners, the number of actual incidents of torture and ill-treatment by government officials is almost certainly far greater than this number.

Conditions of imprisonment for political prisoners vary widely. Some prisoners, including the student leader Wang Dan, who was released in February, have stated they were treated reasonably well. Credible reports indicate others have been abused. Political prisoners are often intermingled with common criminals. Credible reports persisted in 1993 that Liu Gang, a political prisoner held at a Liaoning labor camp, suffers ill health as a result of beatings and other mistreatment, and that prison officials instigated some beatings by cellmates. Officials strongly denied these allegations and arranged for an interview with Liu and his jailers, which was published in August by a Chinese English-language journal. They declined repeated requests by foreign groups to allow access to the jailed dissident by independent observers.

There was limited evidence that, at least in a few cases, detained dissidents have been incarcerated in psychiatric institutions and treated with drugs. The lack of independent outside access to such persons made it impossible to verify the reports. Shanghai dissident Wang Miaogen was detained by public security officials in May and committed to a mental institution after he attempted to protest the holding of the East Asia games. Wang had earlier chopped off four of his fingers in a protest over alleged persecution. Wang Wanxing, detained in 1992 while attempting to stage a one-man protest on Tiananmen Square, continued to be held in a Beijing-area mental hospital.

Conditions in Chinese penal institutions are generally harsh and frequently degrading, and nutritional and health conditions are sometimes grim. Medical care for prisoners has been a problem area, despite official assurances that prisoners have the right to maintain good health and receive prompt medical treatment if they become ill. In 1993 political prisoners who reportedly had difficulties in obtaining timely and adequate medical care included Wang Juntao, Chen Ziming, and Ren Wanding. Medical paroles may be granted to ailing prisoners, and 1989 detainee Li Guiren was released in January to obtain medical treatment. Working conditions for prisoners in many facilities are similar to those in ordinary factories, but some prisoners working in penal coal mines and at other sites must endure dangerous conditions (see Section 6.c.).

Political prisoner Qi Dafeng continued to serve a 2-year sentence in a coal mine in Anhui, where he had been sent under the nonjudicial "reeducation through labor" program in late 1992.

d. *Arbitrary Arrest, Detention, or Exile.*—China's Criminal Procedure Law proscribes arbitrary arrest or detention, limits the time a person may be held in custody without being charged, and requires officials to notify the detainee's family and work unit of the detention within 24 hours. These provisions are subject to several important exceptions, including the sweeping provision that notification may be withheld if it would "hinder the investigation" of a case. Senior judicial officials acknowledged in 1993 that limits on detention are frequently ignored in practice or circumvented by various informal mechanisms. In numerous cases, the precise legal status or location of detainees is unclear. Public security authorities often detain people for long periods of time under mechanisms not covered by the Criminal Procedure Law. These include unpublished regulations on "taking in for shelter and investigation" and "supervised residence" as well as other methods not requiring procuratorial approval. According to the Chinese media, close to 1 million detentions under "shelter for investigation" have been carried out annually in recent years. No statistics were available to indicate the usual length of these detentions, but at least some lasted several months. Links between local officials and business leaders have resulted in scattered detentions as a means of exerting pressure in economic disputes. The legality of detentions may be judicially challenged under the Administrative Procedures Law, but such challenges are rare and there is little evidence that this is an adequate or timely remedy for improper actions. There is no judicially supervised system of bail, but at the discretion of public security officials some detainees are released pending further investigation.

Political dissidents are often detained or charged for having committed "crimes of counterrevolution" under Articles 90 through 104 of the Criminal Law. Counterrevolutionary offenses range from treason and espionage to spreading counter-revolutionary propaganda. These articles have also been used to punish persons who organized demonstrations, disrupted traffic, disclosed official information to foreigners, or formed associations outside state control. Detention and trial of dissidents on other charges is also possible. People participating in unauthorized reli-

gious organizations may be charged with criminal offenses such as receiving funds from abroad without authorization or changing such funds on the black market. Legal provisions requiring family notification and limiting length of detention are often ignored in political cases. Liao Jia'an, a university student in Beijing detained in 1992 for peaceful expression of his political views, was held for a year before being formally arrested in mid–1993 for counterrevolutionary crimes.

A well-documented estimate of the total number of those subjected to new or continued arbitrary arrest or detention for political reasons is not possible due to the Government's tight control of information. Individuals reported detained are sometimes released without charge after several days or weeks of interrogation. There were several reported lengthier detentions of dissidents, including Sun Lin, Wang Miaogen, and Zhang Xianliang, in Shanghai during 1993. Sun was released in August after 5 months in detention. Democracy activists Qin Yongmin, Yang Zhou, and Zheng Xuguang were detained in November in connection with the formation of a group called the "Peace Charter." Yang Zhou was released from detention on December 31, but the authorities had not provided information on the status or location of the other peace charter detainees. Several dozen Tibetans were also reported to have been detained after participation in proindependence demonstrations or activities (see Section 5). Gendun Rinchen, a Tibetan tour guide who had been detained in May 1993, was released on January 14, 1994

e. *Denial of Fair Public Trial.*—Officials insist that China's judiciary is independent but acknowledge that it is subject to the Communist Party's policy guidance. In actuality, party and government leaders almost certainly predetermine verdicts and sentences in some sensitive cases. According to the Constitution, the court system is equal in authority to the State Council and the Central Military Commission, the two most important government institutions. All three organs are nominally under the supervision of the National People's Congress. The Supreme People's Court stands at the apex of the court system, followed in descending order by the higher, intermediate, and basic people's courts.

Due process rights are provided for in the Constitution but are often ignored in practice. Both before and after trial, prisoners are subject to severe psychological pressure to confess their "errors." Defendants who fail to "show the right attitude" by confessing their crimes are typically sentenced more harshly. Despite official media and other reports that indicate coerced confessions have led to erroneous convictions, a coerced confession is not automatically excluded as evidence. According to judicial officials, however, confessions without corroborating evidence are an insufficient basis for conviction.

Accused persons are given virtually no opportunity to prepare a defense in the pretrial process, during which the question of guilt or innocence is essentially decided administratively. Defense lawyers may be retained only 7 days before the trial. In some cases even this brief period has been shortened under regulations issued in 1983 to accelerate the adjudication of certain serious criminal cases. Persons appearing before a court are not presumed innocent; despite official denials, trials are essentially sentencing hearings. Conviction rates average over 99 percent. There is an appeal process, but initial decisions are rarely overturned, and appeals generally do not provide meaningful protection against arbitrary or erroneous verdicts. Like the initial court verdict, the judgment of the Appeals Court is subject to Communist Party "guidance."

Under the Criminal Procedure Law, persons "exempted from prosecution" by procurators are deemed to have a criminal record, despite the lack of a judicial determination of guilt. Such provisions can be applied in "counterrevolutionary crimes" as well as for ordinary criminal offenses. In August Shanghai activists Sun Lin, Yao Tiansheng, and Han Lifa were "exempted from prosecution" for counterrevolutionary offenses and released.

Some officials have acknowledged that trials in China are conducted too rapidly. These officials state that China's 70,000 lawyers, most of whom are engaged in commercial law, are insufficient to meet the country's expanding legal needs and point to the Government's intention to increase this number to at least 150,000. Knowledgeable observers report that defense attorneys appear in only a small number of criminal trials. Under Chinese law, there is no requirement that the court appoint a defense attorney for the defendant unless the defendant is deaf, dumb, or a minor. When attorneys do appear, they have little time to prepare a defense and rarely contest guilt; their function is generally confined to requesting clemency. Defense lawyers, like other Chinese, generally depend on an official work unit for employment, housing, and many other aspects of their lives. They are therefore often reluctant to be viewed as overzealous in defending persons accused of political offenses.

The need for adequate, independent legal aid is increasingly understood in legal circles and within the Government. In many cities, law firms are being organized

outside the framework of established government legal offices. These firms are self-regulating and do not have their personnel or budgets determined directly by the State. The Minister of Justice announced in October that China would gradually increase the number of autonomous law firms from the current total of 410.

The Criminal Procedure Law requires that all trials be held in public, except those involving state secrets, juveniles, or "personal secrets." Details of cases involving "counterrevolutionary" charges, however, have frequently been kept secret, even from defendants' relatives, under this provision. The 1988 Law on State Secrets affords a ready basis for denying a public trial in cases involving "counterrevolution."

Lack of due process is particularly egregious when defendants receive the death sentence. Chinese officials refuse to provide comprehensive statistics on death sentences or executions, but hundreds of executions are officially reported annually. The actual numbers may be much higher. All death sentences are nominally reviewed by a higher court. Reviews are usually completed within a few days after sentencing and consistently result in a perfunctory confirmation of sentence. However, no executions for political offenses are known to have occurred in 1993.

In addition to the formal judicial system, government authorities can assign persons accused of "minor" public order and "counterrevolutionary" offenses to "reeducation through labor" camps in an extrajudicial process. In 1990 Chinese officials stated that 869,934 Chinese citizens had been assigned to these camps since 1980, with about 80,000 assigned each year. Chinese officials reported 120,000 prisoners were undergoing "reeducation through labor" at the end of 1993. Other estimates of the number of inmates are considerably higher. Terms of detention run from a normal minimum of 1 year to a maximum of 3 years. The "labor reeducation" committee which determines the term of detention may extend an inmate's sentence for an additional year. Under a State Council regulation issued in early 1991, those sentenced to "reeducation through labor" may ask the committee to reconsider their decision. Since 1990, "reeducation through labor" sentences may also be judicially challenged under the Administrative Procedures Law. While some persons have gained reduction or withdrawal of their sentence after reconsideration or appeal, in practice these procedures are rarely used, and short appeal times, lack of access to lawyers, and other problems weaken their potential assistance in preventing or reversing arbitrary decisions.

The system of "reeducation through labor" sometimes is used by security authorities to deal with political and other offenders without reference to even the nominal procedures and protections the formal criminal process offers. In Shanghai, Fu Shenqi and Zhang Xianliang were given 3-year "reeducation through labor" sentences in July for "provoking incidents" and "inciting trouble" which disturbed public order.

Government officials deny that China has any political prisoners, asserting that persons are detained not for the political views they hold, but because they have taken some action which violates the Criminal Law. The number of persons in Chinese penal institutions considered political prisoners by international standards is impossible to estimate accurately. Hundreds, perhaps thousands, of political prisoners remained imprisoned or detained. Estimates by some foreign researchers of the number of political prisoners are much higher. Many if not most people held for political offenses are charged as counterrevolutionaries. Chinese officials said in December there were 3,172 persons serving sentences for counter-revolutionary crimes, down from a figure of 3,317 given to an American human rights monitor in October. As part of the October figure, officials also indicated that 560 persons convicted of counterrevolutionary crimes had been paroled. Those convicted of counterrevolutionary crimes make up 0.2 percent of the total prisoner population of 1.22 million, but they are about 5 percent of total parolees. As recently as November 1992, an Australian delegation was told there were 4,000 in prison for counterrevolutionary crimes. All these estimates almost certainly include a substantial number of persons convicted of espionage or other internationally recognized criminal offenses. At the same time, the figures exclude many political prisoners detained but not charged, persons held in labor reeducation camps and an undetermined number of persons sentenced for criminal offenses due solely to their nonviolent political or religious activities.

Many prominent activists, including Chen Ziming, Wang Juntao, and Liu Gang (all three held since 1989), remained imprisoned in 1993. Some persons detained for political reasons were released on parole before the end of their sentences. Those released early included longtime political prisoners Wei Jingsheng, Wang Xizhe, and Xu Wenli, and Tiananmen-related detainees Wang Dan, Gao Shan, Zhai Weimin, Wu Xuecan, and Guo Haifeng. Shanghai activist Fu Shenqi was released in March but reimprisoned on other charges in June. Even after release, such persons have a criminal record, and their status in society, ability to be employed, freedom to

travel, and numerous other aspects of their lives are often severely restricted. Economic reform and social change have somewhat diminished these problems, but some people continue to experience serious hardships. For example, the families of political prisoners sometimes encounter difficulty in obtaining or keeping employment and housing. Zhang Fengying, wife of imprisoned activist Ren Wanding, remained in poor housing conditions in 1993. Zhang and her teenage daughter were evicted from their apartment in 1992. Ren's work unit owns the apartment. While the work unit asserted it wanted to reassign the housing to another worker, the apartment reportedly has remained vacant.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The authorities extensively monitor and regulate personal and family life, particularly in China's cities. Most persons in urban areas still depend on their government-linked work unit for housing, permission to marry or have a child, approval to apply for a passport, and other aspects of ordinary life. The work unit, along with the neighborhood watch committee, is charged with monitoring activities and attitudes. However, changes in the economic structure, including the growing diversity of employment opportunities and the increasing market orientation of many work units, are undermining the effectiveness of this system. Search warrants are required by law before security forces can search premises, but this provision is often ignored. In addition, both the Public Security Bureau and procuracy apparently can issue search warrants on their own authority.

The 1982 Constitution states that "freedom and privacy of correspondence of citizens . . . are protected by law," but, according to a Western expert on Chinese law, legislation for this purpose does not exist. In practice, some telephone conversations are recorded, and mail is frequently opened and censored. The Government often monitors and sometimes restricts contact between foreigners and Chinese citizens, particularly dissidents.

The Government has continued its effort to control citizens' access to outside sources of information, selectively jamming Chinese language broadcasts of the Voice of America (VOA) and the British Broadcasting Corporation. Despite the effort made to jam VOA, the effectiveness of the jamming varies considerably by region, with audible signals reaching most parts of China. A small but rapidly growing segment of the population has access to satellite television broadcasts. Authorities issued new regulations on the installation and operation of satellite dishes in October, requiring permits for operation and banning private ownership and operation except under limited circumstances. However, China has not been very successful in implementing past regulations restricting the use of satellite dishes. Satellite television dishes are widely available for sale, and a licensing scheme which nominally controls purchase of the equipment is loosely enforced.

China's population has roughly doubled in the past 40 years to nearly 1.2 billion people, over a fifth of all humanity. In the 1970's and 1980's China adopted a comprehensive and highly intrusive family planning policy. This policy most heavily affects Han Chinese in urban areas. For urban couples, obtaining permission, usually issued by their work units, to have a second child is very difficult. Numerous exceptions are allowed for the 70 percent of Han who live in rural areas. Ethnic minorities are subject to less stringent population controls. Enforcement of the family planning policy is inconsistent, varying widely from place to place and year to year.

The population control policy relies on education, propaganda, and economic incentives, as well as more coercive measures, including psychological pressure and economic penalties. Rewards for couples who adhere to the policy include monthly stipends and preferential medical and educational benefits.

Disciplinary measures against those who violate the policy include stiff fines, withholding of social services, demotion, and other administrative punishments, including, in some instances, loss of employment. Unpaid fines have sometimes resulted in confiscation or destruction of personal property. Because penalties for excess births may be levied against local officials and the mothers' work units, many persons are affected, providing multiple sources of pressure.

Physical compulsion to submit to abortion or sterilization is not authorized, but Chinese officials acknowledge privately that there are still instances of forced abortions and sterilizations in remote, rural areas. Officials maintain that, when discovered, abuses by local officials result in discipline or retraining. They admit, however, that stronger punishment is rare and have not documented any cases where punishment has occurred. A sharp reported drop in fertility rates in 1991–92 sparked concern about a possible upturn in incidents of coercion. One cause for worry about such increased pressures was a policy change in early 1991 making local political officials more directly responsible for success in meeting family quotas. There was strong evidence, however, that the magnitude of the reported fertility drop was

sharply exaggerated, in part because the policy change intensified strong existing incentives for officials and families to underreport births.

At least five provincial governments have implemented regulations with eugenics provisions, beginning with Gansu in 1988. These regulations seek to prevent people with severe mental handicaps from having children. National family planning officials say they oppose such legislation, but the Government has taken no action to overturn these local laws.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and self-expression remain severely restricted, although there has been an easing of the limits imposed during the post-Tiananmen crackdown. Citizens are not permitted to publish or broadcast criticism of senior leaders or opinions that contradict basic Communist Party doctrine which provides for a Socialist state under the party's control, or to make speeches which contain such criticism or opinions. The Government interprets the Communist Party's "leading role" as circumscribing the various individual rights guaranteed in the Constitution. People who violate these quidelines are warned and often punished. Gao Yu, a former writer of a now banned periodical, was charged in October with "leaking state secrets abroad" in connection with articles published in Hong Kong. Xi Yang, a Hong Kong reporter, was detained in September for "stealing" financial secrets in connection with articles published in Hong Kong.

Domestic television and radio broadcasting and the press remain under party and government control and are used to propagate the currently acceptable ideological line. A more lively tabloid sector continued to expand in 1993, and the circulation of major propaganda-oriented dailies continued to slip.

Radio talk shows also flourished and, although they generally avoided politically sensitive subjects, they provided some opportunity for Chinese to discuss, and sometimes question officials about, public issues, including corruption. Under official pressure, the film "Farewell My Concubine," which caused controversy because of its implicit criticism of the cultural revolution and portrayal of a homosexual relationship, was withdrawn from distribution in July after showings in Beijing and Shanghai. After further editing, it was rereleased in September.

The Government has continued to impose tight controls on colleges, universities, and research institutes. However, Beijing University and Shanghai's Fudan University stopped sending students to a full year of training and ideological indoctrination at military camps, a requirement imposed in 1989. The heavy ideological control of academic institutions and media censorship continued to force Chinese journalists and scholars to exercise caution in 1993. Many scholars, including some of China's most prominent, have been deterred from exercising free speech and have declined opportunities to publish or present papers on subjects that they fear could be construed as sensitive. On some less sensitive but still controversial subjects, such as economic policy, legal reform and even civil rights issues, the Government has tolerated more vigorous public discussion. Some authors who were considered politically unacceptable after 1989, such as legal scholar Yu Haocheng, were able to overcome bans and regain at least limited ability to get articles published in 1993.

b. *Freedom of Peaceful Assembly and Association.*—While the Constitution provides for freedom of peaceful assembly and association, these rights are severely restricted in practice. The Constitution provides, for example, that such activities may not infringe "upon the interests of the State," and in practice protests against the political system or its leaders are proscribed. Demonstrations involving expression of dissident political views are denied permits and suppressed if held. Qin Yongmin was briefly detained several times when he attempted to leave his native Wuhan for Beijing to protest against the capital's bid to host the Olympic Games in the year 2000 (see Section 1.d). However, some small-scale demonstrations on nonpolitical grievances are tolerated in practice. In February there were two small demonstrations at the gate of the Zhongnanhai leadership compound in Beijing by women laid off from a state steel firm. In August authorities also tolerated generally peaceful demonstrations in several provinces by Muslims, sometimes numbering in the thousands, who were protesting a book they found offensive. The book was subsequently banned. Demonstrators protesting the same book in Qinghai in October, however, were met with force when Muslim demonstrators threatened to take their protest to Beijing. According to credible reports, there were at least nine deaths.

Public security forces acted with more restraint than in the past to demonstrations in Lhasa in May, which began with a small protest on economic grievances but attracted hundreds of additional participants, including many who shouted proindependence slogans and some who threw rocks. Several dozen persons were believed to have been at least briefly detained in the wake of the protests, but reports of a handful of deaths or serious injuries from the impact of tear gas projectiles ap-

peared to be erroneous. According to human rights organizations, smaller scale protests were reported to have occurred frequently in the Tibetan capital and resulted in swift detention for the participants. Gendun Rinchen and Lobsang Yonten were detained in May, apparently because of alleged proindependence activities, and they were held through the remainder of the year before being released in January 1994. Tibetan political prisoners like Yulo Dawa Tsering, Ngawang Pulchung, and Jempel Tsering remained imprisoned in 1993. While repression continued, there was at the same time a continuation of limited dialog on Tibet with representatives of the Dalai Lama.

The Communist Party organizes and controls most professional and other mass associations. All organizations are required by 1990 regulations to be officially registered and approved. Ostensibly aimed at secret societies and criminal gangs, the regulations also deter the formation of unauthorized political or labor organizations. They have also been used to disband groups, such as unregistered house churches, deemed potentially subversive. Security forces maintain a close watch on groups formed outside the party establishment.

c. *Freedom of Religion.*—Religious freedom in China is subject to restrictions of varying severity. While the Constitution affirms toleration of religious beliefs, the Government restricts religious practice outside officially recognized and government-controlled religious organizations. The management and control of religion is the responsibility of religious affairs bureaus, which are staffed by officials who rarely are believers in religion. Communist Party officials state that party membership and religious belief are incompatible. This places a serious limitation on religious believers, since party membership is required for almost all high positions in government- and state-owned businesses.

The Government, after forcefully suppressing all religious observances during the 1966–76 cultural revolution, began in the late 1970's to restore or replace confiscated churches, temples, mosques, and monasteries. The official religious organizations administer more than a dozen Catholic and Protestant seminaries, nine institutes to train imams and Islamic scholars, and institutes to train Buddhist monks. Students who attend these institutes must demonstrate "political reliability," and all graduates must pass an examination on their theological and political knowledge to qualify for the clergy. The Government permitted Catholic seminarians from several cities to go to the United States in 1993 for additional religious studies. There have also been increased contacts between China and the Vatican.

The Government supervises the publication of religious material for distribution to ensure religious and political conformity. Religious books are not permitted in ordinary bookstores, and there are persistent complaints that the number of Bibles and amounts of other religious materials allowed to be printed fall far short of demand. Religious proselytizing is officially restricted to government-registered and sanctioned places of worship. Unauthorized proselytizing is proscribed and sometimes punished, although some discreet proselytizing and distributing of religious texts outside official channels is tolerated. Local authorities have confiscated private property under the guise of searching for illegal religious materials. Officially sanctioned religious organizations are permitted to maintain international contacts as long as these do not entail foreign control, but proselytizing by foreign groups is forbidden by law and regulation.

Buddhists are by far the largest body of religious believers in China. The Government estimates that there are 100 million Chinese Buddhists, most of whom are from the dominant Han ethnic group. Other Buddhists belong to Tibetan, Mongolian, and other ethnic groups. Han Buddhist leaders generally cooperate with the Government, and there have been few complaints of government restrictions.

In Tibet, however, where Buddhism and Tibetan nationalism are closely intertwined, relations between Buddhists and secular authorities continued to be tense in 1993. The Government tightly controls Tibetan Buddhism and does not tolerate religious manifestations that advocate Tibetan independence.

The Government condemns the Dalai Lama's political activities and his leadership of a "government in exile," but recognizes him as a major religious figure and has tolerated the open veneration of the Dalai Lama by Tibetans. The Government has spent large amounts of money on reconstruction of the main sacred sites, including the Potala Palace and a grand stupa to house the remains of the 10th Panchen Lama. Chinese officials have also publicly asked the Dalai Lama to assist in the process of finding the reincarnation of the 10th Panchen Lama, who died in 1989.

The practice of religion in Tibet is hampered, however, by the limits the Government imposes on religious education and on the number of monks in the religious community compared to traditional norms. Monks at some Tibetan monasteries known for their opposition to Chinese rule face severe travel restrictions and intense monitoring.

According to government figures, there are 17 million Muslims in China. In some areas with large Muslim populations, there continues to be concern regarding restrictions on the building of mosques and the religious education of youths under 18. Following the 1990 unrest in Xinjiang, the authorities issued regulations further restricting religious activities and teaching. China permits Muslim citizens to make the hajj to Mecca, and the number of those making the hajj has significantly increased in recent years. Nongovernment sources indicate that about 5,000 Chinese made the hajj in 1992.

The number of Christians has grown rapidly in recent years, albeit from a small base. Only those Christian churches affiliated with either the Catholic Patriotic Association or the (Protestant) Three-Self Patriotic Movement, which the Government established in the 1950's to eliminate perceived foreign domination of Christian groups, may operate openly. Active unofficial religious movements pose an alternative to the state-regulated churches. The unofficial, Vatican-affiliated, Catholic Church claims a membership far larger than the 3.7 million registered with the official Catholic church, though actual figures are unknown. In addition to the 5 million persons who are officially counted as following Protestantism, a large number of Protestants worship privately in "house churches" that are independent of government control.

Sporadic repression in some areas has reflected official concern over the Government's inability to control the rapid growth of membership in Christian groups. There continued to be credible reports in 1993 of efforts by authorities in some areas to rein in activities of the unapproved Catholic and Protestant movements, including raiding and closing a number of unregistered churches. In March public security officials disrupted a Protestant religious gathering in Shaanxi, beating many of those present. One man beaten later died, apparently of wounds suffered in the incident (see Section 1.a.). However, authorities in many areas tolerate the existence of unofficial Catholic and Protestant churches as long as they remain small and discreet. In some parts of China, official and underground churches seem to coexist and even cooperate. The Guangzhou House Church of Pastor Samuel Lamb (Lin Xiangao) continued to operate openly, although with frequent harassment by authorities.

A number of religious activists remained imprisoned in 1993, but others were released. There was some evidence that authorities have increasingly used short-term detentions, rather than long prison terms when dealing with unauthorized religious activities. Some of those released from penal detention were apparently placed under house arrest or other restrictions. The number of Catholic clerics in penal detention dropped sharply in 1992 and 1993, although the whereabouts of some reported to have been released could not be confirmed, and others remained under some restrictions. Catholic Gansu bishop Casimir Wang Milu and Hebei priest Pei Ronggui were released from long-term imprisonment during the year. Ministry of Public Security officials told a visiting U.S. official in October that there were no Catholic clerics remaining in detention. In November Bishop Peter Chen Jianzhang and auxiliary bishop Cosmas Shi Enxiang were reportedly released from either prison or house arrest in "old people's homes."

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government uses an identification card system to control and restrict individual residence location within the country. This system's effectiveness has eroded during China's shift to a more market-oriented economy. The need for a supplemental work force in the areas of fastest economic growth has led to official tolerance for a large itinerant population which is not in compliance with formal requirements to obtain permission to change residence. However, because this itinerant population lacks official status, access to housing, schooling, and the full range of employment opportunities can be restricted.

Some former inmates have been denied permission, under the "staying at prison employment" system, to return to their homes, a provision applicable to those incarcerated in both the "reform through labor" and the "reeducation through labor" systems. For those assigned to camps far from their residences, this constitutes a form of internal exile. The number of prisoners subject to this restriction is unknown. A Vice Minister of Justice told a British human rights delegation in late 1992 that no former prisoners were subject to such restrictions.

The Government routinely permits legal emigration and most foreign travel but has placed obstacles in the way of foreign travel by a few citizens on political or other grounds. Legal scholar Yu Haocheng continued to be unable to obtain permission to travel abroad. These obstacles extend to some dissidents' family members who have not themselves been active politically or accused of any wrongdoing by the Government. Other dissidents, including Hou Xiaotian, Li Honglin, and Qian Liyun, were eventually able to obtain the passports and exit permits needed to leave the country.

Regulations issued in 1990 require those college and university graduates who received free postsecondary education to repay the cost of their education to the State by working for 5 years or more before being eligible for passports to go abroad to study. For those who have overseas Chinese relatives or have not yet graduated, the regulations provide a sliding scale of tuition reimbursement exempting them from the work requirement. Implementation of these regulations has varied from place to place, and most students wishing to go abroad still managed to obtain passports. Persons subject to the regulations on study abroad appear to have had little trouble obtaining passports to visit relatives overseas. Political attitudes, however, are still a major criterion in selecting people for government-sponsored study abroad.

The Government has made a concerted effort to attract back to China persons who have studied overseas. To reassure them, Chinese citizens who return from overseas were exempted in 1992 from re-exit formalities, which had involved Public Security Bureau clearances. However, official media have stated that, before returning home, people who have joined foreign organizations viewed by the Government as hostile to China should quit them and refrain from activities that violate Chinese Law. Procurator General Liu Fuzhi warned in 1992 that people wanted by the public security authorities were not covered by the official assurances extended to other overseas scholars.

Some dissidents, such as Dai Qing and Liu Xiaobo, reentered China without incident in 1993. In August labor activist Han Dongfang, who had been allowed to leave for medical treatment in the United States in 1992, was expelled shortly after he returned. Han's passport was subsequently revoked by Chinese authorities on the grounds that he had engaged in activities hostile to China while overseas. Chinese border officials frustrated Han's several subsequent attempts to return to China. Another labor activist, Lu Jinghua, was refused entry in June when she arrived at the Beijing airport. Lu had fled China in 1989 before she could be arrested. A handful of prominent dissidents overseas continued to have difficulty extending or renewing passports.

The Government accepts the repatriation of citizens who have entered other countries or territories illegally. In 1993, in addition to the routine return of Chinese illegal immigrants found in Hong Kong, China accepted the return of several large groups of illegal immigrants from other countries, including Mexico, Honduras, and the Marshall Islands. Citizens illegally smuggled to other countries are often detained for a short time after their return to China to determine their identity and any past criminal record or involvement in smuggling activities. As a deterrent and to recover repatriation costs, authorities in some areas levy a fine of about $1,000 equivalent on returnees.

China does not have legislation in place that would allow it to grant refugee status and, with the exception of Vietnamese refugees of Chinese ancestry, has generally repatriated persons of other nationalities seeking to be recognized as refugees. The Ministries of Foreign Affairs, Public Security, and Civil Affairs, in collaboration with the United Nations High Commissioner for Refugees (UNHCR), are writing legislation that would allow China to honor its obligation as a party since 1982 to the 1967 protocol relative to the status of refugees.

Although the Government denies having tightened its policy on accepting Vietnamese refugees, in recent years very few such refugees have actually been resettled in China. According to the UNHCR, from 1989 to 1992 China granted admission and provided resettlement to about 130 Vietnamese refugees who came to China to reunite with their families and gave temporary refuge to 35 Vietnamese who subsequently settled in third countries. There were credible reports that larger numbers of Vietnamese have remained in China without official harassment. China has cooperated with Hong Kong to reduce the flow of Vietnamese refugees into the colony. China has not participated in the Comprehensive Plan of Action negotiated at the International Conference on Indochinese Refugees in 1989 but generally has abided by its principles.

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

Citizens lack the means to change their government legally and can not freely choose or change the laws and officials that govern them. Citizens vote directly only for county-level people's congress delegates. People's congress delegates at the provincial level are selected by county-level people's congresses, and in turn provincial-level people's congresses select delegates to the National People's Congress. According to the 1982 Constitution, the National People's Congress (NPC) is the highest organ of state power. It elects the President and Vice President, decides on the choice of the Premier, and elects the Chairman of the Central Military Commission.

The election and agenda of the NPC are under the tight control of the Communist Party.

In some elections, voters are offered more candidates than positions, allowing a modest degree of choice among officially approved candidates. There were credible reports in 1993 that the candidates most favored by authorities were defeated in a handful of county-level elections and in at least two elections of governors by provincial people's congresses.

As is the case with the NPC, the election and agenda of people's congresses at other levels also remain under tight control by the Communist Party, the paramount source of political authority in China. The Constitution was amended in 1993 to ratify the existence of small "democratic" parties, but these play only a minor consultative role at most, and all pledge allegiance to the Communist Party. Thus, the Communist Party retains an explicit monopoly on political decision-making. The requirement that associations register and be approved makes it difficult for independent interest groups to form and affect the system. Within the Communist Party, a closed inner circle of a few senior leaders reserves the right to set ultimate policy directions. Some hold key positions within the standing committee of the Politburo, the Central Military Commission, or other organs, while others who are nominally retired wield great influence on at least selected issues.

Reversing previous moves to separate the party and government apparatus, at the National People's Congress in April General Secretary Jiang Zemin and several other senior party members were named to hold concurrent government positions.

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

There are no independent Chinese organizations that publicly monitor or comment on human rights conditions in China. The Government has made it clear it will not tolerate the existence of such groups. Authorities in Shanghai took no action on a March application by several persons to register a proposed "human rights association." Public criticism of the Government's human rights record can be interpreted as "counterrevolutionary" activity and punished accordingly.

Limited academic study and discussion of concepts of human rights have been promoted since 1991. Research institutes in Shanghai and Beijing, including the Chinese Academy of Social Sciences, have organized symposia on human rights, established human rights research centers, and visited other nations to study human rights practices in these countries. Such activities appear to have originated in a desire to improve China's image abroad and strengthen the Government's ability to respond to criticism of its human rights record. Whatever the motivation, this process of study and dialog has exposed more Chinese to international standards and concepts of human rights. Three official White Papers on human rights subjects were published in 1991 and 1992. While the reports stridently defended Chinese practices and glossed over fundamental problems, they sparked a limited debate among academic experts on human rights problems in China that continued in 1993.

Despite the Government's professed adherence to the United Nations Charter, which mandates respect for and promotion of human rights, Chinese officials accept only in theory the principle that human rights are universal. They argue that each nation has its own concept of human rights, grounded in its political, economic, and social system and its historical, religious, and cultural background. China was active in international forums, including the World Conference on Human Rights in June and the annual U.N. Commission on Human Rights meeting in February, in support of this view and to deflect attempts to discuss China's human rights record. China remains reluctant to accept criticism of its human rights situation by other nations or international organizations. Its officials often criticized reports by international human rights monitoring groups, as well as past Department of State reports on human rights practices in China. By and large, Chinese officials continue to insist that criticism of China's human rights practices constitutes interference in China's internal affairs. Nevertheless, in 1993 Chinese authorities expanded their dialog with foreign governments on human rights issues in talks with a number of visiting delegations from the United States and other countries and also during visits abroad by Chinese leaders.

Chinese authorities have refused most requests by foreign human rights delegations to meet with political prisoners but did allow U.S. human rights officials to visit Yulo Dawa Tsering in Drapchi prison in Lhasa in October. Representatives of some international human rights groups visited China in 1993 but did so in an individual capacity and did not engage in an official dialog with the Government. A private American human rights monitor, however, did meet with midranking government officials on several occasions to discuss specific human rights cases.

Finally, while China has continued to engage in a human rights dialog with foreign critics, it has consistently taken the position that human rights practices should be assessed not on the basis of universal principles but rather in the context of local economic, political, and cultural conditions. The Government also maintains that human rights issues are internal matters and that external intervention on human rights issues constitutes interference with its sovereignty.

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

While laws exist to protect minorities and women, in practice discrimination based on ethnicity, sex, and religion has persisted. Minorities, however, do benefit from an official policy of "privileged treatment" in marriage policy, family planning, university admission, and employment, as well as from disproportionate infrastructure investment in some minority areas.

Women.—The 1982 Constitution states that "women in the People's Republic of China enjoy equal rights with men in all spheres of life" and promises, among other things, equal pay for equal work. In fact, most women employed in industry work in lower skilled and lower paid jobs. Women hold relatively few positions of significant influence within the party or government structure. Persistent problems have remained with regard to the status of women, who have often been the unintended victims of reforms designed to streamline enterprises and give workers greater job mobility. Many employers prefer to hire men to avoid the expense of maternity leave and child care.

Reports by women of discrimination, sexual harassment, unfair dismissal, demotion, and wage cuts have continued. In 1992 the NPC enacted legislation on the protection of the rights and interests of women designed to assist in curbing these types of sex-related discrimination. While the gap in the education levels of men and women is narrowing, men continue to constitute the majority of the educated class, particularly the highly educated.

The Government continued in 1993 to condemn strongly and take steps to prevent and punish the abduction and sale of women for wives and prostitutes, abuse of female children, violence against women, and female infanticide. It has severely punished a number of people accused of such crimes. No nationwide statistics were available on the extent of physical violence against women. A May study on family violence reported that in Shanghai from 29 to 33 percent of domestic disputes from 1991–92 involved physical violence. In another 1993 study on the social status of women, 21.2 percent of urban wives and 31.4 percent of rural wives said there was frequent or occasional violence during family quarrels. The abduction of women remains a serious problem in some areas where local officials have resisted efforts of central authorities to stop it. Many discriminatory practices are rooted in traditional rural attitudes which highly value boys as prospective earners and as future caretakers for elderly parents. A number of provinces have sought to reduce the perceived higher economic value of boys in providing old age support by establishing or improving pensions and retirement homes.

In many areas, the ready availability of sonograms has facilitated selective abortion of female fetuses, contributing to a growing gap in the ratio of reported male and female births. Insistence that local units meet population goals exacerbates the problem, since traditional-minded parents often wish to ensure they have one or more sons without incurring official penalties. The Government has condemned sex-selective abortion and stated it is tightening access to sonogram results.

Children.—China does not condone violence against children, and physical abuse can be grounds for criminal prosecution. In January 1992, China passed a national law on the protection of juveniles. According to Chinese media, China's infant mortality rate has declined to 45 per 1,000 live births, severe malnutrition among children under 5 years of age has been "virtually eliminated," 95 percent of children have received immunizations, and primary school enrollment is at 97 percent. In January an English-language magazine reported on the problem of child abuse, noting that physical punishment was widespread, citing four cases from 1992 where children died from abuse. According to one study from Zhejiang province, 60 percent of 200 children surveyed said they would be beaten if they did not do well in school. In addition, Chinese officials indicated in October that there were about 200,000 homeless children in China out of a total of 300 million children under age 18.

National/Racial/Ethnic Minorities.—The 55 designated ethnic minorities constitute just over 8 percent of China's total population. Most minority groups reside in areas they have traditionally inhabited, with standards of living often well below the national average. Government development policies have helped raise minority living standards but have at the same time disrupted traditional living patterns. The Dalai Lama continued to state his concern in 1993 that the Government's plan

to develop Tibet's economy would lead to a massive influx into Tibet of Han Chinese. Tens of thousands of non-Tibetan entrepreneurs without residence permits have come to Lhasa, capital of Tibet, to engage in business.

In some instances, the Government has tried to adopt policies responsive to minority sensitivities but in doing so has encountered the dilemma of how to respect minority cultures without damaging minority educational and economic opportunities. In Tibet and Xinjiang, for example, there are two-track school systems using standard Chinese and minority languages. Students may choose which system to attend. One acknowledged side effect of this policy to protect and maintain minority cultures has been reinforcement of a segregated society. Under this separate education system, those graduating from minority schools are at a disadvantage in competing for jobs, which require good spoken Chinese, in government and business. These graduates must take remedial language instruction before attending universities and colleges.

The Communist Party has an avowed policy of boosting minority representation in the Government and the party, and a few members of minorities occupy local and national leadership positions. However, ethnic minorities are effectively shut out of most positions of real political and decisionmaking power. Some minorities resent Han officials holding key positions in minority autonomous regions. Ethnic minorities in Tibet, Xinjiang, Qinghai, and elsewhere have demonstrated against Han Chinese authority, but central authorities have made it clear that they will not tolerate opposition to Beijing's rule in minority regions.

People with Disabilities.—There is no legislation to ensure that buildings, even new ones, are accessible to those with handicaps. A State Council committee was established in October to coordinate policy toward the disabled under China's 1990 law on the handicapped. The results of the eighth 5-year plan for handicapped people, which ended in 1992, were discussed in October; schools for the disabled increased from 400 in 1988 to 1,000 in 1992, and special education increased six-fold. But according to the Disabled Person's Federation, only 6 percent of disabled school-age children are receiving primary education. There are 40,000 welfare enterprises nationwide providing work for the handicapped, and 1.26 million have benefited from rehabilitation projects. Concern that the disabled will lose jobs as enterprises emphasize productivity has led to the creation of a pilot project in which all state enterprises will be required to hire a certain number of disabled workers. The handicapped still suffer from social isolation, especially in rural areas, and some handicapped children are given to orphanages. At the end of December, the Government announced plans to adopt a new law on eugenics, but specifics of the law were not available at year's end.

Section 6. Worker Rights

a. *The Right of Association.*—China's 1982 Constitution provides for "freedom of association," but the guarantee is heavily diluted by references to the interest of the State and the leadership of the Chinese Communist Party. The country's sole officially recognized workers' organization, the All-China Federation of Trade Unions (ACFTU), ostensibly independent, is in fact controlled by the Communist Party. Independent trade unions are illegal. Though union officials recognize that workers' interests may not always coincide with those of the Communist Party, the Union Law passed by the National People's Congress in March 1992 states that the union is a party organ and its primary purpose is to mobilize workers for national development. The 1993 revised Trade Union Law requires that the establishment of unions at any level be submitted to a higher level trade union organization for approval. The ACFTU is the highest such organization, and it has not approved the establishment of any independent unions. While the foreign press has reported that some exist, because of severe repression they operate only deep within the shadows. The vast majority of workers have no contact with any union other than the ACFTU. There are no provisions allowing for individual workers or unofficial worker organizations to affiliate with international bodies.

The ACFTU's primary attention remains focused on its traditional constituency, state sector workers. The Trade Union Law mandates that workers may decide whether to join the union in their enterprise. By official estimate, 10 percent of workers in collectively and state-owned enterprises have chosen for their own reasons not to join. There have been no reports of repercussions for workers who have not joined ACFTU unions. Diversification of enterprise types over the last decade of reform has vastly increased the number of workers outside this traditional sphere of the ACFTU. In fact, over half of China's nonagricultural work force is now largely nonunion and outside the state industrial structure—in collectives, village and township enterprises, private and individual enterprises, and foreign-invested enterprises. In township and village enterprises, one of the fastest growing sectors of the

economy, only one-tenth of 1 percent of workers are unionized. Unemployed workers are not considered union members.

Workers in companies with foreign investors are guaranteed the right to form unions, which then must affiliate with the ACFTU. According to Ministry of Labor national statistics, 30 percent of foreign-invested companies now have unions. Other official estimates show that about 10,000 trade unions with a total of 500,000 members have been established in the nearly 20,000 foreign-funded companies in Guangdong province. However, a 1993 embassy survey of foreign-invested ventures in Beijing indicated the unionization rate diminished from 60 percent in 1991 to 40 percent in 1993.

The right to strike, which had been included in China's 1975 and 1978 constitutions, was not retained in the 1982 Constitution. In general, the union law passed in 1992 assigned unions the role of mediators or go-betweens with management in cases of work stoppages or slowdowns. Nonetheless, well-documented work stoppages occurred in several locations in China during 1993. There were two highly visible strikes in Guangdong's Zhuhai City, namely a 3-day strike over wages at a joint-venture camera factory and a work stoppage at a joint-venture electrical components factory. Ministry of Labor officials broke with their past practice of denying the existence of strikes in China by giving details about recent strikes in Tianjin and Xian. Strikes in 11 foreign-invested enterprises in Tianjin were widely reported in the Chinese press. One particularly high profile case involved a foreign-owned footwear factory at which 1,200 workers struck over poor working conditions and alleged mistreatment of several of the workers by the management. The 11 enterprises were held up as examples of disregard for local regulations by foreigners and indications of the need to establish unions in foreign-invested enterprises. Strikes were uniformly resolved in favor of workers, and enterprises were required to bring facilities up to regulatory standards. Ministry of Labor officials have not provided any statistics on how many strikes occurred in 1993, but one Hong Kong newspaper reported that in the first half of 1993 there were 190 strikes and protests across China involving about 50,000 workers. It is not possible to determine the validity of this estimate.

Credible reports by foreign human rights organizations indicate that the Government has attempted to stamp out all clandestine union activity and that independent unions and worker groups feature prominently in lists of illegal organizations. In May four men were detained and later formally arrested for the crime of organizing a counterrevolutionary organization, the Shanghai Autonomous Workers Federation. Two of these men were released in early September. As noted in Section 2.d., labor activists Han Dongfang and Lu Jinghua have been refused reentry to China. The International Confederation of Free Trade Unions (ICFTU) alleges that in May and June of 1992 the Public Security Bureau (PSB) secretly arrested activists of the clandestine China Free Trade Union Preparatory Committee and appeared to have dismantled this organization. On May 15 another clandestine union group, the Free Trade Union of China, issued a manifesto. Preemptive arrests took place just before the June 4 Tiananmen anniversary. These included seven members of the clandestine Liberal Workers Union detained by the PSB to prevent them from circulating commemorative leaflets. Accurate figures on the number of Worker Autonomous Federation detainees still being held after the 1989 Tiananmen Square demonstrations are not available. The ICFTU alleges that hundreds of workers are still being held.

In response to an ICFTU complaint, the Governing Body of the International Labor Organization (ILO) in March requested that the Government modify "many provisions" of the Trade Union Act that are contrary to the principle of freedom of association, expressed concern at the severity of sanctions pronounced by the courts against members or leaders of Workers' Autonomous Federations, and asked that detained workers be released.

b. *The Right to Organize and Bargain Collectively.*—Under a 1988 law and current regulations, collective bargaining is permitted only by workers in private enterprises (which employ less than 3 percent of workers). There have been no reports of collective bargaining actually taking place. Most private enterprises are small and nonunionized. Thus far, without legal status as a collective bargaining body, the ACFTU's role has been limited to consultations with management over wages and regulations affecting labor and working conditions and efforts to serve as a conduit for communicating workers' complaints to the management of enterprises or municipal labor bureaus. The ACFTU has shown itself concerned with protecting workers' living standards in areas such as unemployment insurance.

Before wage reform, workers' salaries were set according to a uniform national scale based on seniority and skills. Following wage reforms, a total wage bill for each collectively and state-owned enterprise is set by the Ministry of Labor accord-

ing to four criteria: 1) As a percentage of profits, 2) as a contract amount with the local labor bureau, 3) for money losing enterprises, according to a state-set amount, and 4) as an enterprise-set amount subject to ministry review. Individual enterprises determine how to divide the total among the workers, a decision usually made by the enterprise manager in consultation with the enterprise party chief and the union representative. Worker congresses have mandated authority to review plans for wage reform, though these bodies serve primarily as rubber stamp organizations. Wages are generally equal for the same type of work within enterprises. Incentives are provided for increased productivity.

The old permanent employment system is giving way to a more flexible contract-based system. However, the percentage of workers laboring under contract is still low, approximately 40 percent nationwide in state enterprises. Under the Labor Contract System, individual workers may negotiate with management over contract terms. In practice, only the very few workers with highly technical skills are able to negotiate effectively on salary and fringe benefits issues.

Worker congresses, held periodically in most Chinese enterprises, theoretically have the authority to remove incompetent managers and approve major decisions affecting the enterprise, notably wage and bonus distribution systems. However, worker congresses generally take place once a year and serve essentially to rubberstamp agreements worked out among factory managers, party secretaries, and union representatives. In smaller enterprises it is not unusual to find these three posts held by the same person.

A dispute settlement procedure has been in effect since 1987. The procedure provides for two levels of arbitration committees and a final appeal to the courts. Of the 50,000 cases brought for arbitration in 1992, most were resolved at the first or second level, with less than 5 percent reaching the courts. According to Labor Ministry officials, most arbitration cases are filed by contract workers or their employers, an indication, they assert, that the new contract system provides a clearer set of ground rules which both sides can attempt to enforce.

Laws governing working conditions in China's special economic zones (SEZ's) are not significantly different from those in the rest of the country. However, wages in the SEZ's are significantly higher than in other Chinese enterprises. Unskilled laborers can expect much higher pay in southern China generally, but highly skilled workers are the main beneficiaries of the wage discrepancy.

The 1982 Trade Union Law prohibits antiunion discrimination and specifies that union representatives may not be transferred or terminated by enterprise management during their term of office. Unionized foreign businesses generally report pragmatic relations with ACFTU representatives. The ACFTU's stated goal is to establish unions in all foreign-funded enterprises within 2 to 3 years.

c. *Prohibition of Forced or Compulsory Labor.*—Chinese penal policy emphasizes "reform first, production second," but compulsory labor is an integral part of the system both to rehabilitate prisoners and to help support the facilities. Almost all persons the courts sentence to prison, including political prisoners, are required to work, usually for little or no compensation. China also maintains a network of "reeducation through labor" camps (see Section 1.e.), the inmates of which generally must work. Reports from human rights organizations and released prisoners demonstrate that at least some persons in pretrial detention are also required to work. The number of workers in prison for nonviolent labor-related activity is not known. (See Section 1.e.) According to prison authorities, prisoners in labor reform institutions work a full 8-hour day and must also engage in both ideological and basic literacy and skills training. Justice officials have stated that in labor reeducation facilities there is a much heavier emphasis on education than on labor. Most reports conclude that work conditions in the penal system's light manufacturing factories are similar to those in ordinary factories, but conditions on farms and in mines can be harsh. As is the case nationwide, safety is often neglected, putting prisoners at risk, but there were no available figures for casualties in prison industry.

Some penal facilities contract with regular industries for prisoners to perform light manufacturing and assembly work. In 1992 Chinese newspapers reported that Chinese prison labor is used for many types of production (examples in parentheses), including heavy industry (coal, steel), light manufacturing (clothing, shoes, small machine tools), and agriculture (grain, tea, sugar cane). In 1991 the Chinese Government published a reiteration of its regulations barring the export of prison-made goods. On August 7, 1992, the U.S. and Chinese Governments signed a memorandum of understanding (MOU) prohibiting trade in prison labor products. The U.S. Customs Service has issued detention orders barring a number of products reportedly made by prisoners from entering the United States and detained several shipments of such goods in 1993. Under the MOU the Chinese have provided requested investigation reports on 31 suspected facilities. Five facilities investigated

by the Chinese were found to have had prisoners engaged in some aspect of export production at some point in time, though not necessarily to the United States; of these, two with export activities at the time of the investigation reportedly received unspecified administrative sanctions. U.S. officials have conducted on-site visits of three suspected facilities and another facility visit has already been scheduled. The detention orders on two of the visited facilities were lifted, one in December 1993 and one in January 1994. The other case is still under study.

d. *Minimum Age for Employment of Children.*—Regulations promulgated in 1987 prohibit the employment of school age minors who have not completed the compulsory 9 years of education. Press reports indicate that dropout rates for lower secondary schools (ages 12–15 years) in several southern provinces exceed 9 percent (the national average is 2.2 percent). This suggests the booming economy in that region is enticing more children to leave their studies to find jobs. In poorer, isolated areas, child labor in agriculture is widespread. Most independent observers agree with Chinese officials that China's urban child labor problem is relatively minor. No specific Chinese industry is identifiable as a significant violator of child labor regulations. In 1991 the State Council issued regulations imposing severe fines, withdrawal of business licenses, or jail for employers who hire laborers under 16 years of age.

e. *Acceptable Conditions of Work.*—China does not have a labor code. A draft has been circulating since mid–1992. Due to the complexity of incorporating myriad existing regulations into the proposed unified code, it remains unclear if it will be made law. Labor regulations continue to be promulgated at both the national and provincial level, but they are not uniformly enforced.

There is no minimum wage in China. However, the Ministry of Labor is currently drafting minimum wage regulations. Anticipating the issuance of the regulations, some local governments, particularly those in more highly developed east coast areas, have already drafted regulations on minimum wages. On the higher end, in Zhuhai, Guangdong Province, the minimum monthly wage has been set at $62 (350 yuan at the official exchange rate). Generally the levels have been set to provide for a decent standard of living for a worker and his family. Minimum wage figures do not include free or heavily subsidized benefits which employing work units commonly provide in kind, such as housing, medical care, and education. Factories or ministries are required to pay 70 percent of final monthly wages to workers laid off because of a factory closing or reduction in force, but there have been numerous reports of violations of this policy.

The national standard workweek, excluding overtime, is 48 hours with a mandatory 24-hour rest period. In the past, 3 to 12 working hours per week were generally spent in political study or "education" on current social issues. In recent years, many factories have abandoned political study either for regular work or for an additional half day off each week. Starting in 1991, factories (including joint ventures) were allowed to adopt shorter workweeks. Despite laws mandating a standard 8-hour workday throughout the country, there continue to be reports of workers in the SEZ's regularly working 12 hours daily.

Occupational health and safety are constant themes of posters and campaigns. Every work unit must designate a health and safety officer and the International Labor Organization has established a training program for these officials. Moreover, while the right to strike is not provided for in the 1982 Constitution, the Trade Union Law explicitly recognizes the right of unions to "suggest that staff and workers withdraw from sites of danger" and to participate in accident investigations. Labor officials reported that such withdrawals did occur sometimes in 1993. Nonetheless, pressures for increased output, lack of financial resources to maintain equipment, lack of concern by management, and a traditionally poor understanding of safety issues by workers have contributed to a continuing high rate of accidents. State prosecutors deal annually with thousands of negligence and accident cases. In November 1992, the Standing Committee of the National People's Congress passed a law on mining safety, which established standards and provided for enforcement, including fines and imprisonment. Labor officials were unable to provide statistics verifying the effects of the law, but they claimed that despite substantially increased across-the-board production in mining output, mine accidents were down in the first half of 1993.

More than 15,000 workers died in industrial accidents in 1992, 63 percent of them miners. Because of the lack of legislation to bring together diverse and often unpublished regulations in other health and safety areas, compliance with existing regulations is haphazard. Official Chinese press reports in July announced the issuance of a State Council circular stressing safety in production following "sharp increases in job accidents in the first half of this year." Officials blame the increases on lax enforcement of safety regulations in the rapidly expanding rural, foreign-funded, and private industry sectors.

As fires and explosions in southern China amply demonstrated in 1993, enforcement of China's safety regulations, particularly in the booming light industry sector, continued to be lax. In late November, 81 workers died in a blaze in a Shenzhen toy factory because safety precautions were not taken and warnings from the local labor ministry office had allegedly gone unheeded.

TAIWAN

In 1993 Taiwan continued its rapid progress toward a pluralistic system truly representing the island's population. Open political debate and a freewheeling print media contributed to a vigorous democratic environment. The new Legislative Yuan (LY) took an increasingly active role. In November local mayor and county magistrate elections were freely, fairly, and energetically contested, marking a new stage in competitive party politics in Taiwan. The disproportionate role of Chinese mainlanders who had dominated both politics and government in Taiwan since 1945 through the Nationalist Party (KMT), already sharply reduced by the National Assembly (NA) (1991) and LY (1992) elections, was further curtailed at the KMT's 14th Congress in August. Factions led by Taiwan-born Chairman (and regime President) Lee Teng-Hui won 80 percent of the seats on the Central and Central Standing Committees. Senior military officers were discouraged from seeking high KMT positions, thereby enhancing the political neutrality of the military. Following the lifting of martial law in 1987 and the disbanding of the Taiwan Garrison General Headquarters in 1992, most law enforcement functions are handled by civilian police agencies.

Taiwan's basically free market economy has major sectors dominated by state- and party-run enterprises—including finance, transportation, utilities, telecommunications, shipbuilding, steel, and petrochemicals. Because of opposition and media pressure, the KMT has promised to make public information about its enterprises. Taiwan's economy continued to shift toward the service sector and capital- and technology-intensive industries. Shortages of unskilled labor and high labor costs resulted in the exodus of many labor-intensive manufacturers as well as the continued importation of foreign workers.

Political rights made further advances with the ending of restrictions on dissidents returning to Taiwan. A new cable television law and steps to open new radio and television frequencies have begun to end the long-term monopoly of broadcast media by the authorities and the KMT. New legislation brought significantly improved protection for the rights of juveniles and children. Administrative changes raised the level of offices dealing with aboriginal affairs to give more attention to the needs of this group.

Despite a much improved human rights environment, human rights abuses continued. There continued to be credible reports of police and military abuse of detainees. A pattern of restrictions on workers' rights of association and to strike continues to be a significant problem. Some "antihoodlum" regulations, including a "secret witness" system, violate internationally accepted standards of due process. Child prostitution, including the sale of aboriginal children, and discrimination and violence against women remained significant problems.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Five police officers in Taichung City were indicted for beating to death a rape suspect in August. The death of World United Formosans for Independence Secretary-General Wang Kang-Lu in an October Taipei car crash was branded a "political assassination" by his family and supporters although though no evidence was found by year's end proving that the death was politically motivated.

There were no other reports or claims of political or other extrajudicial killings directed by the authorities in 1993. However, there was the shooting of a county council member and his secretary in Yunlin county, reportedly by gangsters, and of a Chiayi county opposition leader investigating the collection of illegal fees from fishermen by his fishermen's association may have had political motives. Also, longtime oppositionist Peng Ming-Min alleged in August that a security official had suggested murdering him to curb the "rising voice of Taiwan independence." Since Peng did not file charges, the authorities did not investigate the allegation.

Although corporal punishment is forbidden under military law, physical abuse of military personnel continues. At a public hearing in July on human rights abuses in the military, the deputy military police commander admitted there were problems

with the management of the armed forces and apologized to family members of people who died while serving in the military. These included two detainees beaten to death at separate military reformatories during the past 2 years.

b. *Disappearance.*—There were no reports of persons being abducted or secretly arrested by the authorities.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Credible reports of physical abuse of persons in police custody continued. Five police officers in Tainan City were indicted in January for torturing two robbery suspects, and three more policemen were indicted in June for torturing another robbery suspect. Taiwan law allows suspects to have attorneys present during interrogations, primarily to ensure that abuse does not take place.

The Ministry of Justice (MOJ) claims that each interrogation is recorded and that all allegations of mistreatment are investigated. Lawyers and legal scholars note that abuses most often occur in local police stations where interrogations are not recorded and when attorneys are generally not present. Detainees who are physically abused have the right to sue the police for torture, and confessions obtained through torture are inadmissible in court proceedings.

Prison overcrowding is an increasing problem. According to reports, MOJ statistics show more than 50,000 inmates in the 43 detention facilities in Taiwan, at least 15,000 more than the facilities' maximum capacity. To reduce the overcrowding, the MOJ is studying reduction of the amount of time prisoners must serve before applying for parole from one-half to one-third of their sentences.

Conditions at detention camps for illegal immigrants are reportedly poor. More than 2,000 illegal immigrants from mainland China are in custody, and some of them mounted hunger strikes and other protest actions at detention centers. Among those people detained are four who claim to have left the mainland for political reasons but whose cases have not been reviewed for more than a year. There have also been reports of harsh treatment and lengthy detentions of illegal foreign laborers and Vietnamese boat people in the San Hsia holding center. The Chinese Association for Human Rights (CAHR) and the U.S.-based Asia Watch are following the case of one San Hsia detainee, Xu Li-Fang, a mainland student activist who entered Taiwan in 1991 on a counterfeit Salvadoran passport and claimed political persecution, but who is facing possible forced repatriation to the Peoples Republic of China (PRC).

d. *Arbitrary Arrest, Detention, or Exile.*—Police may legally arrest without a warrant anyone they suspect of committing a crime for which the punishment would be 5 years or more in prison and may question persons without a formal summons. The authorities must, within 24 hours after detention, give written notice to the detainee, or a designated relative or friend, stating the reason for the arrest or questioning. Indicted persons may be released on bail at judicial discretion.

The Criminal Procedure Code (CPC) specifies that the authorities may detain a suspect for up to 2 months during the investigation phase before filing a formal indictment. The prosecutor's office may extend the investigative detention for one additional 2-month period. A suspect may be held for up to 3 months during trial proceedings, and the court may extend the trial detention for two additional 3-month periods. The authorities generally have followed these procedures, and trials usually take place within 3 months of indictment.

In March the Judicial Yuan (JY) released its draft of revisions to the CPC, including provisions which may increase protections for the accused. These include giving suspects the right to remain silent when arrested, reducing the time allowed for initial interrogations, and shortening the 4-month period that suspects may be held without charges. The JY has sent the draft revisions to the Ministry of Justice (MOJ) of the Executive Yuan (EY) where they were still under review at year's end.

The request of a suspect to have a lawyer present during the investigation phase is generally respected, but defense lawyers complain that persons often are not advised of their right to have legal representation during police interrogation, and there is no legal requirement that indigent persons be provided with counsel during police interrogation.

A continuing departure from international standards of due process is the secret witness system under the "Antihoodlum Law." This system allows police to conduct "sweeps" of suspected "hoodlums"—81 were reportedly picked up in the seventh island-wide sweep in September—and use the testimony of unidentified informants in detaining the suspects. Counsel for the alleged hoodlums are not permitted to cross-examine the informants. While defense attorneys recently have been given the right to examine documentary evidence, critics charge that evidence in these cases is often weak or fabricated. In 1992 the Antihoodlum Law was revised to bring secret witnesses under the criminal statutes for perjury, but critics say this is not sufficient because the detainees often lack the means to prove perjury.

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According to the JY, the secret witness system is not used in normal criminal procedures; "antihoodlum" punishments are "administrative procedures." Based on evidence provided by the police, a specialized court determines whether or not an accused hoodlum should receive reformatory education. This decision may be appealed by the accused to a higher court. Critics say that courts simply rubberstamp police decisions, and, while most detainees appeal their sentences, most remain unchanged. Courts do not determine the length of reformatory education; reformatory authorities make this decision based on the behavior of the detainee. The usual term is 3 to 6 months for a first offense, and detention of repeat offenders may be extended for up to 3 years.

c. *Denial of Fair Public Trial.*—The right of fair public trial is provided for by law and generally respected in practice. Taiwan's legal system does not provide for trial by jury. In a typical court case, parties and witnesses are interrogated by a single judge but not directly by a defense attorney or prosecutor. The judge may decline to hear witnesses or to consider evidence a party wishes to submit. All judges are appointed by, and responsible to, the JY. Although observers in the past have characterized the judiciary as not fully independent and as susceptible to political and personal pressure, there was little such criticism in 1993. Nonetheless, press reports indicate a group of judges at the Taichung district court asked the Judicial Yuan to allow judges themselves to decide on their annual projects and assignments rather than have their court presidents decide for them.

In a landmark decision, the Supreme Court in March overturned, because of lack of evidence, Taiwan independence activist George Chang's 1992 conviction for violent sedition, including attempted murder, in connection with a 1976 letter-bomb plot. Defense attorneys had appealed the prosecution's reliance on evidence obtained from a prisoner during a 1977 military tribunal, which the witness publicly recanted during Chang's trial.

Trials are public, but attendance at trials involving juveniles or politically sensitive issues may require court permission. A defendant has the right to an attorney; if the defendant is suspected of committing a crime for which the penalty is 3 or more years' imprisonment, or if the defendant is handicapped or elderly, the judge may assign an attorney. Criminal law specifically provides the defendant with protection from self-incrimination. Persons convicted in cases in which the sentence exceeds 3 years have a right to appeal to the High Court and to the Supreme Court. Those sentenced to 3 years or less can appeal only to the High Court. Life imprisonment and death sentences are automatically reviewed by the Supreme Court.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Warrantless searches, common before the lifting of martial law, are unusual now. An exception is car searches, which are routinely conducted at roadblocks. Otherwise, a warrant, issued by a prosecutor or a judge, must be obtained before a search, except when incidental to arrest. However, critics claim that the "incidental to arrest" provision is often interpreted broadly by police to justify searches of locations other than actual sites of arrests.

There continue to be reports, which many observers find credible, that police and security agencies interfere with the right to privacy, including allegations of surveillance and interception of correspondence and telephone calls. In March legislators complained about National Security Bureau (NSB) tapping the phones of mainlander KMT politicians and of DPP members, a charge the NSB denied. An Australian scholar complained in June that he had been closely watched and followed since his arrival in Taipei a short time earlier. According to EY regulations, judicial and security authorities may file a written request to a prosecutor's office to monitor telephone calls to collect evidence against a suspect involved in a major crime. The authorities claim they do not monitor the telephones of opposition figures.

A major improvement in the right to privacy occurred in 1992 when the "second personnel offices," maintained by the Ministry of Justice Investigation Bureau to monitor civil servants' political and ideological loyalties, were replaced by politically neutral "government ethics departments" charged with anticorruption duties and the security of government agencies. The MOJ claims, and most critics agree, that it has kept its promise to destroy "second personnel office" dossiers relating to the political loyalties of civil servants and employees of state-run corporations.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—In May 1992, Taiwan revised sedition statutes to eliminate provisions outlawing "conspiracy" to commit sedition and to limit the purview of the sedition law to cases involving violence or threats. After the revision, the authorities released all prisoners convicted on sedition charges and dropped pending sedition cases. According to a prominent lawyer, no new sedition charges were filed during 1993.

A 1992 revision of the National Security Law (NSL) removed prohibitions on "actions against the Constitution." However, the NSL—and related statutes such as the Civic Organizations Law and the Parade and Assembly Law—still retain prohibitions against advocating Communism or espousing the division of national territory. No prosecutions for violations of these provisions were undertaken in 1993.

Censorship of the print media (more than 70 newspapers publish regularly) is rare, but the Publications Law empowers the police to seize or ban printed material that is seditious, treasonous, sacrilegious, interferes with the lawful exercise of public functions, or violates public order or morals. No seizures of materials on political grounds occurred in 1993, although there were several raids to seize pornographic materials. The Government Information Office (GIO) decided that the September publication in Taipei of the biography of mainland leader Deng Xiaoping written by his daughter did not violate the Publications Law or any other concerned regulations.

Four professors were found guilty in July of libel for leading a boycott against a newspaper they alleged slanted its reporting in favor of the PRC and against Taiwan; they have appealed their sentences. In September the Taipei district court convicted a Democratic Progressive Party (DPP) legislator of interference with a public function for insulting a vice justice minister at an LY Judiciary Committee meeting. The court ruled that execution of the sentence, 50 days of forced labor and a fine of about $24 (NT 600), be delayed for a 1-year probationary period. The legislator has ignored the entire case on the grounds of LY immunity and plans no appeal.

In contrast with the relatively open and highly competitive environment in which the print media now operate, television and radio remained tightly controlled. The KMT, the Taiwan provincial government, and the military are the largest shareholders of and operate the three broadcast television stations. The GIO argues that these stations are really civilian businesses since government agencies control less than half of their stock shares, that their programming is guided by the market rather than by the GIO or the KMT, and that they rely on revenues from commercials and services rather than government funds. Critics claim that television coverage has been slanted to favor the KMT viewpoint and that reports on sensitive subjects, such as opposition demonstrations, have been similarly biased. A television journalist, cited as best news anchor in March, was quoted as saying that the award had actually been given to the "best puppet" because of political interference in television news reporting.

Authorities have claimed only 12 of 33 radio stations have been owned by military and civil authorities, but they have counted among ostensibly "private" stations such entities as the KMT-controlled Broadcasting Corporation of China. More than three-fourths of Taiwan's radio frequencies have been held by government, party, and other noncommercial entities.

Although there are a number of unregistered cable television networks, no requests to open new radio and television stations had been approved from 1969 until 1993. The GIO accepted applications in May for the use of 28 FM frequencies and announced in December that 13 new radio stations, including a radio station run by an opposition DPP LY member which had been operating illegally, would be given FM channels. In May the Minister of Transportation and Communications (MOTC) announced that 2 VHF frequencies would be made available by the end of the year and new stations could start operation as early as 1996. In June the MOTC announced that in addition 4 UHF frequencies, 2 more FM frequencies and 34 AM frequencies would be made available in 1994. In July the LY passed a new cable television law, dividing the island up into over 50 districts, each of which is allowed up to 5 local cable television companies. By December, more than 600 previously illegal cable TV operations had registered with the GIO to legalize their operations under interim cable television regulations which apply until the cable television law takes full effect. The authorities are also setting up a new public television network to begin operation in 1995.

Critics charge that the limited broadcast ranges of new radio and television stations do not constitute a counterweight to the authorities' monopoly on island-wide broadcasting. Moreover, some critics are concerned that the KMT, with its vast economic resources, or large corporations will try to control these new "investment arenas." Also regulations restrict the rights of those previously convicted of sedition to station ownership or management, although major opposition leaders are not affected because their rights have been restored through presidential amnesty. Persons who have been convicted of sedition continue to be banned from working in television or radio stations.

The authorities lifted controls on the percentage of time television and radio stations could broadcast in dialects in July. Although the Taiwanese dialect is the mother tongue of most of the island's inhabitants, 80 percent of broadcasting in the

past had to be done in Mandarin. Now broadcasting is done in Mandarin, Taiwanese, Hakka (television and radio), and aboriginal dialects (radio only).

Restrictions on academic freedom have continued to diminish, and expression of dissenting political views is common. Teachers are sometimes pressured to discourage students from demonstrating and risk being disciplined if they express unorthodox views. No tenure system exists to protect teachers. However, the trend has been to disregard political loyalty when considering the factors affecting professional advancement. In December the LY revised existing law to prohibit political parties from establishing party branches at universities, as well as in court and military areas.

b. *Freedom of Peaceful Assembly and Association.*—Freedom of assembly and association is provided for in the Constitution but is somewhat restricted in practice. The Civic Organization Law requires all civic organizations to register, but authorities have refused to approve registration of some groups, such as the Taiwan Association for Human Rights (TAHR), that use the word "Taiwan" in their titles. The TAHR, however, continues to operate. According to the Parade and Assembly Law, as amended in 1992, peaceful demonstrations are permitted if approved in advance by the authorities and if they do not advocate Communism or advocate Taiwan's separation from China. The new law also reduced from 7 to 6 the number of days before a demonstration that an application must be filed. Penalties for violating orders to disperse, however, were increased.

Opposition leaders who organized demonstrations have been prosecuted and fined in the past for alleged harm to public order, interference with public functionaries (usually the police), assembly without a permit, or for diverging from officially authorized routes. Demonstrators are also liable for "insults or slander" of public officials. Prosecutors deny that politics has played a part in decisions to bring charges under the Parade and Assembly Law, but the authorities have not asserted that those being prosecuted personally advocated or engaged in violence. Observers say that there were few prosecutions under the Parade and Assembly Law in 1993. However, several people were indicted after the anti-KMT alliance riots in Kaohsiung in March, and their cases are pending.

The July 1992 revision of the Civic Organization Law removed from the EY the power to dissolve political parties. This power now resides in a Constitutional Court composed of members of the judiciary's Council of Grand Justices, which was inaugurated in October. Grounds for such dissolution include objectives or actions that are deemed to jeopardize the existence of the Republic of China. No cases were heard by the Constitutional Court during 1993.

c. *Freedom of Religion.*—The constitutional provision for freedom to practice religion is generally observed in practice. Most Taiwan inhabitants adhere to Confucianism, Taoism, Buddhism, animism, or a combination of these beliefs. Other religions include Christianity and Islam. There is no established or favored religion.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Legislature revised the NSL in 1992, easing restrictions on overseas Taiwanese and others entering Taiwan. Restrictions on the entry of PRC citizens were also eased somewhat by the revision of the NSL in 1992 but remain strong. Former Taiwan residents still require permission to enter the island, but entry restrictions were revised to cover only those about whom there are facts sufficient to create a strong suspicion of engaging in terrorism or violence. The NSL revision was followed by a Ministry of Interior (MOI) announcement that the list of excluded overseas dissidents had been reduced from 282 to fewer than 5.

The reversal of policy was symbolized by New York Law School Professor Chen Lung-Chih who had been blacklisted for years for serving as "foreign minister" for World United Formosans for Independence, a Taiwan independence group. Chen returned to Taipei twice in 1993, the second time as the opening speaker at a conference on Taiwan's bid to enter the United Nations organized by the opposition DPP and funded by the Ministry of Foreign Affairs.

In September 1993, the deputy director of the MOI's Entrance and Exit Bureau announced that the "blacklist problem" no longer existed. In October a former Taiwan legislator, who went to the mainland a decade ago and served as a member of the Standing Committee of the PRC's National Congress (PNC), returned to Taiwan after his retirement from that organization. Also in October, the last of the major dissident leaders, Shih Ming, returned to Taiwan after more than 40 years' exile in Japan. Shih, who has refused to accept the legitimacy of the KMT-led regime—including its right to regulate his entrance to Taiwan—was released on bail pending hearings on illegal entry and sedition charges. After Shih's release on bail, the prosecutor for the High Court formally dropped the arrest order against him, marking the end of Taiwan's four-decade-long "wanted list" of sedition suspects. The High Court prosecutor held an investigative hearing December 2 to determine

whether Shih violated sedition laws by advocating overthrowing the government by means of violence or threats. The prosecutor's investigation was continuing at year's end. Charges involving illegal entry as well as document forgery (for falsifying a passport) were also still pending at the district court against independence activist George Chang. In addition, the entrance of a number of foreign supporters of the Taiwan opposition remains restricted.

Except for military and other restricted areas, there is general freedom of internal travel. An exit permit is required for travel abroad and may be refused for a number of reasons, including failure to complete compulsory military service. Entry permits for Taiwan passport holders residing overseas may also be refused. Reasons for entry and exit refusals must be given, however, and appeals may be made to a special board. In September new measures guaranteed that Taiwan passport holders who normally reside abroad may return and regain their household registrations, which are required if they wish to be candidates in elections. Nonresident Taiwan citizens, however, are usually issued "overseas Chinese" passports and require entry permits to travel to Taiwan.

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

Taiwan has made fundamental, rapid progress in moving away from its authoritarian political system to a more pluralistic one. The KMT, which established itself in Taiwan after the Japanese surrender in 1945, remains the ruling party but has become increasingly factionalized. A group of KMT legislators split off in August to set up a new opposition party, the Chinese New Party (CNP). In addition, the DPP, having won one-third of the seats in the 1992 LY elections, became a stronger opposition power.

Reflecting their constitutional claim to be the government of all of China, the authorities maintain not only provincial and local government systems but also an array of central-level political bodies generally identical to those found on the mainland before 1949. In the past, centers of power on Taiwan have been the Presidency, the EY, the military and security apparatus, and the KMT Central Standing Committee. Currently, the Presidency, the EY, and the LY appear to have the most power.

Both the President and Vice-President have been elected by the National Assembly (NA), although a movement toward direct election is under way. The Premier is appointed by the President with the approval of the LY. The NA has jurisdiction over constitutional revisions and meets in regular session only once every 4 years, although it holds extraordinary sessions in most years. The elections of a new NA and LY in 1991 and 1992, respectively, created institutions broadly representative of the island's population. There had been no general elections to these two bodies since before the 1949 KMT retreat to Taiwan.

The LY elected in December 1992 underwent some changes in makeup. With the establishment of the CNP and other changes, the KMT holds 94 seats, the DPP 52, the CNP 7, and the independents and the Chinese Socialist Democratic Party the remaining 7. The 1992 LY election was considered generally free and fair, and cases involving vote-buying and other irregularities in those elections were resolved in 1993. By March 31, district prosecutors had processed 417 suspected vote-buying cases, completed the investigations of 345 of them, and brought formal charges in 18. After the 1991 NA elections, the prosecutors investigated 250 cases and brought formal charges in 50.

In November local mayor/magistrate elections were conducted in a generally free and competitive atmosphere, although opposition members and observers reiterated claims of bias by the broadcast media (see section 2.A.). There were some claims of election irregularities, but prosecutors found insufficient evidence to invalidate any of the results.

Originally composed overwhelmingly of mainlanders, the KMT's membership of over 2 million is now more than 70 percent Taiwanese. (Taiwanese comprise an estimated 85 percent of Taiwan's population, with post–1949 Chinese mainlanders and their offspring comprising most of the remainder.) During the KMT's 14th party congress in August, Taiwanese Chairman Lee Teng Hui's supporters captured control of 80 percent of the leadership positions. The benefits the KMT enjoys from its ownership of enterprises, access to public funds, and assistance from administrative and security agencies give it a significant advantage, and the line between government and party interests has often been blurred in practice. For example, the Finance Minister concurrently heads the KMT's special party branch for financial affairs, and the Chairman of the Vocational Assistance Commission for Retired Servicemen concurrently heads the KMT's party branch for retired servicemen. However, this party-state structure has come under increasing opposition and media criticism.

Passage of the civic organizations law in 1989 legalized the formation of additional political parties. At present, there are 74 registered parties. The major opposition party, the DPP, was formed in 1986 in defiance of martial law; it registered as a political party in April 1989. The DPP claimed a membership of 50,000 in September. The newly-formed Chinese New Party claimed a membership of 30,000 the same month. Other opposition parties are much smaller.

Although women in Taiwan are guaranteed equal rights under the Constitution, their role in politics remains limited. At an international conference on women in December in Taipei, attended by 360 women leaders from 24 countries, one leading Taiwanese woman lawyer said that there were social, traditional, and family barriers against women entering politics, but not legal ones. Senior regime women leaders include Minister Without Portfolio and KMT Central Standing Committee (CSC) member Shirley Kuo (a former finance minister), KMT Deputy Secretary-General and CSC member Jeanne Tchong-Kwei Li, as well as the Director-General of the National Health Administration, 15 of 161 LY members, 42 of 325 NA members, 13 of 77 Provincial Assembly members, 3 of 29 Control Yuan members, 205 of 1,221 judges, and one major general in the armed forces.

The opposition parties have faced several disadvantages, among them the authorities' virtual monopoly of television and radio, although this is beginning to change (see also Section 2.a.). With the exception of those whose rights were restored by presidential amnesty, persons convicted of sedition also lost their rights to vote, hold public office, and work in, manage, or own television or radio stations.

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

Taiwan's two principal human rights organizations are the establishment-oriented Chinese Association of Human Rights (CAHR) and the opposition-aligned Taiwan Association for Human Rights (TAHR). Coordination between the two bodies is limited. Despite the authorities' refusal to register it, TAHR continues to operate. As noted in Section 2.b., both organizations investigate human rights complaints, many of which come to public attention through the media and statements by lawmakers from all political parties.

The authorities permit representatives of most international human rights organizations to visit Taiwan and meet citizens freely.

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

Women.—The law prohibits sex discrimination, and most discriminatory sections of the Legal Code relating to divorce, property, and child custody have been eliminated in recent years. Taiwan's laws now provide for equitable distribution of conjugal property in divorce cases, although husbands are given management of any postdivorce joint properties.

Enforcement of other sex discrimination laws remains a problem. While labor laws provide for maternity leave, employers do not always grant it. Women have also complained of being forced to quit jobs because of age or childbearing restrictions, and restrictive quotas reportedly exist within certain ministries. Women often receive less frequent promotions and lower salaries than their male counterparts. A women's rights movement is active and growing, however, and women's rights groups formed an alliance during the 1992 LY elections to promote candidates who support their agenda.

Women active in politics, human rights, and women's organizations single out intrafamily violence, especially wife beating, as a serious problem. Social welfare groups and municipal governments have established assistance centers to deal with this issue, but strong social pressure is sometimes exerted on abused wives to conceal their abuse to avoid "disgracing" their families. Greater mobility, education, and job opportunities—there are now 2.4 million women workers in Taiwan—are making women more independent, less inclined to tolerate domestic abuse, and increasingly willing to complain of mistreatment or to seek divorces. Taiwan's divorce rate is reportedly the highest in Asia, with one divorce for every 4 marriages in 1992, although divorced persons still make up less than 2 percent of the population, according to the MOI.

Rape remained a serious problem, and rape victims are socially stigmatized. One expert estimated that at least 7,000 rapes occur in Taiwan each year, but only 10 percent are reported to the police. Under Taiwan law, the authorities may not prosecute for rape; only the victim may file a complaint. Because rape trials are public, women are reluctant to prosecute their attackers. However, feminist and social welfare organizations have assisted rape victims, and victims are now more willing to come forward and press charges. The Criminal Code establishes the punishment for

rape as not less than 5 years' imprisonment, and those convicted are usually sentenced to 5 to 10 years of imprisonment. The standard practice followed by the MOJ is to assign female prosecutors to rape cases and to have the cases heard before female judges. One well-publicized case, in which a secretary was raped by a businessman in the presence of a senior MOJ investigator, brought an especially strong reaction from women's groups. The officer was sentenced to 19 months' imprisonment for his actions, and the bureau's director publicly apologized to the victim, her family, and the country's women for the officer's inaction.

Children.—The human rights of children in Taiwan are protected by the Constitution and a number of laws and are normally well respected. Children are generally not subject to abuse or maltreatment by the authorities. However, a significant problem of child prostitution does exist (see below), and there is a minor but growing use of child labor (see Section 6.d.).

An extensive and well-supported compulsory educational system testifies to the quantity and quality of support devoted to children by the authorities. The Constitution guarantees free primary education to all children from 6 to 12 years of age and that those from poor families shall be supplied with books by the government. It also provides that "national, provincial, and local governments shall extensively establish scholarships to assist students of good scholastic standing and exemplary conduct who lack the means to continue their school education." Later laws have extended compulsory education through age 15. The Ministry of Education (MOE) says that 99.79 percent of children complete elementary school and that 99.54 percent complete the compulsory intermediate school years. According to the Constitution, spending on education shall be no less than 15 percent of the central budget, 25 percent of the provincial and special municipality budgets, and 35 percent of the county and city budgets. MOE says that 30 percent of its overall budget, approximately $1 billion, is spent on compulsory education.

Child prostitution remains a serious problem in Taiwan. Child prostitutes can be as old as 18, but most range from 12 through 16 years of age. The Juvenile Welfare Law enables juvenile welfare bodies, prosecutors, and victims to apply to courts for termination of guardianship of parents and the appointment of qualified guardians if parents have forced their children into prostitution. In cases where children are engaged in prostitution of their own free will, and the parents are incapable of providing safe custody, the courts may order competent authorities to provide counseling education for not less than 6 months and not more than 2 years.

However, legal loopholes and cultural barriers remain obstacles to prosecution. For example, in cases where both parents have sold a child into prostitution, the current law requires the victim to lodge a complaint before prosecution is undertaken. In many cases, the child is reluctant or afraid to do so. According to some reports, violence, drug addiction, and other forms of coercion are used by brothel owners to prevent girls from escaping. Laws directed against customers and pimps of child prostitutes are weak. In October, 59 legislators endorsed a new bill stiffening penalties against customers of child prostitutes, although at year's end the bill remained in committee.

Indigenous People.—Taiwan's only non-Chinese minority group, less than 2 percent of the total population of 21 million, consists of the 344,000 aborigines, descendants of the Malayo-Polynesians already established in Taiwan when the first Chinese settlers arrived. In general, the civil and political rights of aborigines are fully protected under Taiwan laws. Although they face no official discrimination and have reserved seats in the National, Legislative, and Provincial Assemblies which allow their representatives to participate in the overall political process, the aborigines have had little impact over the years on major decisions affecting their lands, culture, traditions, and the allocation of their natural resources.

While their impact has been limited, aborigines participate in most levels of the political system. In addition to the representatives filling the six seats in the National and Legislative Assemblies and two seats in the Provincial Assembly reserved for aborigines—half of each elected by the plains aborigines and half by mountain aborigines—other leaders who are aborigines include the Chief of the Ministry of Interior's Aborigine Affairs section, the Deputy Director of the Provincial Aborigine Affairs Bureau, and the Chairman of the Pingtong County KMT Committee. Some barriers are being broken: the election of an aborigine as magistrate in Taitung County in November marks the first significant position won by an aborigine in a vote of the general public.

The NA amended the Constitution in 1992 to upgrade the status of aboriginal people, protect their right of political participation, and ensure cultural, educational, and business development. In addition, the authorities have instituted social programs to help them assimilate into the dominant Chinese society. To pay greater attention to the needs of the aborigines, aboriginal affairs sections within social wel-

fare departments at various levels of the bureaucracy have been raised to full departments. As part of its efforts to preserve ethnic identities, the Ministry of Education now includes some aboriginal language classes in primary schools.

Although aborigines face no official discrimination, they encounter significant cultural and economic barriers. Aborigines complain that they are prevented from owning ancestral lands in mountain areas under the authorities' control. Furthermore, they are not allowed to use non-Chinese personal names on legal documents. The average income of Taiwan's aborigines remains less than half of the national average. Researchers have found alcoholism to be a significant problem among the aborigines, with alcohol addiction rates exceeding 40 percent among members of 3 of the 9 major tribes. One estimate is that 10 percent of the aboriginal population suffers from chronic alcohol abuse. Earlier in the year, aborigine rights activists protested MOI plans to create national parks that include aboriginal lands on Orchid Island and at Jade Mountain, Taiwan's highest mountain. In October they returned to demonstrate at the LY against the impact of tourism on their lands. The sale of aboriginal girls by their parents into prostitution is a serious social problem. Although aborigines constitute under 2 percent of Taiwan's population, nearly 20 percent of the child prostitute population consists of aborigines, according to reliable statistics.

Although the aborigines face serious problems, the Aboriginal Rights Promotion Association, the only private aborigines support organization, has apparently run out of funds. It decided in October to move its office from Taipei county to the home of its chairman in Nantou county because of its financial difficulties.

People with Disabilities.—According to official statistics, there are 230,000 disabled people in Taiwan. A leading expert in the field estimates, however, that the number is somewhere between 400,000 and 500,000 and could be as high as 700,000, one-third of whom are severely handicapped and receive shelter or nursing care from the authorities.

Taiwan's Disabled Welfare Law was revised and strengthened in 1990. It prohibits discrimination against the disabled and sets minimum fines at approximately $2,239 for violators. New public buildings, facilities, and transportation equipment must be accessible to the handicapped. Existing public buildings are to be brought into conformity by 1995. The law requires larger government and private organizations to hire, respectively, 2 and 1 percent disabled persons. Organizations failing to do so are required to pay, for each disabled person not hired, the basic monthly salary (approximately $455) into the Disabled Welfare Fund, which supports institutions involved in welfare for the disabled. Specialists note that many organizations complain that it is difficult to find qualified disabled workers and prefer to pay the fines involved.

A handicapped legislator states that support for the disabled is limited mostly by a lack of bureaucratic support for the allocation of resources. He noted that since 1990 the Disabled Welfare Fund has accumulated approximately $122 million, but it has spent only about $140,000 because of a lack of personnel. As a result, only 10 percent of the 101,000 severely handicapped students receive special education, and education department funding for families to hire tutors directly for the remaining children is unrealistically low. Although voting rights for the disabled are protected, candidates for public office require high school diplomas, and few disabled persons receive full high school educations. The provincial government last year added 15 people to deal with the problems of the disabled. In addition, in conjunction with plans to increase welfare assistance to low-income elderly persons, the Cabinet in October also approved granting or increasing monthly allowances to an estimated 30,000 low-income disabled persons.

Section 6. Worker Rights

a. *The Right of Association.*—Labor's right of association remains seriously limited by a number of laws and regulations. Labor unions may draw up their own rules and constitutions, but they must submit these to the authorities for review. Unions may be dissolved if they do not meet certification requirements or if their activities disturb public order. According to official sources, no unions have been dissolved, although certification has been denied if there were competing unions. In the latter cases, the unions were asked to reconcile their differences and file as a single union. Civil servants, teachers, defense industry workers, and administrators acting on behalf of employers are prohibited from organizing labor unions. The Labor Union Law requires that union leaders be elected regularly by their respective membership by secret ballot, and, in recent years, workers have sometimes rejected KMT or management-endorsed union slates. Some workers have established independent unions and federations under other names, such as "friendship organizations" and "brotherhood alliances." These groups may register with the MOI as legal civic orga-

nizations but not as labor unions; thus they are not protected by the labor union law and do not have the right to bargain with their members' employers.

Unions may form confederations, but no administrative district, including cities, counties, and provinces, may have competing labor confederations, which effectively means there can only be one Taiwan-wide labor federation. The Chinese Federation of Labor (CFA) is closely associated with the KMT and also is affiliated with the International Confederation of Free Trade Unions. Taiwan is not a member of the International Labor Organization.

Revisions of the law governing labor disputes, effective June 1988, recognize labor's right to strike but impose serious restrictions that make legal strikes difficult. Before a strike can be called, it must be approved by a majority vote of the full membership of the union. The authorities have required their official approval before such a meeting can be called. Both labor and management are forbidden to disrupt the "working order" when either mediation or arbitration is in progress.

Applications for local government arbitration must be made jointly by management and labor. Stiff penalties may be levied should no-strike/no-retaliation clauses be violated, but employers have sometimes ignored the law and dismissed or locked out workers without any legal action being taken against them. One county, however, has been active in responding to violations. During a July 1992 strike, the Keelung Bus Company locked out workers and closed down all bus routes, even though the Taipei county government had announced that the dispute had entered the arbitration stage. The county fined the company approximately $12,300, but higher authorities overturned the fine and returned the case to the county for reconsideration. The county reinstated the fine, and the company has again appealed.

The drive for independent labor unions lost momentum in recent years due to generally higher wages, tougher tactics on the part of employers, the small scale and poor organization of most labor unions, and prosecution of labor activists by the authorities in the past; none was charged during 1993. For example, labor activist En Kun-Chan was sentenced to 22 months' imprisonment in 1992 for allegedly violating the Parade and Assembly Law and with interference with official functions for his part in a protest against two footwear companies which refused to provide back pay and severance pay after the firms were closed.

In addition, the movement of a number of labor-intensive factories overseas and the importation of foreign workers has made the employment situation in Taiwan increasingly competitive, reducing labor activism to a minimum. There were three major strikes in 1989 and two in 1992, but only one occurred in 1993, when the staff of Taipei's Grand Hotel in October protested plans to lay off more than 100 employees. However, an estimated 2,000 workers, representing more than 140 independent labor organizations demonstrated at the LY on October 5 and presented a petition, signed by more than 15,000 workers, demanding their own revisions to the Labor Standards Law to improve pay and working conditions.

b. *The Right to Organize and Bargain Collectively.*—As of June 1993, some 3.1 million workers, approximately 35 percent of Taiwan's work force, belonged to 3,656 officially registered labor unions. The workers fall into two categories: 660,000 work in the manufacturing industry; 2.45 million are members of professional or crafts unions, generally working in small or family units. The high number of union members among professional and crafts workers is primarily a result of the eligibility of labor union members for health insurance. Under the labor union law, employers may not refuse employment to, dismiss, or otherwise unfairly treat workers because they are union members. In practice, however, union leaders have sometimes been dismissed without reasonable cause by employers, and authorities have failed to enforce this section of the law.

Labor laws governing union activities apply equally within export processing zones (EPZ's). Labor organizing practices are the same in EPZ's. EPZ firms are subject to the same labor laws as firms on the outside, allow organized unions, and follow normal practices in concluding collective bargaining agreements with their unions.

Collective bargaining is provided for under the Collective Agreements Law but is not mandatory. As of June 1993, 294 formal collective agreements were in force, about the same number as in 1991. Since such agreements are made only in large-scale enterprises, and less than 5 percent of Taiwan's enterprises fall into this category, the proportion of workers covered remains small. Wages are set generally by employers in accordance with market conditions. Legal restrictions on the right to strike and provisions for involuntary mediation of labor/management disputes when the authorities deem the dispute to be sufficiently serious or to involve "unfair practices" seriously weaken collective bargaining. Most collective actions by workers consist of such illegal actions as work stoppages and mass leave taking.

c. *Prohibition of Forced or Compulsory Labor.*—Under the Labor Standards Law, forced or compulsory labor is prohibited. Violation of the law is punishable by a maximum jail sentence of 5 years. Except for allegations concerning prostitution (see Section 5), there were no reports of forced labor.

d. *Minimum Age for Employment of Children.*—The Labor Standards Law stipulates that the minimum age for employment is 15 (i.e., after compulsory education ends), and interaction between this law and a compulsory education law effectively keeps child labor at a very low level. As of May 1993, 9,000 child workers between the ages of 15 and 16 were hired by manufacturing industries, and some labor experts believe that employment of younger children may slowly be increasing as the cost of living rises and as managers seek cheaper sources of labor. Minimum age laws are enforced by county and city labor bureaus; in general they lack the resources necessary to prevent violations.

e. *Acceptable Conditions of Work.*—The Taiwan Labor Standards Law was enacted in 1984 to provide minimum labor standards. According to the Council of Labor Affairs (CLA), in June 1993 the law covered 3.52 million of Taiwan's 5.97 million paid workers. (The CLA carries out the functions of a labor ministry, but it does not enjoy Cabinet rank.) The law has enjoyed only limited success in several areas, and many observers believe that it and other labor laws should be strengthened and extended to cover additional workers. By law the workweek is limited to 48 hours (8 hours per day, 6 days per week), with certain provisions for overtime.

Taiwan's current minimum wage, put into force after Cabinet approval in August, is approximately $500 (NT 13,350) per month. There is general agreement that the legally established minimum wage is less than that needed to assure a decent standard of living; however, the average manufacturing wage is more than double the legal minimum wage and that for service industry employees is 10 percent higher still. In addition, most large firms provide their employees with allowances for transportation, meals, housing, and other benefits which can amount to another 60 to 80 percent of base salary.

The 1991 Occupational Safety and Health Law enlarged coverage to include workers in agriculture, fishing, and forestry industries and appeared to strengthen penalties for safety violations, but it still provides only minimum standards for working conditions and health and safety precautions. According to Article 13 of the Occupational Safety and Health Law, workers have the legal right to remove themselves from dangerous work situations without jeopardy to continued employment. Some critics see the law as a step backwards, noting for example that general contractors are not responsible for the safety of workers of subcontractors under the revised law. In Taipei county in the last 3 years, the leading cause of accidental death has been construction accidents (approximately 80 per year) compared to approximately 70 per year for traffic accidents. However, rising labor consciousness and continuing labor shortages have resulted in improvements in working conditions.

The CLA does not effectively enforce many workplace laws and regulations, primarily because it employs too few inspectors. As of June 1993, there were 283 inspectors for approximately 300,000 enterprises covered by the Occupational Safety and Health Law, an increase of only 16 inspectors compared to the year before. Because the new law expanded coverage to include more enterprises, the inspection rate has declined. Since most enterprises are small, family-owned operations employing relatives who will not report violations, actual adherence to the hours, wage, and safety sections of various labor laws is hard to document but is thought to be minimal. Nonetheless, Taiwan's occupational injury rate has declined steadily from 0.82 percent in 1980 to 0.39 percent in 1991 and to 0.355 percent in 1992, according to CLA statistics.

Because of Taiwan's acute labor shortage, there was a legal influx of foreign workers in 1993. Foreign workers receive the same protection under labor legislation as local workers.

Authorities say illegal workers are entitled to the same work conditions as native workers, but in many cases illegal foreign workers are given board and lodging but no medical coverage, accident insurance, or other benefits enjoyed by local workers. Conditions in many small and medium-sized factories that employ illegal labor are poor, with old and poorly maintained equipment resulting in the potential for a high rate of industrial accidents. The accident numbers, however, remain low, according to CLA and Manila Economic and Cultural Office (MECO) statistics. Illegal workers remain vulnerable to exploitation, including confiscation of passports, imposition of involuntary deductions from wages, and extension of working hours without overtime pay.

Various church groups in the Philippines in 1992 denounced the poor working conditions of Filipinos employed on board Taiwan fishing vessels, as well as squalid conditions found on offshore Taiwan floating "hotels" for fishing crews on Taiwan

fishing boats. MECO says the use of offshore "hotels" has ended. The church groups also noted that a large number of Filipino fishermen have been reported as missing at sea.

FIJI

Fiji's system of parliamentary democracy, inherited when the country gained independence from Great Britain in 1970, was interrupted in 1987 with the installation of a military regime following two bloodless coups. Fiji returned to elected government in 1992. That government fell in November 1993 over failure to pass a budget for 1994. A new general election is scheduled for February 1994.

Ethnicity plays a major role in Fiji's politics, economy, and society. Fiji's multiracial society is about evenly divided between indigenous Fijians and ethnic Indians. Indo-Fijians dominate the economy and professions and are well represented in the lower and middle levels of the public service, while ethnic Fijians make up the bulk of the nation's military forces and control the political structures.

The small but professional Fiji Military Forces (FMF) and a separate police force report to and are under the control of the Minister for Home Affairs and, ultimately, the President. In 1990 the Government also established the Fiji Intelligence Service, with limited powers to search people and property, tap telephones, and open mail.

Sugar and tourism constitute the mainstays of the economy, accounting for almost half of the nation's foreign exchange earnings. The economy has recovered from the effects of a severe decline following the 1987 coups. The Government is promoting light manufacturing for export, notably the garment industry, to diversify the economy and lessen its dependence on sugar and tourism.

The principal human rights problem in 1993 remained the constitutionally imposed and ethnically based political discrimination. Labor rights disputes stemming from 1991 legislation greatly ameliorated during the year. Other human rights problems include inhibitions on freedom of the press, continued delays in bringing criminal and civil cases to trial, and violence and discrimination against women.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no deaths of persons in official custody from other than natural causes nor deaths by police or military application of force in Fiji in 1993. There were no reports of political killings by the Government or any political group.

b. *Disappearance.*—There were no reports of disappearances in 1993.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Police sometimes physically abuse detainees; the offending officers have been punished in some instances, although punishments have been light. The Internal Affairs Unit continues to expedite the investigation of such cases and to ensure that any complaints against the police are properly investigated. During 1992, 27 officers were charged with a variety of offenses. At year's end, the 15 cases which had been dealt with resulted in 4 convictions; 12 cases were pending. Internal police investigation statistics from 1993 were not available for inclusion in this report. Corporal punishment is permitted by law as a penalty for criminal acts; strokes of the cane are administered under medical supervision, although this provision is rarely invoked.

d. *Arbitrary Arrest, Detention, or Exile.*—In Fiji the Law of Arrest and Detention broadly follows the British model. Generally, a person may be arrested only if there is a reasonable belief that a breach of the criminal law has been or is about to be committed. Arrested persons must be brought before a court without "undue delay." This is taken to mean within 24 hours, with 48 hours as the exception (such as when an arrest is made over the weekend). Rules governing detention are designed to ensure fair questioning of suspects. Defendants have the right to a judicial review of the grounds for arrest; in urgent cases, application may be made to a judge at any time, whether he is sitting or not. Incommunicado and arbitrary detention are illegal, and none occurred in 1993.

Exile is not practiced.

e. *Denial of Fair Public Trial.*—The judicial structure was reorganized under the 1990 Constitution, but remains similar to the British system. The principal courts in Fiji are the Magistrate Courts, High Court, and the Court of Appeal. The 1990 Constitution also provided for a Supreme Court as the court of final appeal, but to date it has not been established. The Court of Appeal is slowly reducing the enormous backlog of cases caused by the Government's failure to appoint a president for

the court until December 1991 and the court's consequent inability to convene before that time.

There are no special courts; military courts try only members of the armed forces. Magistrate Courts continue to try the large majority of cases. In addition to its jurisdiction in serious civil and criminal cases, the High Court is granted special interest jurisdiction on behalf of the public and is empowered to review alleged violations of individual rights guaranteed under the Constitution.

The judiciary is independent under the 1990 Constitution and in practice. There have been no credible reports in 1993 that a court was influenced by the executive — except by legal arguments in court. An example of the courts' independence was the decision in the Jim Ah Koy case (see Section 5.a.), in which the government lost a hotly debated ethnic registration decision.

Rights of due process are similar to those found under English common law. The right to public trial is guaranteed, and defendants have the right to counsel. Trials in the High Court provide for the presence of assessors (akin to a jury); cases in the Magistrate Court do not. In litigation involving lesser complaints, a public legal advisor assists indigents in domestic or family law cases. The right of appeal exists but is hampered by continuing delays in the appeals process. Normal bail procedures mean that most defendants do not experience any pretrial detention.

There are no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—In general, privacy of the home is respected. However, the Fiji Intelligence Service has powers to search people and property, open mail, and tap telephones within specific operational guidelines outlined in the government decree which created it. There is no evidence that these powers are being abused. Surveillance of persons believed to represent a security threat is carried out to some degree. Some political opponents of the Government believe their telephones and mail are monitored, but concrete evidence is lacking.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech is generally respected. Political figures and private citizens can and do speak out against the Government. Although the Public Order Act and other acts prohibit any actions which are likely to incite racial antagonism, no arrests for making any kind of public statement were reported or believed to have occurred in 1993.

The Government does have broad discretionary powers to impose restrictions on press freedom, and it has sometimes done so. For example, in 1993 the Government banned television camera coverage of the controversial Kermode Commission of Inquiry into the wrongful arrest suit and out-of-court settlement in the so-called Stephens Affair. The investigation led to the resignation of the Attorney General and implicated the Prime Minister and his close advisors. The Government also temporarily banned television from using actual footage of parliamentary proceedings.

Legislation pertaining to the press is contained in the Newspaper Registration Act (NRA) and the Press Correction Act (PCA). Under the NRA, all newspapers which are sold and published in Fiji must be registered with the Government before they can begin publishing. The PCA gives the Minister of Information sole discretionary power to order a newspaper to publish a "correcting statement" if, in his opinion, a false or distorted article has been published. Should the newspaper refuse to publish the Minister's correction, it can be taken to court and, if found guilty, fined $700 (individual persons convicted under the Act may be fined $150 and/or imprisoned for 6 months). The PCA allows the Government to arrest anyone who publishes "malicious" material. This includes any false news which could create or foster public alarm or result in the "detriment of the public."

Privately owned broadcast and print media operate without prior censorship but with considerable self-censorship. Newspapers occasionally print editorials critical of the Government but rarely do investigative reporting. Statements about the political situation by opposition figures and foreign governments are widely reported. The letters columns of the two daily newspapers also frequently carry political statements from members of the deposed government and other persons and from groups which are highly critical of the Government, its programs, and the Constitution. Criticism—albeit muted—of the once sacrosanct traditional chiefly system is beginning to appear. However, the Government still views comments about individual chiefs with disfavor.

An active local organization, the Fiji Islands Media Association (FIMA), is an affiliate of the regional Pacific Islands News Association (PINA), which held its 1993 convention in Fiji for the first time since the 1987 coups. Both FIMA and PINA are pressing for better training and establishment of codes of ethics for journalists. Concerned over possible moves by the Government to set up a tribunal for hearing pub-

lic complaints against the media, FIMA is working toward a self-regulatory press and media council instead.

The advent of television has raised the specter of censorship, openly advocated by the head of the powerful Methodist church in Fiji and others. Moves to replace the temporary television service with a permanent arrangement have triggered a serious look at television content regulation, heretofore nonexistent.

While academic freedom is respected, the Government has effectively deterred university employees from participation in Fijian domestic politics. Since 1991 staff members of the University of the South Pacific must take leave if they run for public office and must resign from their posts if elected. Senior staff may not hold office in political parties.

b. *Freedom of Peaceful Assembly and Association.*—Assembly for political purposes is allowed but subject to restriction in the interest of public order. Public gatherings require permission from the Government's district officers, who may obtain prior assessment and advice from the police on the anticipated crowd size and the ability of the police to ensure public safety. Permits for large outdoor political meetings or demonstrations are not always granted.

There was no government interference with political activities during the October 1993 municipal elections. Permits were routinely issued for rallies organized by political parties, religious groups, and groups opposed to the Government. All opposition party headquarters remain open. Political organizations are allowed to operate and issue public statements. They did so repeatedly and openly throughout 1993.

c. *Freedom of Religion.*—Freedom of religion is provided for in the Constitution and honored in practice. The preamble to the Constitution declares the importance of Christianity to the Fijian people but guarantees protection for all religions. As part of the ongoing constitutional review process, several parliamentarians and Methodist church leaders have called for Fiji's status as a "Christian nation" to be enshrined in the body of the Constitution.

No significant restrictions affect foreign clergy and missionary activity or other typical activities of religious organizations.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no restrictions on freedom of movement within the country or abroad. Occasional detentions at the airport occur, but the courts do not hesitate to order redress where this is warranted. Fijian citizens are free to emigrate. According to the best available estimates, over 35,000 have done so since May 1987.

Most of the emigrants are Indo-Fijians, many of them professionals, but some ethnic Fijians and others also have left. Several thousand have claimed refugee status, especially when applying for admission to Canada and after arrival in the United States as tourists, but neither the U.N. High Commissioner for Refugees nor any government has recognized those claims. In 1992 and 1993, as the economic downturn in Australia and New Zealand continued and Fiji moved toward restoration of accountable government, several hundred well-educated Indo-Fijians who had emigrated in the postcoup period returned to Fiji. There are no refugees in Fiji, and no forced resettlement programs.

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

The right of citizens to change their government is abridged by the provision of the 1990 Constitution ensuring political dominance by ethnic Fijians, primarily through race-based voting rolls and representation in Parliament. Moreover, the Constitution was promulgated by a nonelected interim government and has not been approved by a national referendum.

The Constitution guarantees ethnic Fijians dominance of the Government by providing them with 37 of 70 seats in the elected lower house of Parliament. Indo-Fijians are accorded 27 seats, Rotumans (culturally distinct Polynesians) 1, and all other races 5. In the Senate (an appointed body with essentially review powers and the right to veto legislation), ethnic Fijians hold 24 of the 34 seats, Rotumans 1, and the other groups 9. Other constitutional features designed to ensure ethnic Fijian dominance include a requirement that the Prime Minister be an ethnic Fijian and selection procedures which virtually ensure that the President will also be an ethnic Fijian.

The Constitution also incorporates a bill of rights, providing for freedom of speech, assembly, religion, and other internationally accepted rights and freedoms. The section setting forth these rights provides that they may not be altered by Parliament except with the approval of two-thirds of the lower house. However, elsewhere in the Constitution, Parliament is also given the authority to pass special acts to deal with certain specified emergency situations, notwithstanding human rights guarantees found in other sections of that document. The Attorney General's office has

taken the view that any legislation introduced under the emergency powers provision would require two-thirds approval by the lower house, but critics of the Constitution maintain that only a simple majority would be needed. Critics claim that indigenous Fijians in the lower house thus would be able, solely on the strength of their own numbers, to abrogate constitutional human rights protection.

The President is selected by the Great Council of Chiefs (GCC), a traditional Fijian leadership body. He appoints the Fijian members of the Senate on the advice of the GCC and the provincial councils, and on his own judgment with regard to the nine members of other races. He appoints the one Rotuman Senator on the advice of the Rotuman Council. The Prime Minister, who along with the Cabinet holds most of the executive authority, is chosen by the President from among the Fijian members of the lower house on the basis of his ability to command majority support within that body.

Elections are held by secret ballot, with voting only by communal constituencies. The 1990 Constitution calls for elections every 5 years, but the Government may call an election at any time. The Constitution (Article 161) provides for a formal review of its provisions within 7 years of its promulgation (1997) and every 10 years thereafter.

In 1991 Major General Sitiveni Rabuka, the officer who led the 1987 coups, resigned as commander of the Fiji Military Forces (FMF) and entered the free and fair May 1992 elections (in which nearly 80 percent of Fiji's registered voters—both ethnic Fijians and Indo-Fijians—participated). He was overwhelmingly elected to Parliament by his local constituency. The President selected him to be Prime Minister after Rabuka demonstrated that he commanded majority support in the House of Representatives. When his 1994 budget was rejected by Parliament in November 1993, Rabuka asked the Acting President to dissolve that body in accordance with the Constitution. Another general election is slated for February 1994. The 1993 municipal elections were also free and fair. Two of Fiji's major parties are predominantly Indo-Fijian. These parties, the National Federation Party (NFP) and the Fiji Labour Party (FLP), have pledged to continue their opposition of the 1990 Constitution in the Parliament.

The mandated constitutional review, expected to take until 1997 to complete, got under way in 1992 with the creation of an expanded subcabinet committee led by Deputy Prime Minister Bole. The committee includes representatives of the opposition NFP. It formulated terms of reference, adopted by Parliament in September, for an independent review commission, including impartial foreign advisors. The FLP has refused to participate in the subcabinet committee, insisting on rapid convening of the promised parliamentary select committee whose proceedings would be more open and accountable to the Parliament. The FLP walked out of Parliament in June in protest, inter alia, of government footdragging in the review process, saying creation of the parliamentary select committee could bring them back. The FLP returned to the September parliamentary session to participate in the debate over the motion setting terms of reference for the parliamentary constitutional review commission.

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

There are no local groups in Fiji which focus solely on human rights matters, but the women's rights movement, the labor movement, and various political groups are involved in promoting a number of human rights causes. There are also several small foreign-based organizations which concentrate on human rights causes in Fiji. These include the Coalition for Democracy in Fiji (with offices in New Zealand and Australia) and two United Kingdom-based groups, the International Fiji Movement and the Movement for Democracy in Fiji.

The Government strongly opposes what it considers external interference in its domestic affairs and has invoked this principle in the past to inhibit certain investigations of the political and human rights situation by external organizations. However, in 1993 foreign representatives were allowed to attend both the NFP Annual General Meeting (July) and the Fiji Law Society Convention (August) where they roundly criticized the 1990 Constitution. Their opinions were fully and prominently covered in the press.

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

Women.—Although the new Constitution also provides specific affirmative action provisions to improve the conditions of those disadvantaged as a result of race, sex, place of origin, political opinion, color, religion, or creed, the Government practices sexual discrimination in the recognition of spousal and offspring rights. For exam-

ple, spouses of Fiji citizen women are not automatically granted residence, whereas spouses of Fiji citizen males are. Offspring of female ethnic Fijians married to nonethnic Fijians are not entitled to registry in the document governing who shares in income from communal ownership of native lands and who has the right to vote as an ethnic Fijian and hold ethnic Fijian designated seats in Parliament. Men, however, pass on ethnic Fijian status to their offspring regardless of the wife's ethnic background. In a high-profile 1992 court challenge to the registration restrictions, the son of a Chinese father and ethnic Fijian mother won his appeal to be registered as an ethnic Fijian. The long-term effects of the decision on registration restrictions and thus a woman's right to pass on her ethnic status were not clear by year's end.

Women in both the Fijian and Indian communities have functioned primarily in traditional roles, although some women rise to high places in the public service, politics, and business. Women can also attain high status in Fiji's traditional chiefly system. The former Prime Minister's wife is, in her own right, Fiji's second highest ranking traditional chief. In general, women in the Fijian community are more likely to rise to prominence in their own right than are women in the Indian community. Women have full rights of property ownership and inheritance, and a number have become successful entrepreneurs. Women are generally paid less than men, a discrepancy that is especially notable in the garment industry. Garment workers, most of whom are female, are subject to a special minimum wage considerably lower than that in other sectors.

There is a small but active women's rights movement, which has pressed for more serious treatment of rape in the courts. The crime tends to draw widely varying but usually short prison sentences (a few years). Within the same month, one case involving a 16-year-old victim resulted in a 6-year sentence and three strokes of the cane (allowed by law), while another convicted rapist was merely fined the equivalent of $200 and put on probation.

Domestic violence is also a problem in Fiji and is a second major focus of the women's movement. The authorities are generally reluctant to intervene in cases of domestic violence unless it is necessary to save the woman's life. Few cases result in prosecution, as the victim generally does not press charges. The Government has not been active in dealing with domestic violence.

Suva, the capital, and the regional center of Ba have privately funded women's crisis centers which offer counseling and assistance to women in cases of rape, domestic violence, and other problems, such as child support payments. There is, overall, a growing awareness of women's issues, with Fiji playing host to several women's rights' conferences and workshops during the year.

Children.—Changes centered around the undermining of the traditional village and extended family based society—and great improvements in record keeping—have revealed a major problem of child abuse in Fiji. Reported cases of abuse or neglect have jumped from 365 in 1990 to 619 by August of 1993. The Fijian legal system is inadequate to protect the rights of children, with children's evidence being inadmissible unless corroborated by an adult. The Government created a child welfare committee this year to address these problems, but it is likely to remain reluctant to become involved in family matters.

Children have not had an exalted place in Fiji, particularly in ethnic Fijian families. Children eat only after first fathers and then mothers have eaten their fill. Education is not mandatory in Fiji; most primary and secondary schools are managed and funded by the local community, social organizations, or church groups. Currently, the Government provides only some 5 percent of the schools—although it does support the salaries of the majority of teachers even in private schools.

National/Racial/Ethnic Minorities.—The stated purpose of the 1987 military coups was to ensure the political supremacy of the indigenous Fijian people and to protect their traditional way of life and communal control of land. To this end a number of measures have been taken that favor the Fijian community over the other ethnic groups. The most obvious are the apportionment of seats in Parliament to guarantee a preponderance of ethnic Fijians and constitutional provisions ensuring selection of an ethnic Fijian President and Prime Minister. The Government is also committed to raising the proportion of ethnic Fijians and Rotumans in the public service to 50 percent or more at all levels. This is reflected in current promotion and hiring policies in the public service favoring ethnic Fijians. It has resulted in some Indo-Fijians complaining of a "glass ceiling" whereby, despite their experience and higher educational achievements, they are not promoted beyond middle management.

Control of land is a highly sensitive issue in Fiji. About 83 percent of the land is held communally by indigenous Fijians. Most cash crop farmers are Indo-Fijians, who lease their land from the Fijian landowners through the Native Lands Trust

Board. The present land ownership arrangements were instituted by the British to protect the interests of the indigenous Fijians. Freehold land title is not an indigenous concept; lands owned currently by the State (8 percent) and by individuals (9 percent) were transferred from customary owners during the colonial period. Many Indo-Fijians, particularly farmers, believe that the absence of secure land tenure discriminates against them. Between 1997 and 2000, the majority of the current leases will expire. A review of the current land tenure/leasing arrangements is under way.

Indo-Fijians are subject to occasional harassment and crime based on race, which is compounded by inadequate police protection. There have been no credible allegations of government involvement in such incidents, and the police have investigated and, where possible, arrested lawbreakers.

People with Disabilities.—There is no legal discrimination against physically disabled persons in employment, education, and provision of other state services in Fiji. Limited special education facilities are provided in the capital. The Fiji Disabled People's Association, a small voluntary organization based in Suva, is pushing for better health care and special education for the disabled. There are no mandated provisions of accessibility for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—Workers' rights to form and join unions, elect their own representatives, publicize their views on labor matters, and determine their own policies are protected by law and observed in practice. However, the law permits restrictions to be applied on government employees in the interests of defense, public safety, public order, public morality, or public health, and to protect the rights and freedoms of other persons. About 19 percent of the labor force is unionized.

All unions must register with, but are not controlled by, the Government. The only national labor federation is the Fiji Trade Union Congress (FTUC), which was closely associated with the opposition FLP until mid–1992. The FTUC is free to associate internationally and does so. The labor movement is led largely by Indo-Fijians. Persons with close ties to the Government have started rival unions primarily for ethnic Fijians; these unions are more amenable to political cooperation with the Government.

Following several years in which labor-government relations were marred by confrontational tactics, the 1992 return to elected government marked the beginning of a more cooperative relationship.

In November 1991, the interim government had created considerable antagonism when it passed, as part of its economic package, certain labor "reforms" (Decrees 42, 43, and 44) which unilaterally altered the role of the labor unions and regulated internal union matters. The Fiji trade unions rejected the decrees and sought support from the international labor movement to convince the Government to rescind the decrees. The Committee on Freedom of Association of the International Labor Organization (ILO) in November 1992 recommended specific changes to the Fijian "reforms" to restore the rights Fijian workers and their unions had enjoyed previously.

The Rabuka Government undertook to find ways to reestablish a dialog with the unions. In September 1992, the new Minister of Labour and Industrial Relations took concrete steps to address the unions' concerns, including formal recognition of the FTUC and a public pledge to review the interim Government's "reforms" and a further pledge to eliminate those aspects of the decrees considered objectionable by labor.

In December 1992, the automatic dues checkoff system through which nearly all unions received their operating funds was reinstated (satisfying a pressing demand of the FTUC). In July 1993, the Cabinet agreed in principle to remove the most offensive of the 1991 labor "reforms" which had been the subject of the ILO recommendations and the GSP review process, but implementing legislation had not made its way through the system by year's end. One 1991 regulation, that prohibited union leaders from holding multiple union offices, has been eliminated by the July 1993 Cabinet decisions. This action canceled a court case pending against former FTUC union head and Indo-Fijian political leader, Mahendra Chaudhry.

Strikes are legal in Fiji. However, the 1991 right-to-strike decrees are still in effect. Strikes are banned in connection with union recognition disputes. Once a recognized union votes to strike, that vote is valid for 6 weeks. If the union has not gone out on strike before the 6 week deadline, another vote must be taken. There is no current limit on the length of a strike. The Government is involved in certifying union balloting, which can be an elaborate process given the distance between some of the island locations in the country. The largest strike (involving some 500 workers) of 1993 took place at the Pafco fish-canning facility in Levuka over working con-

ditions and leadership. Local chiefs, the Ministry of Labor, and the company negotiated a settlement after 10 days. The most noteworthy strike was the September 6 walkout by dock workers in Suva, in protest of the Port Authority's contracting out of stevedoring at the Lautoka Wharf. Once the authority chairman was replaced by the Government, work resumed. The strike by the Fiji Mine Workers' Union (FMWU) at the Vatukoula gold mine which began in 1991 continued. A rival union, the Mine Workers' Council (MWC), was organized and recognized by both the new management and the Government when it garnered membership from more than half the work force. After considerable legal action and appeals by the FMWU and mine management, the courts decided that the MWC was the valid representative of the workers. The FTUC has decried the MWC as an "in-house" union; fired FMWU members continued to occupy mine company housing.

b. *The Right to Organize and Bargain Collectively.*—The law recognizes the right to organize and bargain collectively. Employers are required to recognize a union if more than half the employees in a workplace have joined it. Recognition is determined by union membership numbers rather than by an election. The Government has the power to order recalcitrant employers to recognize unions and has done so. Key sectors of the economy, including sugar and tourism, are heavily organized. Following the May 1992 elections, the Government lifted wage guidelines and unrestricted collective bargaining on wages is now the norm.

Wage negotiations are conducted on an individual company or enterprise basis rather than on an industrywide basis. A Government proposal to introduce such industry-wide negotiations has been opposed by employers and unions. Union leaders fear that straight market-based wage bargaining would open unacceptably large wage gaps between skilled and unskilled workers. Until 1984 a tripartite forum of employers, unions, and government oversaw labor negotiations. In that year, however, labor withdrew from the forum and it was abolished. The body was restored in June 1993 as the Economic Strategies Committee, but the FTUC has refused to participate.

Antiunion discrimination is specifically prohibited by Fijian law. In practice, the unions are generally successful in preventing discrimination against workers for union activities, but the law does not mandate that such workers be reinstated.

Fiji's export processing zones are subject to the same laws as the rest of the country, and many of their firms have unions which have negotiated collective bargaining agreements.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution specifically prohibits forced labor, and there is no indication that it is practiced.

d. *Minimum Age for Employment of Children.*—Children underage 12 may not be employed in any capacity. "Children" (under age 15) and "young persons" (ages 15 to 17) may not be employed in industry or work with machinery. Enforcement by the Ministry of Labour and Industrial Relations generally is effective, except in the case of family members working on family farms or businesses.

e. *Acceptable Conditions of Work.*—No national minimum wage has been established. Certain sectors have minimum wages set by the Ministry for Labour and Industrial Relations. For example, garment workers' hourly wages are at $0.49 ($F0.72) for learners and $0.62 ($F0.94) for all others. In the tourism sector, the minimum hourly wage starts at $0.91 ($F1.37). Office workers may earn as much as $1.12 ($F1.68) as a starting hourly salary. Skilled heavy machinery operators earn in the range of over $1.49 ($F2.21) per hour. These minimum wages are effectively enforced and generally support a barely adequate standard of living in all sectors except the garment industry, in which the starting wage is based on the assumption that workers are young adults or married women living at home and not supporting a household.

Fiji has no regulation specifying maximum hours of work for adult males. Women are prohibited from night work in factories (other than overtime work in the garment industry) and underground work in mines. Certain industries, notably transportation and shipping, have problems with excessive hours of work. Indo-Fijians, who generally require a cash income to survive, are more vulnerable to pressure to work long hours than ethnic Fijians. Many ethnic Fijians can and do return to a noncash economy way of life in their villages rather than work what they consider to be excessive hours.

Fiji has workplace safety regulations, a Workmen's Compensation Act, and an Accident Compensation Plan. Awards for workers injured on the job are set by a tribunal. Government enforcement of safety standards under the direction of the Labour Ministry suffers from a lack of trained enforcement personnel, but the unions do a reasonable job of monitoring safety standards in organized workplaces. The ILO's November 1992 recommendations cited the need to improve working conditions. Problems are particularly widespread in the garment industry.

INDONESIA

Despite a surface adherence to democratic forms, the Indonesian political system remains strongly authoritarian. President Soeharto, now in his sixth 5-year term, dominates the Government. The President, a small group of advisors, and the military dominate the political, economic, and social life of this heavily populated and disparate nation. The Government requires allegiance to a state ideology, known as "Pancasila", which includes belief in a supreme God, a just and civilized humanity, national unity, democracy, and social justice.

The military justifies its role in political and social issues, including an automatic unelected presence in national and local parliaments, through a "dual function" concept giving it special civic rights and responsibilities in addition to its defense and security roles. The armed forces, including 165,000 police, total about 445,000 and regard their primary role as maintaining internal security. They act quickly to suppress what they regard as threats to security, whether separatist movements, criminal acts, or alleged subversive activity. The validity of this "security approach," which often leads to human rights abuses, was again the subject of open debate in 1993. Security forces continued operations against separatist groups in Aceh, Irian Jaya, and East Timor. The police also continued to use excessive force in apprehending suspected criminals.

In contrast to its restrictive political system, Indonesia has an increasingly deregulated and dynamic economy which has produced significant material gains for a wide segment of Indonesian society. Indonesia nevertheless remains a poor country. Agriculture and extractive industries, especially oil and gas, remained important sectors of the economy. But a broad and expanding manufacturing sector accounted for a growing percentage of exports. Gross domestic product growth for 1993 was expected to be 6.5 percent, and inflation appeared under control. Corruption and influence peddling are endemic and continued to distort the economy.

Although progress was made in a number of human rights areas, serious abuses continued. In East Timor, where largely cosmetic changes in the force structure resulted in minimal reductions in troop presence, no significant progress was noted in the search for the about 60 persons still missing from the November 12, 1991, shooting incident in Dili. Extrajudicial arrests and detention, torture of those in custody, and excessively violent techniques for dealing with suspected criminals or perceived troublemakers continued in many areasof Indonesia. Legal safeguards against arbitrary arrest and detention are frequently ignored. The armed forces continued to be responsible for the most serious human rights abuses. The current military leadership in several specific instances showed a greater willingness to admit misconduct publicly and take action against offenders, although such steps continued to be relatively rare. The judiciary remained largely shackled by the executive branch and military, although progress was made in the area of judicial review. Widespread corruption in the legal system continued to be a serious problem.

The year 1993 saw a bolder and more assertive press, which suffered less official censorship and which was less willing to submit itself to self-censorship; a liberalized public dialog on human rights; the selection late in the year of members for a National Human Rights Commission, although its autonomy remains in question; and a sharp reduction in the number of Indonesians forbidden from traveling abroad. Fewer Indonesians were tried under the harsh and arbitrary antisubversion law, and several long-term convicted subversives were released. The Government maintained its open and humane policies toward Indochinese refugees.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Political or extrajudicial killings occur most often in areas where separatist movements are active and when law enforcement is involved. Punishments for security force members who commit extrajudicial killings seldom correspond to the crimes committed. All police and military personnel tried for killing or mistreating prisoners, or for any other criminal activity, are tried by military courts; the sentences, when imposed, are rarely heavy.

Security forces often employ harsh measures against separatist movements (especially in East Timor, Irian Jaya and Aceh), including extrajudicial killings of civilians. In 1993, however, while occasional clashes were reported between separatist groups and security forces in these areas, confirmed killings of civilians by government or vigilante forces continued to be far lower than in the recent past. The International Committee of the Red Cross (ICRC) judged the situation in Irian Jaya improved to the point where it no longer needed an office in Jayapura and could cover that province adequately from Jakarta. The ICRC is, however, seeking to open an

office in Aceh because it judges the situation there serious enough to warrant a constant presence in the province. While accepting responsibility for the military shooting of civilians in Dili, East Timor, on November 12, 1991, the Government made little progress in accounting for those missing in the incident (see Section 1.b.). The Government has not officially acknowledged or accounted for thousands of civilians killed during military operations against separatist guerrillas in Aceh during 1989–91.

The armed forces made several public pledges in 1993 to reduce by stages the number of troops in East Timor, a move expected to reduce tensions and the incidence of human rights abuses. The first pullout of two battalions was to take place in October, although by early December the status of this pullout was not clear. In April the Special Operational Military Command for East Timor was disbanded and replaced with a command structure similar to that in the other 26 provinces. The composition of troops was reportedly changed to emphasize civic action over combat missions, although civic action troops also carry weapons and conduct patrols. Despite these changes, most sources in East Timor continued to report an oppressive military presence throughout the province.

In law enforcement, excessive force is sometimes employed in apprehending suspects or coping with alleged criminals. In Jakarta, for example, police continued to employ deadly force against suspects who reportedly were fleeing or resisting arrest, killing 13 in January 1993 alone. Human rights monitors estimated between 60 and 70 people had been shot by police in the capital by the end of the year, although exact statistics were not available. In the province of North Sumatra, a policy of shooting criminal subjects in the legs, sometimes repeatedly, continued. Press accounts indicate that through early December police in North Sumatra had shot 74 suspects, 8 fatally, who were allegedly resisting arrest. Human rights groups protested that the methods used are unjustifiably harsh and violate due process. Police have generally asserted that those killed were dangerous criminals, and have denied a repetition of the officially sponsored "mysterious killings" of the mid–1980's directed against criminal elements. In a few instances, official action was initiated against police for using excessive force. Press accounts indicate that five policemen were detained in June in North Sumatra in connection with the death of Syamsul Bahri, who was shot earlier that month while allegedly resisting arrest.

A military court in Medan began hearing testimony in August against a policeman who went to a house where a dispute was under way and shot a suspect in the head when he tried to surrender. The policeman was charged with murder. Authorities declined to reveal the disposition of this case.

Four members of a religious sect were shot dead and a dozen others wounded by police in late July in West Java. The police began shooting after members of the sect attacked two policemen with farm implements, killing one and wounding the other. The policemen were attacked after they approached the sect's compound seeking to arrest two members for a previous assault. The sect and its leader, who was killed in the attack, had rejected contacts with the outside world. Various religious leaders condemned the attack as excessively violent and urged security forces to exercise greater restraint. Several of the sect's survivors were tried and convicted on assault charges and received sentences of between 3 and 12 months.

Four persons, including a 55-year-old woman and a teenage boy, died in September when security forces opened fire on a demonstration in Madura, East Java. The demonstrators were villagers protesting the construction of a dam, who had raised their concerns over the project without success at several meetings with local officials a few days before. Security forces initially reported the crowd, which numbered some 500, had acted in a threatening manner and continued to advance on them, despite several warning shots fired by the troops. Human rights groups decried the use of what they called excessive force and conducted their own investigation, which found no evidence of warning shots and placed the demonstrators at a considerably greater distance from security forces. Armed Forces Commander Feisal Tanjung in mid-October publicly acknowledged a breakdown in military discipline had occurred. He relieved the commanders of the police and army units involved, and remanded the two dozen military and police personnel involved to Armed Forces headquarters for possible further disciplinary action. No criminal proceedings had been initiated against them by year's end.

A 24-year-old labor activist, Marsinah, was murdered in May in East Java shortly after leading a labor action at the factory where she worked. Nine civilian employees of the company were arrested in October in connection with her murder, and trials were begun in November. At least one Army officer was also arrested and a second relieved of his post, although the status of their cases was unclear in early December. Testimony and press stories alleged collusion existed between company

officials and security forces in Marsinah's abduction and murder. Security forces often intrude in labor matters and intimidate labor activists (see Section 6).

b. *Disappearance.*—In general, politically motivated abductions are not common in Indonesia. Security forces in areas with active guerrilla insurgencies often hold suspects for long periods without formal charges, but these cases usually end with official acknowledgement of detention (see Section 1.d.). The Government vigorously prosecuted a case against an official of the Democratic Party of Indonesia, (PDI), the smallest of the three allowed political groupings, who was accused of kidnaping members of a rival party faction in 1991. The trial, however, was widely regarded as an effort to undermine the PDI leadership, and the accused party official was subsequently acquitted. A labor activist was abducted and killed in East Java after leading a strike at the watch factory where she worked (see Section 1.a.).

Government efforts to account for the missing and dead from the November 12, 1991, military shooting of civilians in Dili, East Timor, remained inadequate. In April military officials in East Timor turned over to a representative of Asia Watch a list of 66 names of people they believed were still missing from the incident. Since then, various officials have claimed that a handful of these people have been located alive, having hidden from authorities since the incident. In a related case, authorities claimed that two of four Timorese who sought asylum in the Swedish Embassy in Jakarta in June were among the missing from the Dili incident, although the names of the two Timorese were not on the military's list. Government spokesmen broadly implied that their failure to locate those missing was primarily due to the success of those persons in evading detection. Many knowledgeable observers, however, continued to believe that most of the missing are dead and that the military knows where their bodies are.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture is against the law in Indonesia. In practice, while the situation has improved in recent years, torture and other forms of mistreatment remain widespread, and legal protections are both inadequate and widely ignored. The Criminal Procedures Code (KUHAP) provides that statements from witnesses or suspects must be elicited without pressure of any kind, and establishes pretrial procedures to give suspects or their families the right to challenge the legality of an arrest or detention. The Indonesian Criminal Code (KUHP) makes it a crime punishable by up to 4 years in prison for any official to use violence or force to elicit a confession.

Nonetheless, torture continues, with the highest incidence occurring in cases which are judged to affect national security such as those involving areas of separatist activity. According to the Lawyers Committee for Human Rights, methods of torture include electrocution; slashing with razor blades and knives (including inside of the mouth); beating on the head, shins, and torso with fists, batons, iron bars, bottles, rocks, and lengths of electric cable; sexual molestation and rape; kicking with heavy military boots; burning with lighted cigarettes; threats and deliberate wounding with firearms; immersion for long periods in fetid water; isolation and sleep deprivation. Use of torture is particularly frequent in Aceh. Reliable reports suggest that a majority of Acehnese still held in 1993 in connection with the Aceh Merdeka (Free Aceh) movement had undergone some form of torture at some time during their incarceration. An Acehnese parliamentarian convicted of subversion in July, Haji Usman Mohammed Ali, claimed during his trial he was beaten during his interrogation and forced to sign statements incriminating himself. Several of the witnesses called to testify in the trial of East Timor separatist leader Jose "Xanana" Gusmao were also reliably reported to have been mistreated while in custody.

Police often resort to physical abuses even in minor incidents, and prison conditions are harsh, with violence among prisoners and mistreatment of inmates by guards reportedly common. However, the incidence of mistreatment by prison officials drops sharply once a prisoner has been transferred from police or military custody into the civilian prison system, and prison conditions generally have improved in recent years. Officials have publicly condemned police brutality and harsh prison conditions and occasionally instigate disciplinary action, including transfer, dismissal, and trials leading to prison, but such actions are an exception to the rule of general impunity.

Political prisoners are usually mixed with the general prison population, although in the Cipinang prison in Jakarta high- profile political prisoners are held together in a segregated area. In 1993 the ICRC and several foreign parliamentary delegations were allowed to visit prisoners in Cipinang in Jakarta and described the facility as Spartan but adequate. The ICRC was also granted access to other prisons in Java, Sumatra, East Timor, Aceh, and other provinces, although it suspended prison visits in Aceh and East Timor at various times when it felt authorities were violating agreed-upon terms for the visits. These disagreements were all eventually settled, and the visits resumed.

d. *Arbitrary Arrest, Detention, or Exile.*—The Criminal Procedures Code contains protections against arbitrary arrest and detention which are routinely violated in practice. The code specifies the right of prisoners to notify their families. Warrants must be produced during an arrest except under specified conditions, such as when a suspect is caught in the act of committing a crime. Warrants are issued by police investigators to assist in their investigations or if sufficient evidence exists that a crime has been committed. Despite these requirements, arrests are often made without warrants, such as in the Marsinah murder case in which several suspects were held for 18 days without warrants or notification of their families.

Defendants are presumed innocent and may be granted bail. They or their families may also challenge the legality of their arrest and detention in a pretrial hearing and are entitled to sue for compensation if wrongfully detained. The code also contains specific limits on periods of pretrial detention and specifies when the courts must get involved to approve extensions, usually after 60 days.

In areas where there are active guerrilla movements such as East Timor and Aceh, people are routinely detained without warrants, charges, or court proceedings. Bail is rarely granted, especially in political cases. The authorities frequently interfere with access to defense counsel. Extensions of periods of detention are routinely approved. Pretrial proceedings are rarely initiated. In addition, suspects charged under the 1963 Antisubversion Law are subject to special procedures outside the Criminal Procedures Code which allow, for example, the Attorney General on his own authority to hold a suspect up to a year before trial. This 1-year period is renewable without limit. Special laws on corruption, economic crimes, and narcotics are similarly exempt from the code's protections. The Agency for Coordination of Assistance for the Consolidation of National Security (BAKORSTANAS) operates outside the code and has wide discretion to detain and interrogate persons thought to threaten national security.

National estimates on the number of arbitrary arrests or detentions without trial are not available. In Aceh 73 people accused of being members of Aceh Merdeka were released without charges or trials in 1993 after periods of detention that sometimes exceeded 2 years. Added to those released in 1991 and 1992, some 906 persons had been held, often incommunicado and without knowing the charges against them, in connection with the 1989–91 Aceh insurgency. Many of those released were required to report back to the authorities at regular intervals. Some 100 Acehnese were believed to be awaiting trial at year's end.

In East Timor military authorities continued the practice of detaining people without charges for short periods and then requiring them to report daily or weekly to police after their release. There were credible reports of scores of people being detained without charges at various times during the year for enforced "civics training" in areas outside the capital of Dili. This particularly occurred during the visits of high profile guests, such as the April visit to East Timor of the U.N. Secretary General's Special Envoy, Amos Wako, and the August-September visits of two U.S. Congressional staff delegations. Two former leaders of the armed East Timor resistance, Jose "Mauhudu" da Costa and Antonio Gomes "Mauhunu" da Costa, remained under tight military control in 1993 although charges had not been formally filed against either man. Mauhudu was arrested in January 1992 and Mauhunu in April 1993. They were in East Timor in August-September 1993 making speeches on the merits of integration with Indonesia. Despite public announcements that they had been granted an "amnesty" and were therefore "free," they were required to spend each night at the home of military officers.

e. *Denial of Fair Public Trial.*—The judiciary is subordinate to the executive and the military, and procedural protections, including those against coerced confessions, are inadequate to ensure a fair trial in many cases. A quadripartite judiciary of general, religious, military, and administrative courts exists below the Supreme Court. The right of appeal from district court to high court to Supreme Court exists in all four systems of justice. The Supreme Court, with a current backlog variously estimated at 13,000 to 17,000 cases, does not consider factual aspects of a case, only the lower courts' application of law. Initial judgments are rarely reversed in the appeals process, although sentences are sometimes increased or reduced. A three-judge panel conducts trials at the district court level, poses questions, hears evidence, decides guilt or innocence, and assesses punishment.

Defendants have the right to confront witnesses. An exception is allowed in cases where distance or expense is deemed excessive for transporting witnesses to court, in which case sworn affidavits may be introduced. In cases tried under the 1963 Antisubversion Law, trials in absentia are permitted, and an Acehnese accused of separatist activities, Dharma Bakti, was condemned to death in absentia April 6.

The use in trials of forced confessions and limitations on the presentation of defense evidence is common. The defense in the subversion trial of Haji Usman Mo-

hammed Ali, for example, claimed that witnesses it tried to call were too afraid of retribution by the authorities to testify on his behalf. The defense attorneys in the case of two students tried in Semarang, Central Java, noted that while the prosecution called 15 witnesses, a defense motion to call 8 was rejected by the judges, who said they had the right to be selective in who could testify. One defense witness was eventually allowed. Defendants do not have the right to remain silent and in several cases in 1993 were compelled to testify in their own trials.

The Criminal Procedures Code gives defendants the right to an attorney from the moment of their arrest through the investigation and trial. In capital cases and those involving a prison sentence of 15 years or more, a lawyer must be appointed. In cases involving potential sentences of 5 years or more, a lawyer must be appointed if the accused desires an attorney but is indigent. Destitute defendants can obtain private legal help, such as that provided by the Legal Aid Institute (LBH). In practice, however, defendants are often persuaded not to hire an attorney, or access to an attorney of their choice is impeded. East Timor separatist leader Jose "Xanana" Gusmao, for example, stated in his final defense statement that his efforts to engage an attorney from LBH were thwarted by authorities, who "forced" him to hire an attorney known to the police. In the trial of Haji Usman Mohammed Ali, the defendant did not meet his Legal Aid Institute attorney until the day his trial began.

The judiciary is not independent. The Supreme Court does not have the right of judicial review over laws passed by Parliament. Although the Supreme Court has since 1985 had the power to review ministerial decrees and regulations, the court has not yet used this power. Chief Justice Purwoto Gandasubrata in early 1993 laid out procedures under which limited judicial review cases could be brought to the court, a move that was hailed as a significant step toward greater judicial independence. While judges receive guidance from the Supreme Court on legal matters, they are civil servants employed by the executive branch which controls their assignments, pay, and promotion. They are subject to considerable pressure from military and other governmental authorities. Such control often determines the outcome of a case. The Chief Judge of the State Administrative Court in Medan, for example, issued a restraining order in January 1993 against the military commander in Medan after the commander intervened in the leadership struggle of the Batak Protestant Church (HKBP) (see Section 2.c.). The commander publicly criticized the judge, whose home was vandalized shortly after he handed down his decision. A few days later the judge was suddenly told he had been assigned to attend a 2-week legal workshop far from Medan. While he was gone, his deputy took over the case and vacated the restraining order.

Corruption permeates the Indonesian legal system. In civil and criminal cases, the payment of bribes can influence prosecution, conviction, and sentencing. Public unrest concerning the implementation of a new traffic law with stiffer fines was partly driven by fears that police, many of whom are poorly paid, would be even more aggressive in demanding bribes from motorists. Various public officials have campaigned against corruption by police and judicial officials, but public respect for the legal system remained low.

The 1963 Antisubversion Law, which carries a maximum penalty of death, remained a focus of legal concerns in 1993, although the number of cases prosecuted under the law dropped sharply. The law makes it a crime to engage in acts that could distort, undermine, or deviate from the state ideology or broad outlines of state policy, or which could disseminate feelings of hostility or arouse hostility, disturbances, or anxiety among the population. It has been attacked as excessively vague and harsh, and inappropriate to Indonesia's current level of stability and development. While the law continued to be defended by public officials such as the Attorney General, the Government showed greater discretion in its application. For example, Fretilin leader Jose "Xanana" Gusmao was charged under felony statutes of the criminal code rather than under the Antisubversion Law. Sentences in several of at least eight subversion trials held in 1993—six of them in connection with Aceh Merdeka—were far lighter than in the past.

The most prominent political trial of 1993 was that of East Timor resistance leader Jose "Xanana" Gusmao, who was charged under felony statutes with attacking the Indonesian State, leading a rebellion, and illegal possession of firearms for his role in leading the armed East Timorese resistance. Authorities allowed access to his trial in Dili by a wide range of observers, including diplomatic missions, foreign and Indonesian journalists, and foreign human rights organizations such as the International Commission of Jurists and Asia Watch. Although Gusmao may not have freely chosen his defense attorney (see above), he was represented by an able group of lawyers who conducted a vigorous defense and had frequent access to their client. Nonetheless, the trial's conduct appeared to violate several provisions of the

Criminal Procedures Code and to many observers did not meet international standards for a fair trial. For example, many of the witnesses who testified against him were themselves in custody, and their testimony was either hearsay or possibly coerced. Gusmao was prevented from reading aloud his own defense statement on the grounds it was irrelevant to the charges against him, even though the Criminal Procedures Code places no such limits on the contents of a defendant's final statement. Access to the trial by outside observers was briefly restricted toward its end when Gusmao became less cooperative. Gusmao was found guilty and sentenced to life in prison. He subsequently asked for and was granted Presidential clemency, which reduced his sentence to 20 years. On August 12, he was transferred at his request from Dili, East Timor. At year's end he was in Cipinang prison in Jakarta.

The Government does not make available statistics on the number of people currently serving subversion sentences or sentences under the felony hate-sowing or sedition laws. Informed estimates of the number of people serving sentences for subversion in 1993, including members of the banned Communist Party of Indonesia (PKI), Muslim extremists, and those convicted of subversion in Irian Jaya, Aceh, and East Timor were about 300. Scores, and possibly hundreds, more were believed to be serving sentences under felony hate-sowing or sedition laws. At least some of these persons advocated or employed violence, but many are political prisoners who were convicted for attempting to exercise such universally recognized human rights as freedom of speech or association or who were convicted in manifestly unfair trials. Several persons convicted of subversion were granted early releases in August and September, including Islamic preacher A.M. Fatwa, who was convicted and sentenced to 18 years in 1985 for allegedly instigating the 1984 riot in Tanjung Priok.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Judicial warrants for searches are required except for cases involving suspected subversion, economic crimes, and corruption. However, forced or surreptitious entry by security agencies occurs regularly. Security agelcies intimidate by conducting surveillance of persons and residences and selectively monitoring local and international telephone calls without legal restraint. Government security officials monitor the movements and activities of former members of the PKI and its front organizations, especially persons the Government believes were involved in the abortive 1965 Communist-backed coup. The Government stated in late 1990 that this latter group then totaled 1,410,333 people. These persons and their relatives sometimes are subject to surveillance, required check-ins, periodic indoctrination, and restrictions on travel outside their city of residence. Their legally required identification cards carry the initials "e.t." which stand for "ex-tapol," or former political prisoner, which readily identifies them to prospective employers or government officials. For the first time, various groups in 1993 made public pleas to end these official and unofficial restrictions on former political prisoners.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—A significant increase in the amount and quality of public debate on sensitive issues occurred in 1993. Think tanks, newspapers, and academic institutions mounted seminars on a wide range of previously taboo topics such as human rights and democracy. The printed media in particular published factual stories and editorials reflecting a wide range of opinions, many of them critical of the Government. These improvements in the print media, including the nation's 273 daily newspapers which are largely privately owned, came despite continued government controls over publishing permits, the amount of advertising permitted, and the number of pages allowed in newspapers. While the practice of telephoning editors to caution against publishing certain stories continued—the so-called telephone culture—its incidence was sharply lower. Self-censorship, however, continued to be a publicly acknowledged brake on free expression. Military authorities continued in some cases to issue orders to local journalists on what they could print. Journalists in East Timor, for example, were instructed in March not to report details of an outburst in favor of East Timorese independence by a witness in the trial of resistance leader Jose "Xanana" Gusmao. Also in March, Medan newspapers were told they needed prior military approval to report on developments in the Batak Protestant Church leadership struggle (see Section 2.c.).

While public dialog was generally more open, the Government still imposed excessive restrictions on free speech. For example, in contrast to a generally more permissive attitude toward public demonstrations, police reacted harshly in breaking up a peaceful demonstration on December 14 at the Parliament, arresting 21 people and injuring more than a dozen in the process. The 21 were charged with hate sowing and insulting the President and were still in custody at year's end. Two students arrested prior to the June 1992 parliamentary elections for criticizing the election process and advocating the casting of blank ballots or staying away from the polls

were brought to trial in Semarang on charges of insulting and sowing hatred against the Government (see Section 1.e.). The distribution of a September edition of the Far Eastern Economic Review that carried a story about the trial was delayed nearly 2 weeks. The students were found guilty in November and sentenced to 4 months in prison.

Human rights monitor Adnan Buyung Nasution was blocked by university authorities from addressing a seminar in early December at the University of Indonesia, as was the outspoken poet W.S. Rendra. A prominent Muslim intellectual, Arief Budiman, was barred from appearing in June at a conference on the disabled in Surakarta, Central Java, and a well-known poet, Emha Ainun Najib, was banned by authorities from performing in the same city in May, ostensibly because they posed threats to security.

The electronic media remained far more cautious than the printed media. The Government operates the nationwide television network, which in Jakarta and Surabaya includes a second channel. Private and educational television companies broadcasting in Jakarta and Surabaya continued to expand to other areas. Some 586 private radio broadcasting companies exist in Indonesia in addition to the Government's national radio network. New regulations were promulgated in 1993 that will allow private radio stations greater latitude in producing their own news programs.

Foreign television and radio broadcasts are readily accessible to those who can afford the technology, and satellite dishes have sprouted all over the archipelago. No efforts are made to restrict access to this programming.

The Government closely regulates access to Indonesia, particularly to certain areas of the country, by visiting and resident foreign correspondents, and occasionally reminds the latter of its prerogative to deny requests for visa extensions. Foreign journalists, for example, were unable to get permission to visit East Timor prior to the February start of the trial of resistance leader Jose "Xanana" Gusmao, and several requests were denied after the trial ended in May. The importation of foreign publications and video tapes, which must be reviewed by government censors, requires a permit. Importers sometimes avoid foreign materials critical of the Government or dealing with topics considered sensitive, such as human rights. Foreign publications are normally available, although several issues were delayed or embargoed in 1993 when they carried sensitive stories, especially those dealing with the business activities of the President's family.

While academic freedom is provided for in law, constraints exist on the activities of scholars. They sometimes refrain from producing materials that they believe might provoke government displeasure. Publishers are sometimes unwilling to accept manuscripts dealing with controversial issues, although a number of books on controversial topics were published in 1993, such as human rights activist Adnan Buyung Nasution's revisionist look at Indonesia's early experiment with representative democracy. The Attorney General banned at least seven books in 1993, most dealing with religious topics.

b. *Freedom of Peaceful Assembly and Association.*—Freedom of assembly and association are recognized by the Constitution. Nonetheless, significant controls are placed on citizens who attempt to exercise this freedom. All organizations must have government permission to hold regional and national meetings. Local jurisdictions often require prior approval for smaller gatherings as well. While obtaining such approval is fairly automatic, the authorities occasionally withhold permission. The Government did not permit the Indonesian Workers Welfare Union (SBSI) to hold its July 29 annual congress (see Section 6.a.). On August 12, Surabaya police refused a permit for the Surabaya Arts Council to open an art exhibit and poetry reading celebrating the life and memory of a murdered labor activist (see Section 1.a.). Student gatherings have often been the target of disapprovals, and political activity at universities, while no longer formally banned, remained tightly controlled.

The 1985 Social Organizations Law (ORMAS) requires all organizations, including recognized religions and associations, to adhere to the Government's official ideology of Pancasila. This provision, which limits political activity, is widely understood as being designed to inhibit activities of groups which seek to make Indonesia an Islamic state. The law empowers the Government to disband any organization it believes to be acting against Pancasila and requires prior government approval for any organization's acceptance of funds from foreign donors, hindering the work of many local humanitarian organizations.

c. *Freedom of Religion.*—The Constitution provides for religious freedom and belief in one supreme God. The Government recognizes Islam, Christianity, Buddhism, and Hinduism, and permits practice of the mystical, traditional beliefs of "Aliran Kepercayaan." Although the population is overwhelmingly Muslim, the practice and

teachings of the other recognized faiths are generally respected. Various restrictions on certain types of religious activity exist.

According to official statistics, nearly 400 "misleading religious cults" are banned, including Jehovah's Witnesses and Baha'i. West Java authorities banned an Islamic sect in late July after a violent confrontation with police that left five dead (see Section 1.a.). Because the first tenet of Pancasila is belief in a supreme being, atheism is forbidden. The legal requirement to adhere to Pancasila extends to all religious and secular organizations. The Government strongly opposes Muslim groups which advocate establishing an Islamic state or acknowledging only Islamic law.

In December 1992, the Northern Sumatra regional military commander intervened in an internal leadership dispute within the Huria Kristen Batak Protestan (HKBP), Indonesia's largest Protestant church. Citing the failure of church members to agree on a new bishop at a church conference the month before and the possibility that the church dispute could affect public order, the military commander named an interim bishop to replace the incumbent, whose 5-year term was due to end in February 1993. Although the Government stated the military became involved only after a request from the church's Central Leadership Council, past criticism of the Government by the former bishop may have been a factor. The military intervention sparked demonstrations in several cities, and some 150 church members were detained in January. On several occasions security forces assisted supporters of the new leadership to take control of church buildings by force. Tensions reached a peak in May when some 70 people were detained in Tebing Tinggi, North Sumatra, following outbreaks of violence between church members. Most were released, but trials were expected for the dozen or so still in custody.

There is no legal bar to conversion between faiths, and conversions occur. However, proselytizing by the recognized religions or in areas heavily dominated by one recognized religion or another is considered potentially disruptive and is discouraged. Foreign missionary activities are relatively unimpeded, although in East Timor and occasionally elsewhere missionaries have experienced difficulties in renewing residence permits on unspecified "security grounds." Laws and decrees from the 1970's limit the number of years foreign missionaries can spend in Indonesia, with some extensions granted in remote areas like Irian Jaya. Foreign missionary work is subject to the funding stipulations of the ORMAS Law (see Section 2.b.).

Indonesians practicing the recognized religions maintain active links with coreligionists inside and outside Indonesia and travel abroad for religious gatherings. The Government organizes the annual hajj pilgrimage, and more than 100,000 Indonesians made it in 1993.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Through the early part of 1993 the Government drastically reduced the number of people barred either from entering or departing Indonesia. From a publicly announced figure of 8,897 "blacklisted" people in January, the total fell to a few hundred by August. Several prominent human rights figures, including Haji J.C. Princen, Adnan Buyung Nasution, and General Abdul Haris Nasution were permitted to travel abroad, and military spokesmen said no one was banned any longer from foreign travel for political reasons. Seven East Timorese who had unsuccessfully sought asylum at two Western embassies in June were allowed to leave the country under ICRC auspices in late December. At the same time the authorities banned foreign travel by some 300 Indonesians who had defaulted on loans to state banks. A 1992 law designed to regularize travel restrictions appeared responsible for the overall reduction in the number of blacklisted persons, although not all its provisions were implemented, especially the requirement to notify banned travelers in writing and review existing cases every 6 months.

Restrictions exist on movement by Indonesian and foreign citizens to and within parts of Indonesia. Permits to seek work in a new location are required in certain areas, primarily to control further population movement to crowded cities. Special permits are required to visit certain parts of Irian Jaya. Security checks affecting transportation and travel to and within East Timor occurred sporadically in 1993, and curfews in connection with military operations were occasionally imposed. Former political detainees, including those associated with the abortive 1965 coup, must notify authorities of their movements and may not change their place of residence without official permission (see Section 1.f.).

Indonesia continued its generous attitude toward Indochinese asylum seekers in 1993 and continued to carry out its responsibilities under the Comprehensive Plan of Action. It has granted first asylum to over 145,000 Indochinese asylum seekers since 1975 and continued to operate a refugee facility on Galang Island. Screening of all asylum seekers was completed in September, and plans were being made to repatriate some 8,000 asylum seekers and resettle some 2,000 refugees. The Government stressed that these movements must be handled humanely and in cooperation

with international organizations such as the U.N. High Commissioner for Refugees (UNHCR). Indonesia also continued its cooperation with the UNHCR and the ICRC regarding the return of residents of Irian Jaya who had fled to Papua New Guinea during separatist violence in the eastern portion of the province. Acehnese who fled to Malaysia during the height of separatist violence in 1990–91 continued to return to Aceh. Others continued to seek asylum in Malaysia, including a group who entered the UNHCR compound in Kuala Lumpur in 1992 claiming their lives would be threatened if they returned to Indonesia.

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

Citizens do not have the ability to change their government through democratic means. Under the Constitution, the highest authority of the state is the 1,000-member People's Consultative Assembly (MPR). It meets quinquennially to elect the President and Vice President and set the broad outlines of state policy. Half of its members come from the national Parliament, 80 percent of whose members are elected. The other half are appointed, giving the Government control of the MPR and selection of the President. In March the MPR elected Soeharto to his sixth uncontested 5-year term as President. While in theory, the President is subordinate to the Assembly, in fact, he and a small group of active duty and retired military officers and civilian officials exercise governmental authority.

The military, under a "dual function" doctrine, is assigned a role in both security and sociopolitical affairs. Members of the military are allotted 20 percent of the seats in national, provincial, and district parliaments, and occupy numerous key positions in the administration. The other 80 percent of national and local parliamentary seats are filled through elections held every 5 years. All adult citizens are eligible to vote, except active duty members of the armed forces, convicted criminals serving prison sentences, and some 36,000 former PKI members. Voters choose by secret ballot between the three government-approved political organizations, which field candidate lists in each electoral district. Those lists must be screened by the Agency for Coordination of Assistance for the Consolidation of National Security (BAKORSTANAS) (see Section 1.d.), which determines whether candidates were involved in the abortive 1965 Communist coup or pose other broadly defined security risks. Critics charge these screenings are unconstitutional, since there is no way to appeal the results, and note that they can be used to eliminate critics of the Government from Parliament.

Strict rules establish the length of the political campaign, access to electronic media, schedules for public appearances, and the political symbols that can be used. GOLKAR, a government-sponsored organization of diverse functional groups, won 68 percent of the seats in the 1992 elections. Two small political parties, the United Development Party and the Democratic Party of Indonesia (PDI), split the remaining vote. By law all three political organizations must embrace Pancasila, and none is considered an opposition party. The leaders of all these organizations are approved, if not chosen, by the Government, and their activities are closely scrutinized and often guided by government authorities. The Government disrupted the July national congress of the PDI in Medan and refused to ratify its reelection of Soerjadi as general chairman, helping instead to form an alternate "caretaker" council to elect a general chairman. In December the Government finally succumbed to popular pressure within the PDI and allowed Megawati Sukarnoputri, the daughter of Indonesia's first president, to become the PDI's top officer.

GOLKAR maintains close institutional links with the armed forces and KORPRI, the nonunion association to which all civil servants automatically belong. Civil servants may join any of the political parties with official permission, but most are members of GOLKAR. Former members of the PKI and some other banned parties may not run for office or be active politically. The 500 members of the national Parliament (DPR) consider bills presented to them by government departments and agencies but do not draft laws on their own, although they have the constitutional right to do so. The DPR makes technical and occasionally substantive alterations to bills it reviews. It remains clearly subordinate to the executive branch.

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

The Government generally ignores calls by domestic human rights groups and activists for investigations of alleged human rights incidents, although the armed forces did conduct its own review of the September Madura incident which resulted in disciplinary action against four officers. While various domestic organizations and persons interested in human rights operate energetically, some human rights monitors face government harassment such as frequent visits by police or agents from

military intelligence, interrogations at police stations, or cancellations of private meetings (see Section 2.b.). The Government considers outside investigations of alleged human rights violations to be interference in its internal affairs and emphasizes its belief that linking foreign assistance to human rights observance is unacceptable.

Nonetheless, the Government in 1993 showed itself far more receptive to international human rights groups and concerns. It hosted, along with the United Nations, an Asia-Pacific workshop on human rights in January, and allowed a representative of Amnesty International (AI) to attend, the first time in 15 years that AI was officially allowed to enter Indonesia. A representative of Asia Watch was allowed to visit Jakarta and East Timor during the trial of Jose "Xanana" Gusmao and was given wide access to government and nongovernmental organization (NGO) officials. Three different representatives of the International Commission of Jurists were also allowed to attend Gusmao's trial. The ICRC continued to operate in East Timor, Irian Jaya, and Aceh, and to visit prisoners convicted of participation in the abortive, Communist-backed coup in 1965 as well as convicted Muslim extremists. Although the ICRC experienced problems in conducting prison visits in May in Aceh and in May and June in East Timor, the problems were resolved for the time being.

A special envoy of the U.N. Secretary General, Amos Wako, was allowed to visit Jakarta and East Timor in April, and other U.N. officials attended sessions of Gusmao's trial. Indonesia was a vigorous participant in the June World Conference on Human Rights in Vienna and joined the consensus on the concept of the universality of human rights. Just prior to the conference, the Government announced the formation of a National Human Rights Commission headed by former Supreme Court Chief Justice Ali Said. The names of the other commission members were announced in December. Although skepticism existed about the commission's independence from the Government, and virtually all the private human rights monitors who had been asked to join refused, many of those appointed were viewed by human rights activists as credible spokesmen for human rights and democracy.

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

Women.—Although President Soeharto and other officials periodically affirm that women are equal to and have the same rights, obligations, and opportunities as men under Indonesian law, this is only partly true. Women often find it more difficult to exercise their legal rights. For example, in divorce cases women often bear a heavier evidentiary burden than men, especially in the Islamic-based family court system. Although some Indonesian women enjoy a high degree of economic and social freedom and occupy important midlevel positions in the civil service, educational institutions, labor organizations, the military, the professions, and private business, the overwhelming number of Indonesian women do not experience such social and economic freedoms.

Although women constitute one-quarter of the civil service, they occupy only a small fraction of the service's top posts. They make up about 40 percent of the overall work force, with the majority in the rural sector. Despite legal guarantees of equal treatment, women seldom receive equal pay for equal work and disproportionately experience illiteracy, poor health, and inadequate nutrition. There is a common belief that women will work for a lower wage, will do work a man would not do, and will not complain. Women are often not given the extra salary that is their due when they are the head of household. Women workers also have complained of being sexually victimized by foremen and factory owners. Although several voluntary, private groups work actively to advance women's legal, economic, social, and political rights and claim some success in gaining official cognizance of women's concerns, traditional attitudes which limit women's aspirations, activities, and status undercut state policy in some areas.

The Indonesian National Police reported 1,341 rape cases for 1991 and 1,356 cases for 1992. However, women's rights activists believe rape is grossly underreported in Indonesia, shame being one of the primary reasons. Some legal experts state that if a women does not go immediately to the hospital for a physical exam which produces semen or other physical evidence of rape, she will not be able to bring charges. Anecdotal evidence also suggests some women fail to report rape to police out of fear of being molested again by the police themselves.

A common belief, even among women of the upper classes, is that women who walk alone at night will be perceived as "fair game." Many women go to great lengths to avoid being in public alone in the evenings. The danger inherent in returning home alone in the evenings is acknowledged by government regulations requiring employers to provide transportation for women workers who are required, through either overtime work or shift work, to return home at night. However, this

regulation is often honored only in the breach, as are provisions granting women maternity and menstrual leave.

The Government has acknowledged the problem of domestic violence in Indonesian society, which some say has been aggravated by recent social changes brought about by rapid urbanization. However, longstanding traditional beliefs that the husband may "teach" or "control" the wife through several means, including violence, also contribute to the problem. The Government provides some counseling, and several private organizations exist to assist women. Many of these organizations focus mainly on reuniting the family rather than on providing protection to the women involved. There are no battered women's shelters in Indonesia. Many women rely on extended family systems for shelter during cooling-off periods. In general, the problem of violence against women remains poorly documented.

Female genital mutilation, which is widely condemned by health experts as both physically and psychologically dangerous to women's health, is widely practiced in Indonesia. In Java it usually occurs within the first year after birth and is performed either at a hospital or by a local shaman or dukun, especially in rural areas. Usually a small section of the tip of the clitoris is cut. Total removal of the clitoris is not the objective of the practice, although it does occur if ineptly performed.

Children.—Indonesia is a signatory of the Convention on the Rights of the Child and was on the organizing committee of the World Summit for Children. The United Nations Children's Fund (UNICEF) and NGO's active in child welfare are also active in Indonesia, and UNICEF in particular has praised government efforts to improve the lives of children through poverty alleviation and improvements in primary education, maternity services, and family planning. Law No. 4 of 1979 on children's welfare guarantees certain rights to children and defines the responsibility of the State and parents to nurture and protect them. Implementing regulations have never been developed, however, and the law's provisions have yet to go into effect.

Although child sexual and other physical abuse is known to occur in Indonesia, especially cases of incest between stepfathers and stepdaughters, some experts in child care believe its incidence in Indonesia is relatively low. Laws exist which protect children from indecent activities, prostitution, and incest, although the Government has made no special enforcement efforts in these areas.

Indigenous People.—The Government recognizes several indigenous population groups in Indonesia, based largely on criteria relating to isolation. The Government recognizes these groups' rights to participate fully in Indonesian political and social life; considerable efforts, for example, were made to insure that isolated groups participated in the 1992 elections. It is widely believed, however, that the Government's approach is basically paternalistic and designed more to bring these groups into the Indonesian family than to protect traditional ways of life. Where indigenous groups clash with development schemes, the developers almost always win. Concerns have also been raised about the Government's transmigration programs, which frequently disrupt the social and economic life in the recipient communities when transmigrants are relocated from populous Java to less populated outer islands.

National/Racial/Ethnic Minorities.—Indonesians exhibit considerable racial and ethnic tolerance, with the important exception of official and informal discrimination against ethnic Chinese, who comprise about 3 percent of the population. Since 1959 noncitizen ethnic Chinese have been denied the right to run businesses in rural Indonesia. Regulations prohibit the operation of all Chinese schools for ethnic Chinese, formation of exclusively Chinese cultural groups or trade associations, and public display of Chinese characters. Chinese-language publications, with the exception of one officially sanctioned daily newspaper, may neither be imported nor produced domestically. Private instruction in Chinese is discouraged but takes place to a limited extent. State universities have no formal quotas that limit the number of ethnic Chinese. No laws prohibit speaking Chinese, but the Government lays heavy stress on the learning and use of the national language, Bahasa Indonesia. Ethnic Chinese were forbidden in 1993 to celebrate the Chinese new year in temples or public places. Despite these limitations, many people of Chinese ancestry have been successful in business and the professions, and the enforcement of restrictions is often haphazard. Some ethnic Chinese have enjoyed particular government favor. Social and religious groups exist which are, in effect, all Chinese and not proscribed. Chinese is spoken in businesses and by the public at entertainment events.

People with Disabilities.—The disabled in Indonesia do not receive special programs or attention, and no national law specifically addresses their status. Virtually no public buildings or public means of transport are designed specifically for access by the handicapped, and the handicapped face considerable discrimination in employment and education. The press, for example, reported in 1993 the case of a university student confined to a wheelchair who was told in the fourth year of a 5-year biology degree that she would not be permitted to complete her course of study be-

cause university rules forbade the admission of handicapped students in her department. Public outcry and debate of the issue was significant; she was permitted to obtain her degree, and issues of the handicapped received considerable public discussion. A 1992 traffic law implemented in 1993 notes specifically the right of the handicapped to special transportation services such as specifically designed tools and facilities, special regulations for obtaining drivers' licenses, and appropriate vehicles.

Section 6. Worker Rights

a. *The Right of Association.*—Private sector workers, including those in export processing zones, are free to form worker organizations without prior authorization. However, only a union can bargain on behalf of employees or represent workers in the Department of Manpower's labor courts. Private sector firms without unions are required to issue company regulations covering terms of employment. Workers are supposed to be consulted prior to the issuance of these regulations. Department of Manpower approval is also required for company regulations (see Section 6.b.).

In order to be recognized as a union, a workers' organization must register as a social organization with the Department of Home Affairs under the ORMAS Law (see Section 2.b.) and meet the requirements for recognition by the Department of Manpower, namely: union offices in at least 5 of the country's 27 provinces, branch offices in at least 25 districts, and 100 plant-level units. If, because the industry or type of work is localized, with the result that a union is confined to only a few locations, e.g. mining, the union needs 10,000 members for registration purposes. These requirements were introduced by Ministerial Regulation per–03/men/1993, signed by the Minister of Manpower in February 1993.

While the current recognition requirements are lower than those specified previously, they still constitute a significant barrier to recognition and the right to engage in collective bargaining. In addition, Ministerial Regulation per–03/men/1993 requires that a union be set up "by and for workers" (Article 1.a.). The Ministry of Manpower interprets this clause to deny recognition to groups in which what it considers nonworkers, such as lawyers or human rights activists, are involved as organizers.

In September 1993, the Serikat Pekerja Seluruh Indonesia (SPSI, All Indonesian Workers Union), the only recognized union, began a transformation from a unitary (centralized) to a federative (decentralized) structure. As of October 1993, 12 of its 13 industrial sectors were registered as independent unions. This change was made possible by regulations, kep–438/men/1992, signed by the Minister of Manpower in October 1992, and per–03/men/1993 of February 1993. The former removed the requirement that a (plant-level) union be a component of the SPSI while the latter lowered the requirements for (nationwide) union recognition. However, to become final, the SPSI's constitution must be altered. This can only be done at a SPSI congress; the next one is scheduled for 1995, or a special congress could be convened before then.

As of September, the SPSI had 11,184 units out of roughly 26,000 organizable work sites. It claims a membership of about 1.9 million dues-paying members, about 2.5 percent of the total work force. However, if agricultural workers and others in categories such as self-employed and family workers who are not normally union members are excluded, the percentage of union members rises to approximately 6 percent.

There is, de facto, a single union system, and it is the Government's stated policy to seek to improve effectiveness of the recognized SPSI unions rather than ease the process for the formation of alternative organizations. The only unions recognized by the Department of Manpower are those which previously constituted the SPSI's industrial sectors. The Minister of Manpower has stated that any unions which form in the future should affiliate with the SPSI federation and that the Government will not recognize any unions outside the federation.

The Government has indicated that it is looking at the possibility of permitting nonunion plant-level worker associations to conclude legally binding labor agreements with employers.

Two other labor groups, Setia Kawan (Solidarity), also known as Serikat Buruh Merdeka (SMB, Free Trade Union), and Serikat Buruh Sejahtera Indonesia (SBSI, Indonesian Workers Welfare Union), have been organized but are not registered. In existence for 2 years, Setia Kawan is essentially moribund while the SBSI, created in 1992, continues to attempt to form the necessary number of factory-level units to meet the requirements of the new registration regulation. The SBSI has twice attempted to register with the Department of Home Affairs as a social organization, on October 28, 1992, and August 10, 1993. In the first instance no action was taken on its application, and in the second an official of the Department of Home Affairs

refused to accept the SBSI's documentation. Registration under the ORMAS Law is required for all organizations in order to function legally (see Section 2.b.). Although the ORMAS Law does not specify any requirement for approval from other government bodies, a spokesman for the Department of Home Affairs stated his department could not accept the SBSI's registration without a positive recommendation from the Department of Manpower. In line with its policy that only unions organized "by and for workers" can be recognized, the Department of Manpower has refused to recommend the registration of the SBSI as a social organization under the ORMAS Law on the grounds that its founders were not workers but human rights activists and lawyers. According to the SBSI, only two members of its executive board are lawyers, and the rest are workers. Government officials have said that if the SBSI reconstitutes itself as an NGO, it would be registered under the ORMAS Law. The SBSI, however, has refused to accept this offer.

Until October 1992, when it was replaced by Ministerial Regulation kep–438/men/1992, Minister of Manpower Decision 1109/men/1986 defined the procedures for establishing an SPSI factory unit. This regulation enjoined workers to consult with the employer during the process of setting up an SPSI branch. In practice this often meant obtaining the employer's consent for the establishment of a unit. While this regulation was in effect, there were numerous reports that employers would agree to the organization of SPSI units only if they were allowed to select the units' officials. Employers justified this action under the terms of Ministerial Decision 1109 which also specified the requirements for union officials including "high educational background" and possession of "certain qualities: reliable, highly disciplined . . . ." Employers argued that they were in the best position to know which employees possessed those characteristics. Because of this, many current SPSI factory units are led by individuals selected by employers and who have little credibility with their units' members. The new regulation states that employees must only notify their employer that they wish to form a union and that they may proceed if they do not receive a response from their employer within 2 weeks. Despite this new provision, strikes continue to occur because employers attempt to prevent the formation of union branches. These strikes are invariably successful and the formation of an SPSI unit follows shortly thereafter.

Civil servants are not permitted to join unions and must belong to KORPRI, a nonunion association whose central development council is chaired by the Minister of Home Affairs. Teachers must belong to the Teachers' Association (PGRI). While technically classed as a union (its status was changed from association similar to KORPRI in April 1990), PGRI has continued to function more as a welfare organization and does not appear to have engaged in trade union activities. State enterprise employees, defined to include those working in enterprises in which the state has a 5-percent holding or greater, usually are required to join KORPRI, but a small number of state enterprises have SPSI units.

Unions may draw up their own constitutions and rules and elect their representatives. However, the Government has a great deal of influence over the SPSI and its federated unions. The head of the SPSI is a senior member of GOLKAR, and he and two other senior SPSI officials are members of Parliament representing GOLKAR. With one exception, all members of the executive council are members of GOLKAR. These persons have been given positions in the new federated industrial sector unions. The Minister of Manpower is a member of the SPSI's Consultative Council. Numerous regional officials also are GOLKAR members, sometimes serving in regional legislatures. According to credible reports, the Government interferes in the selection of SPSI officers, especially by placing retired military officers in mid-level SPSI positions. The Government has stated that it intends to cease the practice of placing military officers in union positions and eventually to remove the officials with significant GOLKAR connections.

Under the Criminal Code, police approval is needed for all meetings of five people or more of all organizations outside offices or normal work sites. This provision also applies to union meetings. Permission is routinely given to the SPSI. In October 1992, police and the military halted an SBSI meeting, for which a permit had not been requested, and briefly detained its organizers for questioning. On June 19, police halted a seminar on freedom of association being held in the SBSI's offices while an International Labor Organization (ILO) official was present. In July the police and military prevented the SBSI from holding its first congress because the Government had not granted the union's request for a permit for the meeting. A union may be dissolved if the Government believes it is acting against Pancasila, but there are no laws or regulations specifying procedures for union dissolution. There have been no actual cases of dissolution.

The SPSI maintains international contacts but is not affiliated with any international trade union organizations except the Association of Southeast Asian Na-

tions (ASEAN) Trade Union Council. Some elements of the SPSI, now registered as industrial sector unions, maintain links with international trade union secretariats. The SPSI still has its application pending for membership with the International Confederation of Free Trade Unions.

While Pancasila principles call for labor-management differences to be settled by consensus, all organized workers, with the exception of civil servants, have the right to strike. However, state enterprise employees and teacher rarely exercise this right. Before a strike can occur in the private sector, the law requires intensive mediation by the Department of Manpower and prior notice of the intent to strike. However, no approval is required.

In practice, dispute settlement procedures are not followed fully, and formal notice of the intent to strike is rarely given. The Department of Manpower procedures are time consuming, and decisions are handed down usually only after a prolonged period has elapsed. These processes have little credibility with workers and are mostly ignored. Strikes, therefore, tend to be sudden, the result of longstanding grievances or recognition that legally mandated benefits or rights are not being received. While strike leaders are not arrested for illegal strikes, they often lose their jobs. The number of strikes has continued to increase over the last few years, most of them over failure of companies to pay legally mandated minimum wages or because companies are resisting the formation of a factory-level union. In 1992 there were 112 "illegal" strikes officially recorded by the Department of Manpower, but the actual number most likely was larger.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining is provided for by law, but only recognized trade unions may engage in it. As noted in Section 6.a. above, the Government is considering permitting plant-level workers associations (non-SPSI groups) to conclude legally binding agreements with employers. The Department of Manpower promotes collective bargaining as an instrument of industrial relations in the context of the national ideology, Pancasila. The majority of the collective bargaining agreements between the SPSI and employers are negotiated bilaterally.

Once notified that 25 employees have joined a registered union, an employer is obligated to bargain with it. As a transitional stage to encourage collective bargaining, regulations require that every company with 25 or more employees issue company regulations defining the terms and conditions of employment. Before a company can register or renew its company regulations it must demonstrate that it consulted with the union or, in its absence, a committee consisting of employer and employee representatives. In companies without unions, the Government discourages workers from utilizing outside assistance, such as from NGO's, during consultations with employers over company regulations. The Department of Manpower prefers that workers seek its assistance and believes that the Department's role is to protect workers. There are credible reports that for some companies consultations are perfunctory at best and usually with management-selected workers. There are also credible reports to the contrary from U.S. companies.

Only about half of the factory-level SPSI units have collective bargaining agreements. The degree to which these agreements are freely negotiated between unions and management without government interference varies. By regulation, negotiations are to be concluded within 30 days. If not, the matter is submitted to the Department of Manpower for mediation and conciliation or arbitration. Most negotiations are concluded within the 30-day period. Agreements are for 2 years and can be extended for 1 more year. According to Indonesian and non-Indonesian NGO's involved in labor issues, the provisions of these agreements rarely go beyond the legal minimum standards established by the Government, and the agreements are often merely presented to worker representatives for signing rather than being negotiated.

Regulations expressly forbid employers from discriminating or harassing employees because of union membership. There are credible reports from union officials, however, of employer retribution against union organizers, and the SPSI claims that some employers discriminate against its members and workers who wish to form SPSI units. A significant number of strikes during the last year were the result of employers' refusals to permit the establishment of SPSI units. In nearly all of these cases, employers consented to the establishment of an SPSI branch following the strike. Some employers reportedly have warned their employees against contact with union organizers from the unrecognized SBSI organization.

Charges of antiunion discrimination are adjudicated by administrative tribunals. However, many union members believe the tribunals generally side with employers. Because of this perceived partiality, many workers reject or avoid the procedure and present their grievances directly to Parliament and other agencies. Administrative decisions in favor of fired workers tend to be monetary awards; workers are rarely

reinstated. The provisions of the law make it difficult to fire workers, but the law is often ignored in practice. The ILO Conference report in 1993 regretted that Indonesian legislation was contrary to the requirements of ILO Convention 98 with regard to protection against acts of antiunion discrimination.

Workers may organize without restriction in a private enterprise, even if it is designated vital by the Government. If the state has a partial interest, the enterprise is considered to be in the public service domain, but this does not always legally limit organizing. There are a number of joint ventures between government and private enterprise which have SPSI units and which bargain collectively.

The military, which includes the police, has been involved in a number of labor disputes. Workers have charged that members of the security forces have attempted to intimidate union organizers and have beaten strike leaders. In June, two officials from the SBSI in Medan were detained by police and physically abused as a result of their attempt to organize a union in a factory. In May a woman union activist in Surabaya was murdered. In addition to several officials and employees of the factory at which she worked, the commander of a local military unit was arrested in connection with the murder, and a second officer was relieved of his post (see Section 1.a.). Members of military intelligence also attended and monitored trade union education seminars run by the Asian-American Free Labor Institute (AAFLI), even though these programs were approved by the Department of Manpower. The military command in Surabaya also halted an AAFLI-SPSI-Department of Manpower-approved program designed to organize new SPSI units. Police and military in a number of instances have been present in significant numbers during strikes, even when there has been no destruction of property or other violence. Military officials occasionally have been reported present during negotiations between workers and management. Their presence has been described as intimidating by plant-level union officials.

Labor law applies equally in export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is strictly forbidden and enforcement is generally adequate. The Government, however, is often slow to investigate allegations of forced labor. Press reports and NGO's have alleged that there have been cases of fraudulent recruitment of Timorese workers for employment in Java and forced labor by logging companies in Irian Jaya.

d. *Minimum Age for Employment of Children.*—Child labor continues to be a serious problem in industrial areas. The Government acknowledges that there is a class of children who must work for socioeconomic reasons, and in 1987 the Minister of Manpower issued regulation per-ol/men/1987, "Protection of Children Forced to Work," to regulate this situation. This regulation legalizes the employment of children under the age of 14 who must work to contribute to the income of their families. It requires parental consent, prohibits dangerous or difficult work, limits work to 4 hours daily, and requires employers to report the number of children working under its provisions. It does not set a minimum age for children in this category, effectively superseding the colonial-era government ordinance of December 17, 1925, on "Measures Limiting Child Labour and Nightwork of Women," which is still the current law governing child labor and sets a minimum age of 12 for employment. The 1987 regulation is not enforced. No employers have been taken to court for violating its restrictions on the nature of employment for children, and no reports are collected from establishments employing children. There are no statistics available to determine whether child labor is a significant factor in export or any other industries.

The Government sometimes refers to Act No. 1 of 1951, which was intended to bring into force certain labor measures, including provisions on child labor which would replace those of the 1925 legislation. However, implementing regulations for the child labor provisions have never been issued. Thus the child labor provisions in the 1951 Act have no validity.

In September the Government announced it would review its child labor regulations with the intention of tightening enforcement of restrictions on child labor. At year's end, the review was not completed, nor had any change in practices been implemented.

e. *Acceptable Conditions of Work.*—In the absence of a national minimum wage, area wage councils working under the supervision of the National Wage Council establish minimum wages for regions. These councils are quadripartite bodies consisting of representatives from labor, management, government, and universities. They also establish a basic-needs figure for each province—a monetary amount considered sufficient to enable a single worker or family to meet the basic-needs of nutrition, clothing, and shelter. While Indonesia has succeeded in dramatically lowering the level of poverty throughout the country, the minimum wage rates have lagged behind the basic needs figures. However, effective January 1, 1994, the minimum

wage for most provinces will be raised to the basic-needs figure, with the minimum wage in the remaining areas being adjusted as of April 1, 1994. Labor law and ministerial regulations provide workers with a variety of other benefits, such as social security, and workers in more modern facilities often receive health benefits and free meals.

The law establishes 7-hour workdays and 40-hour workweeks, with one 30-minute rest period for each 4 hours of work. The daily overtime rate is 1½ times the normal hourly rate for the first hour, and twice the hourly rate for additional overtime. Regulations allow employers to deviate from the normal work hours upon request to the Minister of Manpower and with the agreement of the employee. Observance of minimum wage and other laws regulating benefits and labor standards varies from sector to sector and by region. Employer violations of legal requirements are fairly common and often result in strikes and employee protests. The Minister of Manpower continues publicly to urge employers to comply with the law. However, in general, government enforcement and supervision of labor standards are weak.

Both law and regulations provide for minimum standards of industrial health and safety. In the largely Western-operated oil sector, safety and health programs function reasonably well. However, in the country's 100,000 larger registered companies in the nonoil sector, the quality of occupational health and safety programs varies greatly. The enforcement of health and safety standards is severely hampered by the limited number of qualified Department of Manpower inspectors as well as by the low level of employee appreciation for sound health and safety practices. Allegations of corruption on the part of inspectors are not uncommon. Workers are obligated to report hazardous working conditions; and while employers are prevented by law from retaliating against those who do, such retaliation does occur since the law is not effectively enforced.

It is also important to note that government policy has had the direct and intended effect of markedly improving the material condition of the Indonesian labor force both in terms of per capita income and income distribution.

JAPAN

Japan is a parliamentary democracy based on a Constitution adopted in 1947. Sovereignty is vested in the people, and the Emperor is defined as the symbol of state. On the national level, power is divided among executive, legislative, and judicial branches. Executive power is vested in a cabinet, composed of a prime minister and ministers of state, responsible to the Diet, Japan's two-house Parliament. The Diet, elected by universal suffrage and secret ballot, designates the Prime Minister, who must be a member of that body. Nearly 70 percent of the electorate usually votes in general elections contested by numerous political parties covering a broad ideological spectrum. In the lower house general election in July 1993, the Liberal Democratic Party (LDP) lost its majority for the first time in 38 years. The Government is now formed by a non-LDP coalition of seven parties. The judicial system has several levels of courts; the Supreme Court has final authority.

A well-organized and disciplined police force generally respects the human rights of the populace and is firmly under the control of the civil authorities. However, there continued to be reports of harsh treatment of some suspects in custody.

The Civil Liberties Bureau in the Ministry of Justice and the Human Rights and Refugee Division in the Ministry of Foreign Affairs monitor problems relating to human rights practices in Japan.

Japan's highly industrialized free market economy is efficient and competitive in world markets. The 1992 economic slowdown, including an increase in unemployment, continued in 1993.

The Constitution states, "all of the people are equal under the law and there shall be no discrimination in political, economic, or social relations because of race, creed, sex, social status, or family origin." The human rights assured by the Constitution are generally secured by a just and efficient legal system. However, the "Burakumin" (a group historically treated as outcasts), the Ainu (Japan's indigenous people), women, and alien residents experience varying degrees of discrimination, some of it severe and of long standing.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no known cases of political or other extrajudicial killing.

b. *Disappearance.*—There were no known cases of abductions, secret arrests, clandestine detention, or hostage holding by security forces or any other organization.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—While freedom from torture, cruel, inhuman, or degrading treatment or punishment is provided for in the Constitution, reports by several Japanese bar associations and some prisoners indicate that police sometimes use physical violence, including kickings and beatings, as well as psychological intimidation, including threats and name calling, to obtain confessions from suspects in custody. In Japan confession is regarded as the first step in the rehabilitative process. Roughly 85 percent of all criminal cases going to trial include confessions, reflecting the priority that the Japanese system places on admissions of guilt. While abuse remains a problem, appellate courts have overturned several convictions in recent years on the ground that they were obtained by forced confession. In addition, civil suits have been brought against some police and prosecution officials, alleging abuse during interrogation and detention. Most of these cases are still pending.

d. *Arbitrary Arrest, Detention, or Exile.*—Freedom from arbitrary arrest or imprisonment is provided for in the Constitution and respected in practice. Japanese law provides for judicial determination of the legality of detention. Persons cannot be detained without charge, and prosecuting authorities must be prepared to demonstrate before trial that probable cause exists to detain the accused. Under the Code of Criminal Procedure, a suspect may be held in police custody for up to 72 hours with limited representation by defense counsel. This period is normally extended by a judge for up to 20 additional days for preindictment investigation. If an indictment follows, the suspect is transferred to a criminal detention facility. In practice, defendants may consult with an attorney during the preindictment period only if they can afford to hire one. Bail is rarely available.

The bar association and human rights groups have criticized the practice of "substitute detention." While Japanese law stipulates that suspects should be held in "houses of detention" between arrest and sentencing, a police cell may be substituted. This provision was added to cover a shortage of detention facilities. Critics charge that allowing suspects to be detained by the same authorities that interrogate them heightens the potential for prisoner abuse and coercion.

The length of time before a suspect is brought to trial depends on the nature of the crime but rarely exceeds 2 months from date of arrest; the average is 1 to 2 months. Critics charge that access to counsel is limited both in duration and frequency, although the Government denies that this is the case. The Japanese Criminal Procedure Code grants the prosecutor's office and investigating police officials the power to limit access to attorneys when deemed necessary for the sake of the investigation. This is interpreted to mean that counsel may not be present during interrogation at any time, before or after indictment. As a court-appointed attorney is not approved until after indictment, suspects must rely on their own resources to hire an attorney for counseling before indictment. Some local bar associations provide detainees with a free counseling session prior to indictment. In practice, suspects able to afford private counsel may consult with an attorney an average of two times during the detention period before indictment, sometimes without private access. Counsel is provided at government expense after indictment when the arrested person cannot afford one.

Preventive detention does not exist.

e. *Denial of Fair Public Trial.*—The Constitution provides for the right to a speedy and public trial by an impartial tribunal in all criminal cases, and this right is respected in practice. The defendant is informed of charges upon arrest and assured a public trial by an independent civilian court with defense counsel and the right to cross-examination. The Constitution assures defendants the right not to be compelled to testify against themselves as well as free and private access to counsel, although the right to such access is sometimes abridged in practice. For example, the law allows prosecutors to control access to counsel, and there are persistent allegations of coerced confessions. Defendants are also protected from the retroactive application of laws and have the right to access to incriminating evidence after a formal indictment has been made. However, Japanese law does not require full disclosure by the prosecutor, and material that will not be used in court by the prosecution may be suppressed, even if favorable to the accused.

The judiciary is independent and free from executive branch interference. Judges are appointed by the Cabinet for a 10-year term, which can be renewed until the age of 65. Justices of the Supreme Court can serve until the age of 70, but face periodic review through popular referendum. A defendant who is dissatisfied with the decision of a trial court of first instance may, within the period prescribed by law, appeal to a higher court. There are several levels of courts, with the Supreme Court serving as the highest judicial authority. There is no trial by jury in Japan.

There are no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Under the Constitution, each search or seizure must be made upon separate warrant issued by a judge. Standards for issuing such warrants exist to guard against arbitrary searches. There are no reports that the Government or any other organization arbitrarily interfered with privacy, family, home, or correspondence.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution, an independent press and judiciary, and a functioning democratic political system combine to ensure freedom of speech and press.

b. *Freedom of Peaceful Assembly and Association.*—These freedoms are provided for in the Constitution and respected in practice. In 1993 the Japanese media drew attention to the alleged efforts of the Tokyo municipal government to restrict the rights of Iranians living in Japan to assemble in a popular local park. Citizen groups have taken up the cause, arguing that the city's actions are discriminatory. While the Government has not stood in the way of efforts to resolve the problem through appropriate legal and administrative means, neither has it acted to resolve the issue.

c. *Freedom of Religion.*—Freedom of religion is provided for in the Constitution and respected in practice. While Buddhism and Shintoism remain the two major religions, there are many others, including several Christian denominations. Foreign missionaries are welcome and gain admission to Japan through a specific visa category for foreign religious workers. Some temples and shrines receive public support as national historic or cultural sites.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Japanese citizens have the right to travel freely both within Japan and abroad, to change their place of residence, to emigrate, and to repatriate voluntarily. Japanese nationality can be lost by naturalization in a foreign country or failure to elect Japanese nationality at the proper age.

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

Japanese citizens have the right and ability peacefully to change their government. A parliamentary democracy, Japan is governed by the political party or parties able to form a majority in the lower house of its bicameral Diet. From 1955 until 1993, all prime ministers and almost all cabinet ministers were members of the Liberal Democratic Party (LDP), which enjoyed a majority in the lower house throughout this period. In 1993 the party lost its parliamentary majority. The Government is now headed by a non-LDP coalition. Local and prefectural governments are often controlled by coalitions.

Elections on all levels are held frequently; suffrage is universal; and ballots are secret.

Postwar population movements have contributed to significant imbalances in size among parliamentary electoral districts. In the most underrepresented lower house district—mostly in urban areas—there are nearly three times as many voters per representative as in the most overrepresented districts—mostly in rural areas. Among upper house districts, the maximum disparity exceeds six-to-one. Court rulings have called for more equitable electoral districts. One court in December declared the July 1992 upper house election unconstitutional because of the malapportionment problem, but the lack of a nonpartisan redistricting mechanism has hampered the process of adjustment. Prposed political reform legislation would significantly reduce the disparity among lower house districts but would not affect the situation in upper house elections.

There are no legal or de facto impediments to women's participation in government and politics, but cultural attitudes are not favorable to their participation. Women hold 14 seats in the 511-member lower house of the Diet, and 38 seats in the 252-member upper house. Three women—a record high—are members of the current 21-member Cabinet. Women make up nearly 20 percent of all government workers but hold less than 1 percent of top (section chief and higher) government posts.

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

A number of local human rights organizations function freely, with no governmental restrictions or impediments. The Government does not obstruct or inhibit the investigative activities of international human rights nongovernmental organizations.

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

Women.—The position of women in society and the home, although significantly improved during the last few decades, continues to reflect deep-seated traditional values that assign women a subordinate role. In this environment, violence against women, particularly domestic violence, often goes unreported due to social and cultural concerns about shaming one's family or endangering the reputation of one's spouse or offspring. Typically, victimized women more often return to the home of their parents rather than file reports with authorities. Therefore, Ministry of Justice statistics on violence against women undoubtedly understate the scope of the current situation. Many local governments are responding positively to a need for confidential assistance by establishing special women's consultation departments in police and prefectural offices.

Although discrimination by private employers against women is prohibited by the Constitution, it persists. Legislation over the past 30 years has been enacted to accord women the same legal status as men. The Equal Employment Opportunity Law of 1986 was aimed at eliminating sex discrimination in such areas as recruitment, pay, and working hours. Yet the law does not expressly forbid discrimination; it merely states that "employers should endeavor" to avoid it. Under this law and other regulations, the Ministry of Labor attempts to encourage corporate compliance with its objectives by positive inducements, including subsidies; it does not enforce compliance through fines or other punitive measures.

Significant disparities in pay and access to managerial positions persist. Women comprise over 40 percent of the employed population. A 1989 Ministry of labor report noted that the average wage of women workers is about half that of men. In March 1992, nine working married women filed lawsuits with the Tokyo District court, citing discrimination in wages and promotions. Other cases are pending which question management's use of Japan's two-track (general versus administrative) system of hiring women employees. Initially designed to create a "career" track for employees while maintaining a separate "clerical" track, observers say the system is used to discriminate against women, who traditionally have not been hired for managerial positions.

Public awareness of discrimination against women and sexual harassment in the workplace has increased. An increasing number of government entities are establishing hotlines and designating ombudsmen to handle complaints of discrimination and sexual harassment. Nevertheless, sexual discrimination and stereotyping in the workplace continue to be major problems for women.

Children.—Japan has child labor laws, and the rights of children are adequately protected.

Indigenous People.—The Ainu are a Caucasoid people descended from the first inhabitants of Japan. They now probably number less than 100,000; almost all of them live on Hokkaido, the northernmost of Japan's four main islands. Their primary occupations are hunting, fishing, and small farming. The ultimate effect of a law passed in 1898, the Former Aborigines Protection Act, was to leave the Ainu with only about 15 percent of their original landholdings. Ainu leaders, including Giichi Nomura at the Sapporo International Indigenous Peoples Symposium held as part of the U.N. Year of the World's Indigenous Peoples, continue to express grievances about this situation. Meanwhile, the Ainu continue to face social discrimination while engaging in an uphill struggle against complete assimilation. The Government has done little in response to Ainu grievances. An interagency study group opened hearings in January 1990 with the stated goal of reviewing Ainu history and making recommendations, but it has not played an active role.

National/Racial/Ethnic Minorities.—The ethnocentric nature of Japanese society, reinforced by a high degree of cultural and ethnic homogeneity and a history of isolation from other cultures, has impeded the integration of minority groups. This primarily affects Burakumin, Koreans, and alien workers against whom social, economic, and legal discrimination is widespread.

The Burakumin (descendants of feudal era "outcasts" who practiced "unclean" professions such as butchering and undertaking) are frequently victims of entrenched social discrimination. Their access to private housing, employment, and marriage opportunities has been greatly restricted. Beginning in 1969, the Government introduced with some success a number of social, economic, and legal programs designed to improve conditions for the Burakumin and hasten their assimilation into mainstream Japanese society. The Government has extended basic legislation to provide funding for Burakumin programs until 1997, but the Burakumin continue to lobby for a new law that will expand current programs. In recent years, however, some within the Burakumin community have questioned whether "assimilation" is an appropriate goal.

Despite improvements in Japan's legal system, Korean permanent residents (most of whom were born, raised, and educated in Japan and who are estimated to number approximately 2 million) are still subject to various forms of deeply entrenched social discrimination. In recent years, the Government has enacted several laws and regulations providing permanent resident aliens with equal access to public housing and loans, social security pensions for those qualified, and certain public employment rights.

The legal obligations to carry an alien registration card and to be fingerprinted have been leading concerns among permanent resident aliens in Japan. This is particularly so for second- and third-generation Korean residents, who constitute 82 percent of all such aliens. In response to continued appeals from the Republic of Korea, the Government in 1993 halted the fingerprinting of permanent foreign residents. Instead, the Government has established a family registry system that uses the resident's picture and signature and contains information on parents and spouses living in Japan, a system similar to that used for Japanese nationals. The new law leaves intact the requirement that all foreign residents must carry alien registration certificates at all times.

Some immigrants reportedly face police harassment and discrimination in obtaining housing, jobs, and health care. In recognition of the difficulties faced by foreigners in these areas, Tokyo city recently issued a law to prevent housing discrimination against foreigners. There have also been efforts by the central and local governments to disburse information on health insurance plans to enroll foreigners into the system. Some communities are using existing social welfare programs to cover emergency medical expenses incurred by uninsured foreign visitors.

The January 1991 memorandum between the Japanese and South Korean Governments extended employment rights to local government positions, giving each locality the authority to decide which jobs may be held by non-Japanese nationals. Local governments are also being urged by the Government to allow Korean residents to take the teacher entrance examination and to employ them on a full-time basis. Private-sector employment and social discrimination are still common. Anti-discrimination laws affecting Korean residents were initiated as government guidance and are not backed up by penalty provisions.

According to law, aliens with 5 years of continuous residence are eligible for naturalization and the simultaneous acquisition of citizenship rights, including the right to vote. In fact, however, most eligible aliens do not apply for citizenship, in part due to fears that their cultural identity would thereby be denied. De facto obstacles to naturalization include broad discretion on the part of adjudicating officers and great emphasis on Japanese language ability.

The Justice Ministry's Immigration Bureau estimates that, as of May 1993, there were 298,646 foreign nationals residing illegally in Japan, an increase of 7 percent from the previous year. Many are laborers from Southeast Asia and South Korea. Additionally, there are a number of Iranian workers, but that number declined by 13.8 percent, apparently as the result of the Government's suspension on April 15, 1992, of a visa waiver agreement it had with Iran for short-term visitors. While many of Japan's illegally resident foreigners came in search of better-paying manufacturing and construction jobs, there are indications that these opportunities are disappearing with Japan's economic slowdown. Thus, more of the foreign workers are unemployed or marginally employed. Law enforcement sweeps against South Asians and other foreigners have increased. Activist groups claim that, with little or no knowledge of the Japanese language or of their legal rights, foreign workers can easily be discriminated against by employers. Some illegal alien workers have suffered exploitative treatment. The Government has tried to reduce the inflow of illegal foreign workers by prosecuting employers. Recent revisions of the Immigration Law provide for penalties for employers of undocumented foreign workers. Suspected foreign workers may also be denied entry for passport, visa, and entry application irregularities. The Government continues to study the foreign worker issue, and several citizens' groups are working with illegal foreign workers to improve their access to information on worker rights.

Japan has granted asylum in only a small number of cases to those claiming fear of persecution upon return to their homeland. The Government believes that most people seeking asylum in Japan do so for economic reasons. According to representatives of international organizations in Japan, since 1981 Japan has determined that only about 200 people have met the required standard. As for Chinese student dissidents, the Government has shown flexibility in dealing with visa extensions, though it continues to be reluctant to grant permanent asylum.

Strict administrative procedures contribute to the low rate of approval of asylum applications. For example, appeals of initial denials are reviewed by a higher authority of the same body, and decisions are rarely overturned. Asylum seekers claim

that the processing of asylum applications is not readily understandable, making it difficult for them to comply with Government procedures. For example, the Government's "60-day rule" requires applicants to appear at an immigration office within 60 days of arrival or within 60 days of the time they learn they are likely to be persecuted in their home country; most asylum seekers arrive in Japan without knowledge of this requirement and can inadvertently waive their claim by not acting promptly. The Government recently stated that it is striving to reform its asylum procedures and make them more accessible and understandable to asylum seekers.

People with Disabilities.—Japan has no national law protecting the rights of the disabled, including access, but some prefectures and cities have enacted their own legislation addressing the issue.

Section 6. Worker Rights

a. *The Right of Association.*—The right of workers to associate freely in unions is assured by the Constitution. Approximately 25 percent of the active work force belongs to unions. Unions are free of government control and influence. The Japanese Trade Union Confederation (RENGO), which represents 8 million Japanese workers, was formed in 1989 through the merger of several confederations and is Japan's largest labor organization. There is no requirement for a single trade union structure, and there are no restrictions on who may be a union official. Members of the armed forces, police, and firefighters, however, are not permitted to form unions or to strike. The International Labor Organization's Committee of Experts in 1991 criticized Japan's denial of the right of firefighters to strike as unwarranted. Government and union representatives have engaged in talks to address this issue over the past 2 years, but no resolution has been reached to date. Japanese law allows unions to lobby and to make political campaign contributions, and most unions are involved in political activity as well as labor relations. RENGO and other labor groups are active in supporting political parties and individual candidates and in promoting their political and social programs.

Organized labor generally supports two social democratic parties that are presently part of the governing coalition and provides them with significant amounts of funds and manpower. Unions are active in international bodies, most notably the International Confederation of Free Trade Unions, and maintain extensive international contacts. The right to strike is implicit in the Constitution and is exercised. During 1992, 231,000 man days were lost to strikes. Public employees do not have the right to strike, although they do have recourse to mediation and arbitration. Government employees have their pay raises determined by the Government, but the raises are based on a recommendation by the Independent National Personnel Authority.

b. *The Right to Organize and Bargain Collectively.*—The Constitution states that unions have the right to organize, bargain, and act collectively. These rights are exercised freely, and collective bargaining is practiced widely. The annual "spring wage offensive," in which individual unions in each industry conduct negotiations simultaneously with their firms, involves nationwide participation. Japanese management usually consults closely with its enterprise union. However, trade unions are independent of management and aggressively pursue the interests of their workers. Antiunion discrimination is prohibited by law, and in practice does not take place. Members of the armed forces, police, and fire fighters are not permitted to organize. There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Labor Standards Law prohibits the use of forced labor, and there are no known cases of forced or compulsory labor.

d. *Minimum Age for Employment of Children.*—Under the revised labor Standards Law of 1987, minors under 15 years of age may not be employed as workers, and those under the age of 18 years may not be employed in dangerous or harmful work. Child labor laws are rigorously enforced by the labor Inspection Division of the Ministry of Labor.

e. *Acceptable Conditions of Work.*—Minimum wages are administratively determined by the Minister of Labor or the Director of the Prefectural Labor Standards Office, based usually on the recommendation of the tripartite Minimum Wage Council. Minimum wage rates vary by industry and region. In the Tokyo area, a steelworker's rate is $5.65 (620 yen) per hour. The wage rates are sufficient to provide workers and their families with a decent living. The Labor Standards Law provides for the phased reduction of maximum working hours from the present 44-hour, 6-day workweek to 40 hours by 1994. The Ministry of Labor effectively administers various laws and regulations governing occupational health and safety, principal among which is the Industrial Safety and Health Law of 1972. Standards are set

by the Ministry of Labor and issued after consultation with the Standing Committee on Safety and Health of the tripartite Labor Standards Commission. Labor inspectors have the authority to suspend unsafe operations immediately, and the law guarantees that workers may voice concerns over occupational safety and remove themselves from unsafe working conditions without jeopardizing their continued employment.

KIRIBATI

The nation of Kiribati comprises some 75,000 people occupying 33 small islands widely scattered across 3.5 million square kilometers of the central Pacific. The population is primarily Micronesian, with a significant component of Polynesian origin. Kiribati gained full independence from the United Kingdom in 1979 and became a republic within the Commonwealth of Nations. It has a nationally elected president and a legislative assembly with 39 members elected by universal suffrage and 2 ex-officio members. Local affairs are handled in a manner similar to that followed in New England town meetings.

The main security apparatus is a police force of about 250 men, responsible to and effectively controlled by civilian authority.

The economy is very small; most people are engaged in subsistence agriculture and fishing. The islands' isolation and meager resources, including poor soil and limited arable land, severely limit prospects for economic development.

Kiribati society is egalitarian, democratic, and respectful of human rights. There were no reports of specific human rights abuses in 1993, but in the traditional culture women have occupied a subordinate role, with limits on their job opportunities.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no politically motivated killings.

b. *Disappearance.*—There were no disappearances, and no evidence of people being abducted, secretly arrested, or clandestinely detained.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although torture and inhuman or degrading punishment or other such treatment are forbidden by the Constitution, corporal punishment is permitted under traditional mores for criminal acts and other transgressions. On some outer islands, the island councils occasionally order strokes with palm fronds to be administered for public drunkenness and other minor offenses such as petty thievery.

d. *Arbitrary Arrest, Detention, or Exile.*—Constitutional safeguards against arbitrary arrest and detention are observed in practice. There is no exile, internal or external.

e. *Denial of Fair Public Trial.*—The right to a fair public trial is assured by law and observed in practice. The Constitution provides that an accused person be informed of the nature of the offense for which he is charged and be provided adequate time and facilities to prepare a defense. The right to confront witnesses, present evidence, and appeal convictions is enshrined in law.

Procedural safeguards are based on English common law. The judiciary is independent and free of governmental interference. Kiribati has no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The privacy of the home is protected in law and respected by the Government. There is no arbitrary intrusion by the State or political organizations into the private life of the individual.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and press is provided for in the Constitution and observed in practice. Kiribati's radio station and only newspaper are government owned but offer a variety of views. Churches publish newsletters and other periodicals. Academic freedom is respected.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, including the right to form or belong to associations for the advancement or protection of a group's interests. There are no significant restrictions in practice.

c. *Freedom of Religion.*—Complete freedom of religion prevails. There is no state or preferred religion. Missionaries are free to seek converts.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens are free to travel within the country and abroad. There are no restrictions on repatriation. Kiribati has no refugees or displaced persons.

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

The Government is chosen by the people in periodic free and open elections. Executive authority is exercised by the President, who is elected by the people for a 4-year term. No less than three and no more than four presidential candidates are nominated by the elected Legislative Assembly from among its members. Under the Constitution, the President is limited to three terms.

There is no tradition of formally organized parties. However, elections bring about coalitions of various interest groups around specific issues. In 1993 the opposition groups coalesced into a quasi-political organization under the banner of the Maneaba Party.

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

There are no restrictions on the formation of local nongovernmental organizations that concern themselves with human rights, but to date none has been formed. There have been no reported allegations of human rights violations by the Government and no known requests for investigations. Kiribati is not a member of the United Nations.

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

The Constitution prohibits discrimination on the basis of race, creed, national origin, or sex, and this prohibition is observed in practice. Kiribati society, being fundamentally egalitarian, does not have a privileged chiefly class.

Women.—The traditional culture, in which males are dominant, has been an impediment to women taking a more active role in the economy. This is slowly changing, and more women are finding work in unskilled and semiskilled occupations. There are also signs of affirmative action in government hiring and promotions to redress this culturally based inequity. Recent examples of affirmative action with regard to the advancement of women include the appointment of Makurita Baaro as the nation's first female Secretary for Foreign Affairs. Furthermore, the selection of recent participants from Kiribati in overseas training programs to the United States, Japan, and other countries reflects a firm commitment to the advancement of women. Women have full and equal access to education.

Statistics on the participation of women in the work force and comparative wages are unavailable. Women have full rights of ownership and inheritance of property. Violence against women does not appear to be a major problem in this isolated, rural society. Rape is a crime under the law, and the law is enforced when charges are brought to court. To the extent that it exists, wife beating is dealt with informally and in a traditional way; frequently communal pressure is brought to bear.

Children.—If child abuse exists, it is rare and has not become a source of societal concern. Within the limited resources of the overnment, adequate expenditures are made for child welfare.

People with Disabilities.—There is no evidence or complaint of discrimination in employment, education, or provision of other state services. Accessibility for the disabled has not been mandated.

Section 6. Worker Rights

a. *The Right of Association.*—Freedom of association is provided for in the Constitution. Workers are free to organize unions and choose their own representatives. Over 90 percent of the work force is occupied in fishing or subsistence farming, but the small wage sector has a relatively strong and effective trade union movement. The Government does not control or restrict unions. In 1982 the seven trade unions registered in Kiribati merged to form the Kiribati Trade Union Congress (KTUC). It has approximately 2,500 members, mostly from the public service sector. The KTUC is affiliated with the International Confederation of Free Trade Unions. The right to strike is provided for by law. However, strikes are rare, the last one having taken place in 1980. This is probably due mainly to the small size of the cash economy.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining is provided for under the Industrial Relations Code. Government wage setting is the rule in the large public sector. The Ministry of Commerce, Industry, and Employment sets wages after consultations with the Ministry of Finance and Economic Planning. However, in a few statutory bodies and government-owned companies, employees may negotiate wages and other conditions. In the private sector, employees may also

negotiate wages with employers. Negotiations are generally nonconfrontational, in keeping with Kiribati tradition. There have been no reports of antiunion discrimination. However, there are mechanisms for resolving any such complaints. Kiribati has no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited under the Constitution and is not practiced.

d. *Minimum Age for Employment of Children.*—Kiribati law prohibits the employment of children under age 14. Children through age 15 are prohibited from industrial employment and employment aboard ships. Labor officers from the Ministry of Commerce, Industry, and Employment are responsible for enforcement of these laws and do a reasonable job, given the rudimentary conditions of the economy and its industrial relations system. Children are rarely employed outside the traditional economy.

e. *Acceptable Conditions of Work.*—The Government has taken no concrete action to implement longstanding legislation authorizing establishment of minimum wages. There is no legislatively prescribed workweek. Government is the major employer in the cash economy.

Employment laws provide rudimentary health and safety standards for the workplace. Employers must, for example, provide an adequate supply of clean water for workers and ensure the existence of sanitary toilet facilities. Employers are liable for the expenses of workers injured on the job. The Government's ability to enforce employment laws is hampered by a lack of qualified enforcement personnel. Women may not work at night except under specified circumstances (generally in service jobs such as hotel clerks).

DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA*

The Democratic People's Republic of Korea (DPRK) is a dictatorship under the absolute rule of the Korean Workers' Party (KWP). The KWP exercises power on behalf of its leader, General Secretary Kim Il Sung, who is also President of the DPRK. Kim Il Sung, in power for 56 years, has largely turned over day-to-day control of the Government and the Korean People's Army to his son, Kim Jong Il. The younger Kim ranks second in the KWP and, with his father, is the object of a personality cult.

The North Korean regime is repressive and subjects its citizens to rigid controls. The regime establishes security ratings for each individual which determine access to employment, schools, medical facilities, and certain stores as well as admission to the KWP, but this loyalty system appears to have been relaxed somewhat in recent years. Individual rights is an alien concept that the state leadership perceives as potentially subversive to the goals of the State and party.

The State directs all significant economic activity, and only government supervised labor activity is permitted. The North Korean economy has contracted significantly due to the elimination of Russian/Soviet concessional trade and aid. Economic development continues to be hindered by distribution bottlenecks, nonproductive allocation of resources, and a poor international credit rating stemming from the DPRK's default on much of its foreign debt, as well as by the diversion of as much as a quarter of gross national product to military expenditures. From time to time in 1993, there were reports of sporadic, small scale civil disturbances in some cities, apparently caused by food shortages. Significant amounts of food grain were again imported in 1993. The rationing of food, clothing, and energy appeared to continue in most parts of the country. The KWP Plenum in December admitted serious economic shortfalls, but claimed a bumper rice crop had been harvested.

North Korea continues to deny its citizens the most fundamental human rights. Unlike in the previous 2 years, the number of North Koreans allowed to visit the United States, other than to attend U.N. affiliated functions, dropped to zero. Americans continued to be admitted to North Korea, but this number was also down significantly compared to the number in the previous 2 years.

Furthermore, the Agreement on Reconciliation, Nonaggression, Cooperation, and Exchange Between North and South Korea, signed in December 1991, calls for in-

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*The United States does not have diplomatic relations with the Democratic People's Republic of Korea. North Korea does not allow representatives of foreign governments, journalists, or other invited visitors the freedom of movement that would enable them to assess human rights conditions there. Most of this report, therefore, is based on information obtained over a period of time extending from well before 1993. While limited in detail, the information is nonetheless indicative of the human rights situation in North Korea today.

creased family exchanges and established a joint committee to discuss implementation. After some initial progress in 1992, the committee was unable to meet in 1993, and no exchanges have taken place under the Agreement.

The North Korean Penal Code is draconian, stipulating capital punishment and confiscation of all assets for a wide variety of "crimes against the revolution," including defection, slander of the party or State, and possessing "reactionary" printed matter. The regime permits no independent press or associations, and little outside information reaches the public except that approved and disseminated by the Government.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Political prisoners, opponents of Kim Il Sung and Kim Jong Il, repatriated defectors, and others have been summarily executed. The death penalty is mandatory under Article 52 of the Criminal Law for activities "in collusion with imperialists" aimed at "suppressing the national-liberation struggle," and some prisoners are sentenced to death for "ideological divergence" and other "counterrevolutionary crimes."

b. *Disappearance.*—There is no reliable information on disappearances within North Korea. There were reports in the 1980's, however, of DPRK involvement in the kidnaping abroad of South Koreans, Japanese, and other foreign citizens. The Japanese press estimates as many as 20 Japanese may have been kidnaped and are being detained in North Korea. The DPRK denies these reports.

The 1993 Annual Report of Amnesty International (AI) details the case of the Shibata family of Japan. Shibata Kozo and his wife Shin Sung Suk, a Korean resident of Japan, in 1960 left Japan and resettled in North Korea. Mr. Shibata in 1965 was reportedly charged with spying and sent to a sanatorium. He apparently is in poor health, according to former detainees, and there has been no word about his wife and three children since 1965. Mr. Kim Myong Sed, according to AI, has not received any news about his wife, daughter, or other family members still in North Korea since he applied for political asylum in Russia in 1992.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There is no information on recent practices, but credible reports indicate that during the 1980's prisoners were routinely tortured or ill-treated, and many prisoners died from torture disease, starvation, or exposure. In some cases executions reportedly are carried out at public meetings attended by workers, students, and school children. Executions have also been carried out before assembled inmates at places of detention.

According to AI, whole families, including children, are imprisoned together. "Reeducation through labor" is common punishment, consisting of forced labor (logging, tending crops) under harsh conditions. A small number of people who claim to have escaped from North Korean detention camps report that starvation and executions are common. In one prison, clothing was issued only once in a 3-year period. Former inmates have produced photographs of an inmate wearing specially designed leg irons which permit walking but make running impossible. AI also reports the existence of "punishment cells," too low to permit standing upright and too small for lying down flat, where prisoners are kept for up to several weeks for breaking prison rules.

d. *Arbitrary Arrest, Detention, or Exile.*—Little information is available on North Korea's criminal justice procedures and practices, and outside observation of its legal system has not been permitted.

Under North Korean law, prisoners may be held for interrogation for a maximum of 2 months, but this period may be extended indefinitely. Family members or other concerned persons find it virtually impossible to obtain information on charges against detained persons. Judicial review of detentions does not exist in law or in practice.

Defectors claim that North Korea detains about 150,000 political prisoners and family members in maximum security camps in remote areas. An October 1992 report by two former inmates made reference to the severe living conditions in what they called "concentration camps." The severe conditions were filmed in the summer of 1992 by a Japan NHK television crew when it visited, escorted by local Russian authorities, a North Korean-controlled logging camp located in Russia's Maritime Province. North Korean officials deny the existence of such gulags or prisons but admit the existence of "education centers" for people who "commit crimes by mistake."

One credible report lists 12 such prison camps believed to exist in the DPRK. It is believed that some former high officials are imprisoned in the camps. Visitors to,

and any form of communication with, detainees, although once allowed, are now said to be prohibited.

In July 1991, Cho Kap Chae, a North Korean defector who had been a ranking official in the DPRK Ministry of Public Security, said that there were two types of detention areas. One consists of closed camps from which prisoners never emerge, and where conditions are extremely harsh. In the other, prisoners can be "rehabilitated," and Cho reported that a prisoner he knew was released after a 3-year detention.

e. *Denial of Fair Public Trial.*—The Constitution states that courts are independent and that judicial proceedings are to be carried out in strict accordance with the law, which contains elaborate procedural guarantees. Article 138 of the Constitution states that "cases are heard in public, and the accused is guaranteed the right to defense; hearings may be closed to the public as stipulated by law." However, the concepts of an independent judiciary and individual rights, as understood in Western democracies, are alien to the DPRK. Also, the Public Security Ministry dispenses with trials in political cases and refers them to the Ministry of State Security for imposition of punishment.

When trials are held, lawyers are apparently assigned by the Government, and reports indicate that defense lawyers are not considered representatives of the accused, but rather are independent parties who are expected to help the court by persuading the accused to confess guilt. Some reports note a distinction between political and common criminals and state that the Government affords trials only to the latter. North Korea equates "political criminals" with those who criticize the regime. Numerous other reports suggest that in the past political offenses included such forms of lese majesty as sitting on newspapers bearing Kim Il Sung's picture.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Citizens in all age groups and occupations are subject to indoctrination designed to shape and control individual consciousness. This effort is aimed at ensuring reverence for Kim Il Sung and his family, as well as conformity to the State's ideology and authority. Multiple security organizations ensure the indoctrination is evident in the mass media and is carried out systematically by schools and worker and neighborhood associations. Koreans with relatives who fled to the south at the time of the Korean War appear to be still classified as part of the "hostile class" in the DPRK's elaborate loyalty system. Because approximately 10 million families were separated by the end of the Korean War, this category encompasses a significant percentage of the North Korean population.

The defector Cho Kap Chae estimated that the "impure" class may comprise 25 to 30 percent of the population. Members of this class may still be subject to some discrimination, although Cho claimed that their treatment has improved greatly in recent years.

The Constitutional stipulation that "citizens are guaranteed the inviolability of person and residence and the privacy of correspondence" does not reflect reality. The Government relies upon an extensive system of informers to identify critics and potential trouble makers.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Although the Constitution states that "citizens have freedoms of speech, press, assembly, association, and demonstration," the regime permits such activities only in support of government objectives. Other articles of the Constitution that require citizens to follow the "Socialist norms of life" and to obey a "collective spirit" take precedence over individual political or civil liberties.

The Government strictly curtails the rights of freedom of expression and association guaranteed under the International Covenant on Civil and Political Rights, to which North Korea became a party in 1981. Persons criticizing the President or his policies are liable to punishment by imprisonment or "corrective labor." One defector reported in 1986 that a scientist, whose home was bugged through his radio set, was arrested and executed for statements made at home critical of Kim Il Sung. In another case, AI reports that a family, formerly resident in Japan, was sent into internal exile because one of them was accused of having made remarks disparaging of the Government. They were last reported to be in a "reeducation through labor" center in 1992.

The Government attempts to control all news that enters and leaves the DPRK. The visits of Western journalists are carefully managed. Russian publications that have written critically of North Korea have had access restricted, and during 1991 several had their offices closed. Domestic media censorship is strictly enforced, and no deviation from the official government line is tolerated. The regime prohibits listening to foreign media broadcasts except by the political elite, and violators are subject to severe punishment. Radios and television sets are built to receive only

domestic programming. The Government controls artistic and academic works, and visitors report that the primary function of plays, movies, operas, and books is to contribute to the cult of personality surrounding "the Great Leader," Kim Il Sung, and "the Dear Leader," Kim Jong Il.

b. *Freedom of Peaceful Assembly and Association.*—No public meetings may be held without government authorization. There are no known organizations other than those created by the Government. The State even prohibits apolitical groups such as neighborhood or alumni organizations. Professional associations exist solely as another means of government control over the members of these organizations.

c. *Freedom of Religion.*—The Constitution provides that "citizens have religious liberty and the freedom of antireligious propaganda." In reality, the regime firmly discourages all organized religious activity except that which serves the interests of the State. In recent years, the regime has facilitated the formation of government-sponsored religious organizations to advance its foreign policy goals. The DPRK claims there are 10,000 Christians who worship in 500 home churches, and the Chondogyo Young Friends Party, a government sponsored group based on a native Korean religious movement, is still in existence. There are a few Buddhist temples where religious activity is permitted, and two Christian churches—one Protestant and one Catholic—were built in late 1988. Some visitors attest to the authenticity of the church services and to the faith of the several dozen worshipers observed; others say the church activity appears staged.

Kim Il Sung, his family, and his juche (self-reliance) ideology are revered, and the cult of the Kim family approaches that of a state religion. The regime seems to be seeking a theological basis for melding "Kim Ilsungism" (as it is called by North Korean media) and Christianity.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The DPRK regime strictly controls internal travel, requiring a travel pass for any movement outside one's home village; these passes are granted only for official travel or attendance at a relative's wedding or funeral. Long delays in obtaining the necessary permit often result in denial of the right to travel even for these limited purposes. Only a very small elite are allowed to have vehicles for personal use. The regime tightly controls access to civilian aircraft, trains and buses, food and fuel. In Pyongyang, there are no taxi cabs, and there are only a few buses and street cars. Most citizens either walk or, when it is operating, ride the subway. Most workers are required to live outside Pyongyang and commute to and from work on foot, unless mobilized for special government projects when they are transported in open trucks.

Reports, primarily from defectors, indicate that forced resettlement, particularly for those deemed politically unreliable, is common. Permission to reside in, or even enter Pyongyang, the capital, is strictly controlled.

Foreign travel is limited to officials and trusted artists, athletes, and academics. The regime does not allow emigration, and only 1,000 or so defectors have succeeded in fleeing the country since 1953. The regime retaliates against the relatives of those few persons who manage to escape. Involuntarily repatriated defectors have been jailed or, in some cases, executed. AI reports that Shin Sook Ja and her two daughters were detained in 1986 after her husband, Oh Kil Nam, requested political asylum in Denmark. Oh Kil Nam has not been able to contact his family since 1986. In 1991, for the first time, a single North Korean citizen was allowed to travel to the United States to visit relatives. He was accompanied by a government official and returned after 2 weeks. The regime does not allow students to study outside of Communist or friendly Third World countries. It tightened controls over DPRK students studying abroad when six defected from Eastern Europe in 1989, and in 1990 called back its students from Eastern Europe and the former U.S.S.R.

From 1959 to 1982, 93,000 Korean residents of Japan, including 6,637 Japanese wives, voluntarily repatriated to North Korea. Despite DPRK assurances that the wives, 1,828 of whom still had Japanese citizenship, would be allowed to go home to Japan every 2 or 3 years, none is known to have returned to Japan and most have never been heard of again. Most of the returnees and their families were placed in the "wavering class" and generally treated with contempt. As this became known abroad, voluntary repatriation ceased. In recent years, the treatment of Japanese spouses appears to have improved, possibly because visiting relatives from Japan bring in hard currency, which is in short supply in the DPRK, estimated to be about $600 million annually.

Over the past decade, the DPRK has gradually permitted an increasing number of overseas Korean residents of Japan, China, North America, and other countries to visit their relatives in North Korea. Entry by all foreigners was suspended temporarily for brief periods in 1993 because of military alerts or for unexplained reasons. Visitors are closely monitored and itineraries are usually fixed, although some visi-

tors are able to walk freely in the vicinity of their hotels or guest quarters. Prior arrangements are necessary for access to apartment buildings, public buildings, stores, and similar facilities.

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

Citizens have no right or mechanisms by which they can effect transitions in leadership or changes in government. The political system is completely dominated by Kim Il Sung and heir-designate Kim Jong Il. The legislature, the Supreme People's Assembly, which meets only a few days a year, serves only to rubber-stamp resolutions presented to it by the leadership.

In an effort to create an appearance of democracy, the DPRK has created several "minority parties." Lacking grass roots organizations, they exist only as rosters of officials with token representation in the Supreme People's Assembly. Their primary purpose appears to be that of promoting government objectives abroad as touring parliamentarians. Free elections do not exist in North Korea. Although elections to the Supreme People's Assembly and provincial, city, and county assemblies are held regularly, in all cases the Government approves only one candidate in each electoral district. According to the government-controlled media, over 99 percent of the voters turned out to elect 100 percent of the candidates approved by the regime's Korean Workers Party or KWP. The vast majority of the KWP's estimated 3 million members (in a population of 22 million) work to implement decrees formulated by the party's small elite.

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

No organizations within the DPRK are permitted to monitor human rights conditions or to observe violations of such rights. North Korea does not belong to any international human rights organizations, but it has for some years sent observers to meetings of the U.N. Human Rights Commission.

Amnesty International representatives visited the DPRK in 1991 and met officials from the Ministries of Foreign Affairs and Public Security, as well as with judges, lawyers, and legal scholars. Subsequently, the DPRK has ignored visit requests by the AI, Asia Watch, and other human rights organizations.

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

Women.—The Constitution states that "women hold equal social status and rights with men." However, few women have reached high levels of the party or the Government. Women are represented proportionally in the labor force, with the exception of small factories where the work force is predominantly female.

Neither government policy or traditional social norms condone violence against women. The AI has reported that women are detained with their families for political offenses committed by their spouses.

Children.—Social norms reflect traditional, family-centered values in which children are cherished. All children have access to state-provided education. Visitors to Pyongyang report that children are well dressed and at least as well fed as the general population. There are no reports of children begging or of child labor in factories. Pyongyang has at least two amusement parks and one department store for use primarily by children. The children of KWP members, disabled veterans, and "revolutionary heroes" seem to receive preferential treatment. Children may be detained with parents deemed guilty of political offenses, according to AI.

National/Racial/Ethnic Minorities.—North Korea has a largely homogeneous population, except for a small Chinese community and the Japanese spouses of former Korean residents in Japan. There are no reports of discrimination against the Chinese community. Systematic discrimination is unlikely since China is North Korea's primary ally and trading partner.

People with Disabilities.—Traditional social norms condone discrimination against the physically handicapped. Handicapped persons, other than war veterans, are reportedly not allowed within the city limits of Pyongyang. According to one credible report, authorities check every 2 to 3 years in the capital for persons with deformities, including dwarfs, and relocate them to special facilities in the countryside. There are no legally mandated provisions for accessibility for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—Nongovernmental labor unions do not exist in North Korea. The Korean Workers' Party purports to represent the interests of all labor. There is a single labor organization, called the General Federation of Trade Unions of Korea, which is affiliated with the formerly Soviet-controlled World Federation

of Trade Unions. Operating under this umbrella, unions function on the classical Soviet model, with responsibility for mobilizing workers behind productivity goals and state targets and for providing health, education, cultural, and welfare facilities. They do not have the right to strike. North Korea is not a member of, but has observer status with, the International Labor Organization.

b. *The Right to Organize and Bargain Collectively.*—Workers have no right to organize or to bargain collectively. Wages are set by government ministries. The State assigns all jobs. Ideological purity is as important as professional competence in deciding who receives a particular job. Factory and farm workers are organized into councils which do have an impact upon management decisions.

c. *Prohibition of Forced or Compulsory Labor.*—There is no prohibition on the use of forced or compulsory labor, and the Government routinely uses military conscripts for construction projects. "Reformatory labor" and "reeducation through labor" are common sentences for political offenses. Amnesty International reports that forced labor, such as logging and tending crops, is common among prisoners.

d. *Minimum Age for Employment of Children.*—No data are available on the minimum age for employment of children. However, education is universal and mandatory until age 15, and it is believed that this regulation is enforced.

e. *Acceptable Conditions of Work.*—No data are available on minimum wages. They appear to be adequate to support a worker and his family at a basic subsistence level. But wages are not the primary form of compensation since the State provides all educational and medical needs free and only token rent is charged.

The Constitution stipulates an 8-hour workday, but several sources report that, during production campaigns, most laborers work 12 to 16 hours daily.

REPUBLIC OF KOREA

The Republic of Korea is governed by a directly elected President and a unicameral National Assembly that is selected by both direct and proportional election. In February, Kim Young Sam of the Democratic Liberal Party was inaugurated as the country's first chief executive who is not an ex-general in nearly three decades. In his first year in office, President Kim, a former opposition leader, implemented sweeping political and economic reforms, including an anticorruption drive, which signified a fundamental policy break from the previous administration, and resulted in an end to the political careers of a number of key officials from that administration.

Responsibility for maintaining internal security lies with the National Security Planning Agency (NSP), the police, and the Defense Security Command (DSC). The Government made personnel and organizational changes in the powerful NSP and other security services for the announced purpose of curtailing the security services' involvement in domestic politics, stopping surveillance of civilians, preventing human rights abuses, and increasing efforts to collect foreign intelligence. The National Assembly reformed the law regulating the NSP and passed an antiwiretapping law to curb Government monitoring of communications. The Government also took a number of steps to institutionalize further, and guarantee, civilian control of the military, including replacing the Defense Security Chief and choosing a Chairman of the Joint Chiefs of Staff from outside of the small circle of military elite which had dominated the services under previous regimes. North Korea's temporary withdrawal from the Nuclear Nonproliferation Treaty, suspicions about its nuclear program, and the lack of progress in talks between North and South Korea heightened concerns about the threat posed by North Korea. Also, the long-standing conventional military threat posed by North Korea's arms buildup and the offensive deployment of its troops and weaponry remained a cause of concern.

The ROK has become a major industrial power and world class exporter. An industrious and literate populace drives economic growth despite a lack of natural resources, especially oil. After several years of strong growth, the economy has slowed down. The gross national product as well as the Consumer Price Index increased by approximately 4.8 percent in 1993. Continued high levels of rural migration to the cities, shortages of skilled labor, unbalanced regional development, an inefficient agricultural sector, and inadequate infrastructure remain problems.

In 1993 the overall human rights situation improved significantly, a result of the fundamental shift in attitude and policy of the Kim Young Sam administration. President Kim achieved two democratic, institutional reforms of an historic nature: the abolition of false-name bank accounts and the enactment of a government ethics law. The requirement that bank accounts be registered in the real names of depositors has forced a large, hidden source of funds for political corruption into the open

and thereby improved the transparency of government and politics. The ethics law requires officials for the first time to disclose their financial assets. Resignations and a reshuffle of judges, prosecutors, and police strengthened judicial independence and heightened sensitivity to individual rights within both the executive and judicial branches. Nonetheless, the Government, insisting that the National Security Law (NSL) is designed to thwart subversion by pro-North Korean forces, continued to use it to violate the freedoms of expression, association, and travel. The Government invoked the NSL less, however, and NSL arrests declined by over half. Although basic labor laws, which fall short of international standards, were not reformed, the Government, in a fundamental shift, assumed a much more neutral stance between labor and management during labor disputes.

The Government also decreed several amnesties that released, reduced the prison sentences of, or erased the criminal records of, hundreds of persons arrested for politically motivated acts. Police treatment of, and access to legal counsel for, suspects improved, although sleep deprivation continues to be used during questioning. Despite marginal progress, women continued to suffer from discrimination and violence. Nonetheless, the administration's reforms overall had a liberalizing effect on the society.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reported cases of political or extrajudicial killings. In June, however, a riot policeman died shortly after being beaten by students during a street demonstration (see Section 2.b.).

b. *Disappearance.*—There were no accusations of disappearances during 1993.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—President Kim directed authorities to protect the human rights of suspects. For the first time in several years, allegations of abuse by authorities of those in custody for questioning declined. Nonetheless, authorities continued to place much emphasis on extracting confessions from suspects. Although it is government policy not to torture or mistreat suspects, police use of sleep deprivation during questioning is widespread. In both political and nonpolitical cases, police routinely question suspects through the night and early morning. There were also unsubstantiated reports of verbal abuse during questioning.

In a nonpolitical case, a judge ruled for the first time that prosecutors abused and beat a person during questioning in 1989. The judge ordered that the Government pay the plaintiff, a taxi driver, nearly $100,000 in compensation.

In two political cases from the mid-1980s, the courts found policemen guilty of committing and covering up acts of torture. In March the Seoul high court reaffirmed a lower court's ruling that gave three former national police officials—a vice director and two officials of the anti-Communist division—suspended prison sentences for attempting to cover up the 1987 death of university student Park Chong Chol, who died in police custody after being tortured during questioning about alleged antigovernment activities. A police lieutenant's testimony about the coverup was the main evidence which helped convict the three officers. In August a Seoul District Criminal Court judge ordered the rearrest of four former policemen for the 1985 torture of prominent dissident Kim Keun Tae and sentenced them to from 1½ to 3 years in prison. Despite progress, however, it remained relatively rare for officials accused of abuse or harassment of suspects to be prosecuted.

Conditions in Korean prisons remained Spartan, although a dissident released from prison in 1993 stated that conditions, including nutrition and access to reading materials, have improved significantly in recent years.

Prisoners regularly exercised outdoors, and prison authorities provided vocational training. The most frequent complaint was that cells were not heated during the winter or cooled during the summer.

Although the authorities generally put prisoners convicted of politically motivated acts in cells by themselves, they had frequent contact with other inmates, and conditions were otherwise similar to those for other prisoners. After arrest and questioning, prisoners of all types had access to family members, relatives and others, unless prison authorities deemed it "inappropriate" for rehabilitation, which was rare. A few months after the new administration took office, the Justice Ministry liberalized regulations to permit greater access to prisoners.

There is little independent monitoring of prison conditions, although human rights monitors can see certain prisoners if approved by the prison warden. Most accusations of mistreatment involved persons being questioned by the authorities after their arrest and before indictment, rather than those who were already convicted and serving their sentences in jail.

d. *Arbitrary Arrest, Detention, or Exile.*—In general, Korean law is vague with respect to detentions and prosecutors have wide latitude to interpret the law. The NSL defines espionage in broad terms and permits the authorities to detain and arrest persons who commit acts viewed as supportive of North Korea and therefore dangerous to the Republic of Korea. Authorities arrested not only persons spying on behalf of North Korea but also those who exercised their freedom of speech to call for the downfall of the Government or to praise North Korea, its leader Kim Il Sung, or Kim Il Sung's "self-reliance" ("juche") political philosophy.

Article 7 of the NSL permits the imprisonment for up to 7 years of persons who "with the knowledge that he might endanger the existence or security of the State or the basic order of free democracy, praised or encouraged or propagandized for, or sided with the activities of an antistate organization." North Korea has been defined as an "antistate organization." Other restrictive laws still in effect are the Law on Assembly and Demonstration, the Social Surveillance Law (SSL), labor laws, and election laws.

The Government rationale for the NSL continued to be that the Korean peninsula is a special case because the 1950–53 Korean war ended with the signing of an armistice, not a peace treaty, and because Cold War tensions remain on the peninsula. North Korea remains a formidable military threat.

In light of heightened concern about the North Korean threat, the opposition Democratic Party dropped its demand for immediate reform of the NSL in 1993, but it still called for reform of the law regulating the NSP and passage of an antiwiretapping bill. In December the ruling and opposition parties approved the two bills in a National Assembly vote. The new NSP law restricts the agency from interfering in domestic politics; limits the Agency's authority to cases involving terrorism, espionage, and international crime organizations. The law also provides for prison sentences for NSP employees who violate the law, guarantees that detainees have access to legal counsel during an NSP investigation, and mandates the creation of a National Assembly Committee to oversee the agency. The antiwiretapping bill lays out broad conditions under which the monitoring of telephone calls, mail, and other forms of communication are legal; requires government officials to secure a judge's permission before placing wiretaps or, in the event of an emergency, after the fact; and provides for jail terms for those who violate this law.

The South Korean Justice Ministry stated that arrests for politically motivated acts declined because the number of antigovernment protests, including acts of violence, dropped significantly.

The Kim Administration issued several general amnesties, which included prisoners convicted of politically motivated acts; the amnesties cut by more than half the number of people in jail for politically motivated acts, including espionage and violence, from approximately 675 to under 300. In March, shortly after his inauguration, President Kim declared a wide-scale presidential amnesty which pardoned, paroled, restored the civil rights of, or commuted or reduced the sentences of about 5,800 persons charged under security-related laws. The presidential decree gave amnesty to 144 security-related prisoners, including prominent dissident Rev. Moon Ik Hwan, who in 1989 had traveled to North Korea without permission from the South Korean Government, and seven other political prisoners. Six long-term, elderly prisoners convicted of espionage were also released. In May, in celebration of Buddha's birthday, the Government released about 80 convicts in jail for politically related acts, including student activist Im Chong Suk, who in 1989 helped fellow student Im Su Kyong go to Pyongyang. In a Christmas amnesty, the ROK released on parole 44 prisoners convicted of politically motivated acts, including 20 unionists as well as Choi Il Bung, who was arrested in 1992 for publishing antistate materials.

The Government also did not interfere in peaceful events sponsored by a South Korean dissident coalition led by Rev. Moon Ik Hwan to commemorate Korean Liberation Day. It is noteworthy that these events were carried out on behalf of an organization the Government considered antistate, the "Pan-National Committee for Reunification" ("Pomminnyon").

In an appeals case concerning the sale of pro-North Korean materials, the Supreme Court reaffirmed past rulings that it is legal under the NSL to possess antistate publications for purely academic use, profit, or curiosity, but not with the intent of aiding North Korea.

Arrests and prosecutions under the NSL continued, but their numbers declined significantly. NSL arrests numbered around 80, compared with 305 arrests in 1992. Korean human rights groups estimated that warrants remained for the arrest of about 300 people for violating the NSL or committing other politically motivated acts. The authorities publicly promised to be lenient to the maximum extent possible under the law if such persons turned themselves in.

Lower courts rejected the prosecution's death penalty requests for several suspects charged as leaders in what the Government announced in 1992 was a major North Korean spy ring. The courts instead sentenced them to life in prison or less. The most prominent spy suspect, unification and labor activist Kim Nack Joong, was sentenced to life in prison and fined nearly $1 million. Another suspect, long-time activist Kwon Tu Yong, committed suicide after learning that prosecutors would ask for the death penalty. The courts sentenced deputy spokesman for the opposition Democratic Party Kim Bu Kyom to 1 year in prison and a 1-year suspension of civil liberties, with a 2-year stay of execution, for his involvement in the spy case. National Assembly Defense Committee staffer Lee Kun Hee of the opposition Democratic Party received a 3-year prison sentence and a 3-year suspension of civil liberties.

In February, before President Kim's inauguration, a lower court sentenced Tae Jae Jun, chairman of Korea's General Student Association, to a 4-year prison term under the NSL and the Law on Assembly and Demonstrations. Charges included waving the North Korean flag, which the authorities considered an antistate act. The NSP arrested Hwang Sok Young, a South Korean novelist and ex-spokesman for "Pomminnyon" overseas, when he returned to Korea after 4 years in self-exile. Among the charges against Hwang are his activities for "Pomminnyon" and visits to North Korea. The authorities also indicted Noh Tae Hun, an ex-official of the Korean human rights group "Mingahyop," for possession of an antistate newsletter published by former long-term prisoners convicted of espionage.

The authorities continued to arrest and indict under the NSL members of the Socialist Workers Alliance ("Sanomaeng"), which the Government considered a pro-North Korea organization and therefore antistate. Nonetheless, Sanomaeng arrests declined to about 10, compared with over 65 arrests in 1992. Courts also gave lighter sentences to NSL violators. When prosecutors appealed a lower court's sentence of life in prison for Sanomaeng leader Paek Tae Woong and requested the death penalty, the Supreme Court instead reduced the sentence to 15 years in prison. The NSP arrested university instructor Cho Guk in June partly for publishing antistate materials, but the court gave him a suspended sentence in December.

Warrants issued by judges are required by law in cases of arrest, detention, seizure, or search. The law does not require the authorities to seek warrants if the person is apprehended while committing a criminal act or if a judge is not available and the authorities think that the suspect may destroy evidence or escape capture if not quickly arrested. In such emergency cases, judges must issue arrest warrants within 48 hours after apprehension, or, if a court is not located in the same county, 72 hours. Police can detain suspects who voluntarily come in for questioning for up to 6 hours but must notify the suspects' families.

Upon issuance of an arrest warrant, the security services can hold suspects during the investigation phase for up to 30 days before an indictment is made. Article 19 of the NSL gives judges the power to approve requests to extend the detention period an additional 20 days, making detention legal for up to 50 days. The Constitutional Court, however, ruled that while the authorities can extend detention beyond the legal limit of 30 days for those suspected of "serious" violations such as spying or organizing an antistate group, they cannot do so in cases where the suspects are charged only with praising North Korea or failing to report NSL violations.

The Constitution specifically provides the right to representation by an attorney. However, prosecutors prohibit attorneys from accompanying their clients during any stage of interrogation. There are often no facilities for private meetings between suspects and their attorneys. In late April, the Presidential spokesman quoted President Kim as directing his aides to protect the human rights of suspects and guarantee access to legal counsel. Suspects' access to legal counsel during the investigation phase improved noticeably during the year. In October the Government began to permit suspects during the investigation phase to consult with "duty lawyers," a new system set up by a nongovernmental association of lawyers.

There is a functioning system of bail.

e. *Denial of Fair Public Trial.*—The Constitution provides defendants a number of rights in criminal trials, including presumption of innocence, protection against self-incrimination, freedom from retroactive laws and double jeopardy, the right to a speedy trial, and the right of appeal. When a person is physically detained, his initial trial must be completed within 6 months of arrest. These rights are generally observed. Trials are open to the public, but the judge may restrict attendance if he believes the spectators may seek to disrupt the proceedings.

The President, with the consent of the National Assembly, appoints the Chief Justice and the other justices of the Supreme Court for a term of 6 years. Lower court justices are appointed by the Chief Justice with the consent of the other justices. The President also appoints the justices of the Constitutional Court.

Judges generally allowed considerable scope for examination of witnesses by both the prosecution and defense. Political and criminal cases are tried by the same courts; military courts do not try civilians. Although convictions are rarely overturned, appeals often result in reduced sentences. Death sentences are automatically appealed. In recent years the judiciary has shown increasing independence, and that trend accelerated in 1993. In a statement released to the public in late June, junior judges from the Seoul civil court criticized past political intervention in judicial decisions and called for reform of the judicial personnel system.

The Government mandated disclosure of financial and real estate assets by government officials, first in March, and then in June, the latter of which led to the resignation of many judicial officials, including the Supreme Court Chief Justice, Prosecutor General, and national police chief in September. In a personnel reshuffle, judicial officials generally considered committed to the independence and integrity of the judiciary were appointed, including Chief Justice Yoon Kwan, who promised further reforms. In a series of cases, the courts continued to rule against the Government by awarding compensation to suspects abused by the authorities, punishing those responsible for such mistreatment, and issuing lighter sentences for politically motivated crimes.

The Constitutional Court, which began operation in 1988, continued to grow in its role of interpreting the Constitution. For example, it has upheld the confidentiality of attorney-client discussions, ruling unconstitutional government tape recording of such talks.

It is difficult to estimate the number of political prisoners, i.e., those jailed for exercising their political rights unaccompanied by violence, because it is not clear whether particular persons were arrested for merely exercising the right of free association or were detained for committing or planning acts of violence or espionage. At year's end, Korean human rights groups claimed that political prisoners, i.e., any person arrested for politically motivated acts in opposition to the Government, including espionage and violence, numbered less than 300. It appeared that the number of political prisoners and detainees as defined by international human rights standards numbered well under 100.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—In general the Government honors the integrity of the home and family. In the past, the security services conducted varying degrees of surveillance, including wiretaps, of political dissidents. In January released student activist Im Su Kyong charged that her home was under surveillance by the NSP. The Government stated, however, that one of its aims in reforming the security services such as the NSP was to protect human rights. The new antiwiretapping law and reformed NSP law, passed by the National Assembly in December, were designed to curb government surveillance of civilians.

The Government and the courts have taken a few tentative steps to limit encroachments on the individual's right to privacy and to make public government documents. For the first time, President Kim ordered government agencies to assist the opposition Democratic Party in releasing information about the 1973 kidnaping of prominent opposition leader Kim Dae Jung. To make government functioning more open to the public, the Foreign Ministry began to implement new regulations to declassify and publicly release government documents.

Government informants are known to be posted on and around university campuses. In May a student told reporters that police paid him to supply information about student activists. Persons thought to have backgrounds as political or labor activists are still denied some forms of employment and advancement, particularly in the fields of government, broadcast media, and education.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Almost all political discourse is unrestricted. Limits remained under the NSL on the expression of ideas that the Government considered Communist or pro-North Korean.

Direct control over the print media virtually has disappeared. Nonetheless, the Government's indirect influence on the media remained considerable. Many journalists and editors practiced some degree of self-censorship to advance their careers. Many former journalists become public officials. Due to President Kim's anticorruption campaign, government payments of money to reporters, known as "chongji," have been curtailed but not halted completely.

In June Defense Minister Kwon Young Hae lodged a libel suit against the Joong-Ang Ilbo newspaper for a story that the Government had banned him and 21 other current and former defense officials from leaving the country due to their suspected involvement in corruption in the purchase of certain military weapons systems. The Government stated that the story was false, and the newspaper dropped the story

from later editions and published a retraction the next day. In response to the libel suit, prosecutors arrested the reporter who wrote the article and also questioned the daily's president-publisher, editor in chief, and managing and city editors. After Joong-Ang Ilbo officials met with the Defense and Information Ministers to apologize personally, Defense Minister Kwon dropped the suit and authorities released the reporter.

Prosecutors continued to indict, albeit less frequently than in the past, some dissidents for producing, selling, or distributing pro-North Korean or pro-Communist materials. A former human rights activist, Noh Tae Hun, was indicted under the NSL for having copies of a newsletter published by former, elderly prisoners who had served sentences for spying on behalf of North Korea. In November the authorities investigated a private group for using an electronic bulletin board service to post antistate messages advocating a Socialist revolution and supporting the "Socialist Workers Alliance" group.

Among the charges against student activist Chun Tae Jae was his involvement in protests in which students waved the North Korean flag. The authorities did not block student activists from holding a 2-hour telephone conference in May with North Korean students, but they did issue warrants for their arrest under the NSL. Listening to North Korean radio is illegal if the authorities judge it is for the purpose of helping North Korea or an antistate organization. In March the Supreme Court reaffirmed that it was legal under the NSL to possess publications "benefiting the enemy" for purely academic use, profit, or curiosity, but not with the intent of aiding "the enemy." The ruling came in the case of Kim Hyong Kun, who was indicted under the NSL for selling pro-North Korean books.

The Government continued to allow, within its guidelines, an increase in media coverage of North Korea. Television networks presented edited versions of North Korean television programs on a weekly basis. The media extensively reported on U.S. and South Korean talks with North Korean officials, sending reporters to cover U.S.-North Korean talks in New York and Geneva. In February, however, the state broadcasting company KBS decided not to broadcast an interview with former student activist Im Su Kyong, who was jailed for visiting Pyongyang in 1989 without the approval of the South Korean Government and was amnestied in 1992. KBS reportedly decided that, if broadcast, the interview would encourage others to travel to North Korea without government permission.

The Government also allowed somewhat wider public access to selected North Korean publications. The December 1991 landmark agreements between South and North Korea included provisions—long advocated by South Korea—for exchanges and cooperation in publishing, journalism, radio, and television. Nonetheless, North Korea's lack of progress in clearing up the nuclear issue has stymied implementation of the North-South Korean agreements.

There is a continued threat to academic freedom from leftist students who intimidate professors whose lectures or writings contradict the students' ideology. In September, 10 students were seriously injured when student activists attempted to storm the office of the Kyonggi University president to demand his resignation, but instead they clashed with members of the school's judo club and threw firebombs and rocks.

b. *Freedom of Peaceful Assembly and Association.*—The Law on Assembly and Demonstrations prohibits assemblies considered likely to undermine public order it forbids outside interference in peaceful assemblies approved by the authorities. The law requires that the police be notified in advance of demonstrations of all types, including political rallies. Police must notify organizers if they consider the event not permissible under this law. Although the Government did not amend the law, in practice it applied it with restraint, permitting practically all assemblies and demonstrations to be held. Dissidents reported that in contrast to previous practice the Government this year approved most applications to hold public assemblies and protests. Police adopted a low-key approach to peaceful protests held without police approval. Police either allowed the demonstration to continue or transported protesters to the outskirts of the city and left them there to find their way back to the city. In general, police showed restraint and discipline in the face of severe provocation during violent demonstrations. In June students beat severely a riot policeman, who was pronounced dead an hour later.

For the first time, the authorities permitted dissident and independent unionists to hold a May Day march through the city. In another first, the Government cooperated with the citizens of the southwestern city of Kwangju in peacefully commemorating the May 1980 uprising there. Up to 35,000 people attended the ceremony, much of which was antigovernment in content. The Government supported the "South-North Human Chain for Peace and Reunification" organized by the dissident National Council of Churches in Korea (KNCC) to commemorate Korea's Liberation

Day. The Government also did not block peaceful Liberation Day rallies held by a dissident coalition representing "Pomminnyon."

Demonstrations by university students declined again in 1993, and student use of firebombs practically ceased. The most violent occurred in Kwangju, particularly at the American Center, ruling party headquarters, police stations and the provincial capitol. Contrary to the nationwide trend, violent student demonstrations in Kwangju increased relative to protests in 1992. In March several hundred students, armed with steel pipes and rocks, blocked President Kim from visiting Kwangju cemetery, where he planned to pay his respects to victims of the 1980 uprising there in order to alleviate regional tensions. Police did not attempt to remove the students by force.

c. *Freedom of Religion.*—There is no state religion. Full freedom prevails for proselytizing, doctrinal teaching, and conversion. Korea both sends and receives missionaries of various faiths, and many religious groups in Korea maintain active links with members of similar faiths in other countries. The Government and the public do not discriminate against minority sects. Adherence to a particular faith confers neither advantages nor disadvantages in civil, military, or official life.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There is universal freedom of movement within the country. Foreign travel is generally unrestricted, but travel to North Korea is allowed only with government approval. One of the conditions is that the trip must not have a political purpose, i.e., to praise North Korea or criticize the South Korean Government. Between August 1989 and August 1992, 539 South Koreans in 18 different groups visited North Korea, and another 2,247 contacted North Koreans with government approval. In 1993, however, the two sides had few exchanges and no meetings at the prime minister level because of renewed tensions caused by North Korea's refusal to allow complete International Atomic Energy Agency inspections of nuclear facilities and to set up a North-South Korean nuclear inspection regime. The NSP arrested two labor activists on charges of violating the NSL for trying to visit North Korea.

Following a spate of incidents in 1991 in which prosecutors used exit bans to apply pressure on foreign citizens in commercial disputes, the Government issued in January 1992 new guidelines on the imposition of exit bans on foreigners under the Exit and Entry Control Act. The act gives immigration authorities discretionary powers to block the departure of both foreigners and Koreans from Korea. The new guidelines provide procedures where previously there had been none but still leave a considerable amount of discretion to the authorities. There were no further reports of exit bans involving foreign citizens, although the threat of imposition of an exit ban remained credible.

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

The Korean people have the right to elect their own government. The Constitution, as amended in 1987, provides for the direct election of the President and for a mixed system of direct and proportional election of legislators to the unicameral National Assembly. The President serves a single 5-year term and may not be reelected. The National Assembly's term is 4 years. There is universal suffrage for all citizens aged 20 or above, and elections are held by secret ballot.

In a February 25 inaugural ceremony, the reins of government were peacefully transferred from Roh Tae Woo to Kim Young Sam, who became Korea's first democratically elected, genuinely civilian chief executive in nearly 30 years. This was Korea's second, peaceful transfer of power in less than a decade.

President Kim instituted sweeping political reforms to reduce corruption, further institutionalize democracy, and improve human rights. In June President Kim won National Assembly approval of a public servants ethics law which required financial disclosures for members of the three top civil service ranks and the Assembly. In August President Kim instituted a real-name financial system to reduce corruption. President Kim reformed the security services and reinvigorated the Board of Audit and Inspection, which launched wideranging inquiries into government corruption.

For reasons of culture and discrimination, women occupy few positions in government and the professions. There are currently 3 women in the 299-seat National Assembly, all of whom were appointed to proportional representation seats based on their parties' showing in the 1992 elections. The only woman in the Cabinet has traditionally been the Second Minister for Political Affairs, whose portfolio is women's affairs. President Kim appointed three women to cabinet positions. For the first time, women became the Ministers of Health and Social Affairs and of Environmental Affairs.

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

Several nongovernmental private organizations are active in promoting human rights and operate freely. Chief among these groups are the Lawyers for a Democratic Society, the Human Rights Committee of the National Council of Churches in Korea, the Korean Bar Association, and "Mingahyop," an association of the families of political prisoners. These groups publish reports on the human rights situation in Korea and make their views known both inside and outside the country. There were no credible reports of government harassment. The National Assembly and the major political parties all have committees concerned with various aspects of human rights.

Government and ruling party officials have generally been willing to meet with international human rights groups.

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

Women.—Korea's conservative Confucian tradition has left women subordinate to men socially, economically, and legally. Most married women do not work outside the home. In large companies women are often expected to resign upon marriage or no later than the birth of their first child. Judicial decisions in cases involving women petitioners or defendants are often heavily influenced by the Korean Confucian ethos, which does not accord women equal status with men. There has been a gradual improvement, however, in social mores and values affecting women. Women have full access to education, become government officials, and hold elected office.

The National Assembly enacted an Equal Employment Opportunity (EEO) law in 1988 and, in early 1991, the Government issued "Guidelines to Eliminate Sexual Discrimination in Employment." So far, however, the law and guidelines have had only limited effect. There are very few women who work as company executives, officials in government ministries, or lawyers.

While women account for just over 40 percent of the economically active population, the average female worker's wage remained a little over half that of the average male worker, and starting wages for female university graduates were 40 percent lower than those of their male counterparts.

The traditional preference for male children continues in Korea today. It is estimated that when today's children reach marrying age there will be 400,000 "surplus bachelors." Korean law bans sex testing and abortions except when the woman's life is in danger, a hereditary disease would be passed along, or in case of rape or incest. Fetal sex testing and abortion of female fetuses, however, are still performed.

Korea's amended Family Law, which went into effect in January 1991, permits women to head a household, recognizes a wife's right to a portion of the couple's property, and allows a woman to maintain greater contact with her offspring after a divorce. Although the revisions helped abused women, divorce still remains a social taboo. Most Koreans remained unaware of the revised law, and there is little government or private assistance for divorced women. These factors, plus the fact that employment opportunities for women are limited and that divorced women have difficulty remarrying, leads some women to stay in abusive situations.

According to a survey conducted by the Health and Social Affairs Ministry, about 60 percent of 7,500 married women nationwide responded that their spouses had mistreated them. Close to half the women who reported mistreatment said that it had occurred once or twice, and about 5 percent stated they were subject to habitual mistreatment. Among respondents who claimed they were physically mistreated, about half said that their husbands had thrown objects at them, about a quarter were pushed or thrown about, and about 20 percent were kicked or punched. A quarter of mistreated respondents attributed the mistreatment to their spouse's drinking. About 60 percent of 7,500 women said that they had heard about government-run shelters for abused women. The Ministry reported that 245 women and 122 children used two government-run shelters. Private groups have also set up a hotline and a few shelters for abused women.

A 1992 report by the National Police Agency estimated that 9.8 women per 1,000 are raped in South Korea. Credible sources indicated a significant rise in the number of cases reported in 1993. Whether this rise is attributable to increased violence or increased reporting of violence or both is uncertain. In any case, the National Assembly did not pass stronger bills against rape, as proposed by the ruling and opposition parties in 1992.

Children.—Children's human rights and welfare have not been prominent social policy issues. The Government continued to devote an increasing share of the overall budget to social expenditures, which includes those related to the welfare of chil-

dren. A United Nations Children's Fund report rated Korea excellent in child welfare, particularly in child nutrition, health, education, and family planning. Although government expenditures on education are low compared with other industrialized countries, Korea is notable for its very strong, Confucian commitment to education, which government, society, and parents support at all levels.

Child abuse has not been studied extensively, and statistics on child abuse are limited. Reports to the authorities, however, of child abuse nationwide numbered less than 50 in recent years. According to official statistics, the number of runaway children each year has dropped from about 7,000 in the past to approximately 1,000. Seoul Metropolitan Government runs a children's counseling center, which investigates reports of abuse, counsels families, and cares for runaway children. Because Korea does not have a specific law against child abuse, however, it is difficult to prosecute and punish child abusers unless they commit a crime punishable under a separate law.

National/Racial/Ethnic Minorities.—The Republic of Korea is a racially homogeneous country with no ethnic minorities of significant size. Nonetheless, regional rivalries exist. Persons from the southwestern region (North and South Cholla Provinces) have traditionally faced discrimination. Many Koreans believe that successive governments led by figures from the southeastern region (North and South Kyongsang Provinces) have deliberately neglected the economic development of the Cholla Provinces for political reasons. President Kim attempted to alleviate longstanding regional grievances, such as the brutal suppression of the May 1980 Kwangju uprising, through more evenhanded government spending and appointments, naming natives of the Cholla Provinces to be Prime Minister and Supreme Court Chief Justice.

Centuries of isolation and a history of foreign invasion and occupation engendered a tradition of xenophobia in Korea. Citizenship in Korea is based on blood, not location of birth, and Koreans must show as proof their family genealogy. Thus, Korea-born Chinese residents cannot obtain Korean citizenship or become public servants and are unlikely to be hired by major corporations. Due to legal as well as social discrimination, many Chinese residents in Korea have emigrated to other countries since the 1970's, with the number of Chinese residents decreasing from 40,000 to 18,000 over the past several years. Amerasian children are usually able to obtain Korean citizenship. No formal discrimination exists. Informal discrimination, however, is prevalent. Although a few Amerasians have achieved fame in sports or entertainment, an Amerasian is unlikely to become prominent in academia, business or government.

People with Disabilities.—As Korea continues to develop economically, socially, and politically, community and social organizations have started to focus attention on the issue of the rights and treatment of handicapped and mentally ill or retarded people. Although there are public displays of concern for the mentally and physically disabled, such as the Special Olympics and television documentaries, public facilities for their everyday care and use remained inadequate and their general treatment by society discriminatory. The Government lacked adequate educational programs and schools for severely disabled people. The Government did not discriminate officially against the disabled who were capable of attending regular schools, but societal pressures and cultural biases have a strong negative impact on that access. The Government has not enacted legislation or otherwise mandated accessibility for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution gives workers, with the exception of most public service employees and teachers, the right to free association. There are, however, blue-collar public sector unions in railways, telecommunications, postal workers, and the national medical center. The Trade Union Law specifies that only one union is permitted at each place of work, and all unions are required to notify the authorities when formed or dissolved.

In the past, the Government did not formally recognize labor federations which were not part of or affiliated with the country's two legally recognized labor groupings—the Federation of Korean Trade Unions (FKTU) and the independent Korean Federation of Clerical and Financial Workers. In 1993, however, the Labor Ministry officially recognized four independent white-collar federations, representing hospital workers, journalists, office workers at construction firms, and government research institutes. These decisions followed rulings in the courts in 1992 that affiliation to the FKTU is not required in order to be registered as a legal labor federation. In practice, labor federations not formally recognized by the Labor Ministry existed and worked without government interference, except if the authorities considered their involvement in labor disputes harmful to the nation.

The Government, however, did arrest unionists it viewed as acting as third parties in instigating or prolonging labor disputes, as in the summer strikes at a number of firms associated with the Hyundai business group. As a result of the fundamental shift made by President Kim's administration in labor policy and government amnesties (20 trade unionists were amnestied in December), the number of jailed workers plummeted from approximately 176 in 1992 to about 20 by the end of 1993.

President Kim appointed National Assemblyman Rhee In Je, a progressive, as Labor Minister. Unlike his predecessors, Rhee said that he was labor's advocate in the Government and took a tough stand against an insurance company accused of forcing employees to resign from the union. He largely succeeded in amending labor regulations to comply with recent court decisions. Minister Rhee ended the Government's hardline policy against dissident or radical labor federations such as the Korea Trade Union Congress (KTUC or "Chonnohyup") and affiliates of the Korean Congress of Independent Industrial Federations (KCIIF). The Government met for the first time with dissident and independent labor federations it did not officially recognize, including the banned Teachers' Union. Moreover, the Government did not interfere in the work of the "National Labor Union Representatives Conference," which was formed in March by labor federations not recognized by the Government, such as KTUC, KCIIF, and labor federations representing Hyundai and Daewoo unions. In December the President reshuffled the Cabinet and replaced Minister Rhee, who had been criticized heavily by the business community for his policies, with former National Assemblyman Nam Jae Hee.

Government nonrecognition of a labor federation did not disable a union unless the union's intervention in a labor dispute was considered by the Government as a hindrance to the dispute's resolution or seriously threatened the national economy. The KTUC assisted the Hyundai Group Labor Union Association in holding coordinated collective actions, including strikes, at Hyundai companies. Mediation efforts by the Government, including visits by the Labor Minister, failed to resolve the strikes. In July the Government issued warrants to arrest KTUC President Dan Byung Ho and seven other unionists for illegal third-party intervention. Police searched the groups' offices and arrested the Hyundai Group Labor Union Association chairman and several other unionists. Arrest warrants remained valid for Dan Byung Ho and three others.

For the first time, leaders of the banned teachers' union (Chonkyojo) met with the Education Minister as well as other government officials. The Government, however, did not lift the ban on labor activities by both public and private schoolteachers. Korean law mandates the ban, which the Constitutional Court has upheld twice in recent years. The Government instead offered to reinstate nearly 1,500 fired teachers if they resigned from Chonkyojo. The Government began to reinstate teachers who submitted their resignations from Chonkyojo. Under the Christmas amnesty, the ROKG amnestied, restored the civil rights of, or made eligible for rehiring, 170 teachers who had previously been fired for joining the teachers' union.

There is no minimum number of members required to form a union, and unions may be formed without a vote of the full, prospective membership. Korea's election and labor laws forbid unions from donating money to political parties or participating in election campaigns. However, trade unionists have circumvented the ban by temporarily resigning their union posts and running for office on the ticket of a political party or as an independent.

Strikes are prohibited in government agencies, state-run enterprises, and defense industries. By law enterprises in public interest sectors such as public transportation, utilities, public health, banking, broadcasting, and communications must submit to government-ordered arbitration in lieu of striking. The Labor Dispute Adjustment Act requires unions to notify the Ministry of Labor of their intention to strike and mandates a 10-day "cooling-off period" before a strike may legally begin. (This period is 15 days in public interest sectors.) Overall membership in Korean labor unions has been declining over the last several years, largely because the explosion in labor organizing in 1987–89 left the movement divided but well compensated and worker rights significantly improved.

The FKTU is affiliated with the International Confederation of Free Trade Unions (ICFTU). Most of the FKTU's 20 constituent federations maintain affiliations with international trade secretariats, as do KCIIF white collar federations and the KTUC Metalworkers Council. In March the ICFTU held a conference in Seoul to discuss labor law reform, which brought together mainstream, independent, and dissident Korean trade unionists, as well as Korean and foreign experts. In November the Friedrich Ebert Institute organized a similar conference in Seoul under the sponsorship of eight international trade union secretariats.

In response to freedom of association complaints lodged by Korean dissident and independent unions, the International Labor Organization (ILO) Committee on Freedom of Association (CFA) issued an interim report in March which recommended that the Government bring Korean labor law and policy up to international worker rights standards. In November the CFA again recommended that the Government reform labor laws in accordance "with the principles of freedom of association."

The Government under President Kim adopted a policy of persuasion and mediation to settle strikes. To settle strikes and work stoppages at 10 Hyundai companies, President Kim, for only the second time in Korea's history, ordered binding government arbitration to resolve the strike at Hyundai's auto factory. Police intervention in labor disputes dropped dramatically, and the number of labor disputes again declined in 1993. In the summer, the Government deployed riot police during strikes and work stoppages at Hyundai companies. There were only two reported incidents of police breaking up strikes, at Hyundai Precision and Apollo Auto Parts. There were no reports of employer-hired squads assaulting workers in 1993.

Since July 1991 South Korea has been suspended from the U.S. Overseas Private Investment Corporation insurance programs because of a lack of significant progress in worker rights.

b. *The Right to Organize and Bargain Collectively.*—The Constitution and the Trade Union Law guarantee the autonomous right of workers to enjoy collective bargaining and collective action. Although the Trade Union Law is ambiguous, the authorities, backed by the courts, have ruled that union members cannot reject collective bargaining agreements signed by management and labor negotiators. This situation has in the past led to repudiation of contracts and wildcat strikes. Extensive collective bargaining is practiced. Korea's labor laws do not extend the right to bargain collectively to government employees, including employees of state or public-run enterprises, and defense industries. The Government's wage guidelines in 1993 matched the wage targets negotiated between and agreed upon by the FKTU and the employers association.

Companies operating in Korea's two export processing zones (EPZ's) have been considered public-interest enterprises whose employees' rights to organize and bargain collectively face restrictions. In practice, however, unions at EPZ companies have been formed, and workers in the two EPZ's exercise the right to organize and bargain collectively like other private sector unions.

Korea has no independent system of labor courts. The central and local labor commissions form a semiautonomous agency of the Ministry of Labor that adjudicates disputes in accordance with the Labor Dispute Adjustment Law. Each labor commission is composed of equal representation from labor (represented by the FKTU), management, and "the public interest." Local labor commissions are empowered to decide on remedial measures in cases involving unfair labor practices and to mediate and, in some situations, arbitrate labor disputes. The Labor Law authorizes labor commissions to start conciliation and mediation of labor disputes after, not before, negotiations break down and the two sides are locked into their positions. The Trade Union Law (article 39) prohibits antiunion discrimination.

The Trade Union Law and Labor Dispute Adjustment Law forbid third-party intervention in unions and labor disputes by federations not recognized by the Government, (such as Chonnohyup and KCIIF) but allow recognized labor federations, principally the FKTU, its affiliates, and five independent white-collar federations, to assist member unions. The ban on third-party intervention also exempts mediation efforts by lawyers, experts, and others who have the consent of both labor and management. The Government continued to enforce the laws against third-party intervention. Mutual labor-management antagonism remains a serious problem, and some major employers remain strongly antiunion.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution provides that no person shall be punished, placed under preventive restrictions, or subjected to involuntary labor, except as provided by law and through lawful procedures. Forced or compulsory labor is not condoned by the Government and is generally not practiced. There were credible reports, however, of illegal foreign workers who were not paid back wages by their employers but who continued to work for, or live in dilapidated housing provided by, their employers. Credible reports exist of illegal foreign workers who were not compensated for injuries suffered on the job, and of others who lacked the funds to return to their home countries. There is little government assistance for illegal foreign workers in such circumstances.

d. *Minimum Age for Employment of Children.*—The Labor Standards Law prohibits the employment of persons under the age of 13 without a special employment certificate from the Ministry of Labor. Because there is compulsory education until the age of 13, few special employment certificates are issued for full-time employ-

ment. Some children are allowed to do part-time jobs such as selling newspapers. In order to gain employment, children under 18 must have written approval from their parents or guardians. Employers may require minors to work only a reduced number of overtime hours and are prohibited from employing them at night without special permission from the Ministry of Labor. Child labor laws and regulations are clear and usually enforced when violations are found, but a shortage of inspectors precludes regular inspections. Child labor has not been identified in any export industries.

e. *Acceptable Conditions of Work.*—The Government implemented a minimum wage law in 1988. The minimum wage level is reviewed annually. In 1993 it was about $10 per day (8,041 won). Companies with fewer than 10 employees are exempt from this law, and some still pay below minimum wages. Due to Korea's tight labor market, however, most firms pay wages well above the minimum wage in order to attract and retain workers. The FKTU and other unions continue to claim that the current minimum wage does not meet the minimum requirements of urban workers. The Government notes that the money an average Korean blue-collar worker takes home in overtime and bonuses significantly raises the total compensation package. According to the Ministry of Health and Social Affairs, 5.2 percent of the population lived below the poverty level in 1992.

Discrimination occurs against foreign workers, most of whom come from China, the Philippines, Bangladesh, Nepal, and Pakistan to work, often illegally. The Government and labor movement were largely unresponsive to protecting fundamental labor rights of foreign workers illegally at work in Korea, estimated by the Government to number about 60,000. There were credible reports of Korean employers not paying illegal foreign workers or providing substandard living accommodations. There is no government channel whereby illegal foreign workers to seek relief concerning loss of pay or unsatisfactory living and working conditions. A handful of individual Korean churches and ministers provided some assistance to illegal foreign workers.

The Labor Standards and Industrial Safety and Health Laws provide for a maximum 56-hour workweek and a 24-hour rest period each week. Amendments to the Labor Standards Law passed in March 1989 brought the maximum regular workweek down to 44 hours. According to the Ministry of Labor, the average Korean worker worked 47.5 hours per week, including overtime, in 1992.

The Government sets health and safety standards, but South Korea suffers from unusually high accident rates. The Ministry of Labor employs few inspectors, and its standards are not effectively enforced. The number of workers who suffered work-related accidents in 1992 declined by about 16 percent, from 128,169 to 107,435 accidents. The Labor Ministry attributes industrial accidents to a focus on rapid, export-based industrialization, worn out or old equipment, increased use of hazardous chemicals, lack of research and manpower, and, in the case of construction, firms in a manpower-short sector employing unskilled workers without proper training. The Industrial Safety and Health Law does not guarantee that workers who remove themselves from dangerous work environments would not jeopardize their continued employment.

LAOS

The Lao People's Democratic Republic (LPDR) is a Communist, one-party state. The Lao People's Revolutionary Party (LPRP) is the primary source of political authority in the country. The party's leadership imposes broad controls on Laos' 4.5 million people.

The Ministry of the Interior (MOI) remains the main instrument of state control. MOI police monitor Lao society and foreign nationals in Laos, and the LPRP uses informants in workplaces and residential communities.

Laos is one of the world's poorest and least developed countries. In the first few years after the LPDR came to power in 1975, at least 350,000 Lao fled the country to escape the Government's harsh political and economic policies. Since then, the Government has largely abandoned its Socialist economic agenda. Economic reforms have moved the country from a moribund, centrally planned system to a growing, market-oriented economy open to foreign investment.

Even with the ongoing economic liberalization, the adoption of a Constitution in 1991, the death of the LPRP's longtime leader in November 1992, National Assembly elections the following month, and a government reorganization in February 1993, restrictions on basic freedoms have eased only a little in recent years. The right to privacy and the right of citizens to change their government are absent.

The Constitution is the supreme legal document, but in many instances there is no or inadequate implementing legislation. Freedoms of speech, assembly, and religion are restricted in practice even though provided for in the Constitution. At the same time, however, the Government has been working to develop a legal system with a codified body of laws consistent with the Constitution and its economic and legal reform policies.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of political killing by the Government in 1993, although police were involved in one confirmed extrajudicial killing. In April police in Vientiane shot and killed an unarmed teenager at a roadblock set up to check for vehicle registrations. The policemen involved are in prison but have not yet been tried.

Extrajudicial killings have also occurred in the context of the continuin insurgency. Drawing primarily from Hmong tribesmen supported by their brethren in Thailand and abroad, the low-level insurgency that has existed since 1975 continued in 1993 in spite of the December 1992 closing of a refugee camp near the Laos border in Thailand and enhanced Thai efforts to prevent use of that country as a base for insurgent attacks into Laos. In 1993 there were reports of insurgent attacks to the east and the west of their traditional area of operations north of Vientiane and south of Luang Prabang. Both sides have reportedly used brutal tactics on occasion, with the insurgents occasionally assassinating military and local officials, ambushing vehicles, and attacking villages. They reportedly killed about 15 persons in a road ambush in April and 7 Lao road construction workers in May. The insurgents, in turn, have claimed repeatedly that the Government employs chemical weapons against them, but extensive investigation of these allegations have produced no conclusive evidence to support these claims.

b. *Disappearance.*—In September Vue Mai, a Hmong leader who in November 1992 had returned voluntarily to Laos from a refugee camp in Thailand to seek a settlement site for his family and adherents, disappeared in Vientiane. The Government said its investigation produced no solid leads, and there was no evidence to implicate LPDR officials in Vue Mai's disappearance. In 1991 Vue Mai had been evacuated from a refugee camp in Thailand. A grenade was thrown at his house in the camp after he spoke out in favor of voluntary repatriation, which the Lao insurgents have opposed.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Penal Code prohibits torture or mistreatment of prisoners, and the police do not appear to use torture or abuse during arrest and detention. Jail conditions, however, are harsh, and prisoners are routinely denied family visitations and proper medical care. Prisoners in some jails reportedly must resort to bribing their guards to obtain food and medicines.

d. *Arbitrary Arrest, Detention, or Exile.*—Those accused of hostility to the regime are subject to arrest and confinement for long periods. Three former government officials continued to serve their 14-year sentences for advocating a multiparty system and criticizing restrictions on political liberties. Three men who had been detained since 1975 were serving life sentences handed down in 1992 for various crimes allegedly committed during their tenure as officials under the previous regime. Three other officials of the former government continued to remain in the remote province where they had been detained, raising questions about their freedom of movement.

Reportedly in December 1992 a Lao student was detained by the Lao Embassy in Moscow for his alleged opposition to the LPRP and then flown against his will under official escort to Laos, where he was detained for 7 days and then released.

The Constitution and Penal Code contain some protection for those accused of crimes, such as a statute of limitations; however, these protections have not been effectively implemented. Arrests, trials, and convictions are frequently not announced, making it impossible to obtain exact figures of the number of political prisoners. People may be arrested on unsupported accusations and without being informed of the charges or of the accusers' identities. Those accused of what the Government calls "socially undesirable habits" such as prostitution, drug abuse, and vagrancy are subject to arrest and detention in "rehabilitation centers," usually without public trial. Most of those sent to rehabilitation centers are allowed to return home after a confinement that typically includes forced labor, political indoctrination, and admission of guilt.

e. *Denial of Fair Public Trial.*—Although regulations call for judgment to be given in public, this amounts to public announcement of the sentence and not a true public trial. There is some provision for appeal, and the Council of Ministers must ap-

prove death sentences. Reportedly there is also high-level review of other important political cases. Under the Constitution, judges and prosecutors are supposed to be independent and their decisions not subject to outside scrutiny. In practice, the courts appear to accept recommendations of other government agencies, especially the MOI, in making their decisions.

While in theory government-provided legal counsel is available to the accused, in fact persons accused of crimes must defend themselves without outside legal assistance. The Government suspended the bar in late 1992, pending the introduction of rules regarding the fees and activities of private lawyers. The few private lawyers in Laos may still provide legal counsel, at least on civil cases, but they may not set themselves up as attorneys-at-law. In civil and commercial matters, the Government is promoting the rule of law, often with technical support from Western donors. As indicated above, the Government has been developing a legal system with a codified body of laws dealing with contracts, companies, foreign investment, private property, civil procedure, inheritance, labor, and family, and a Penal Code. In 1993 the Government began publishing an official gazette, which for the first time provides a systematic means for disseminating laws, decrees, and regulations. Recently the Ministry of Justice added a fourth year of studies to the law program that trains the nation's future magistrates and judges. Courts are being established at the district level, often for the first time.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Concomitant with liberalization of the economy, the Government has relaxed some elements of state control, including police monitoring of personal and business activities and enforcement of the nighttime curfew. However, while the Constitution prohibits arrests or searches in homes without warrants or authorization, search and seizure continue to be authorized by the security bureaus themselves rather than by judicial authority. The Government and the party continue to monitor some aspects of family life through a system of neighborhood and workplace committees. The neighborhood committees have responsibility for maintaining public order in their neighborhood and reporting "bad elements" to the police. These committees usually concern themselves more with street crime and instances of moral turpitude rather than with political activism. In 1992 the MOI began making late-night inspections of households to insure that all those in the house were registered with the police. Those found unregistered were often detained for several days. The Government also began reinstating workers' committees among Lao employees of embassies and international organizations. The committees are charged with conducting political training and maintaining discipline among employees.

The Penal Code outlaws listening to telephone calls without proper authorization, but the security bureaus themselves probably have the right to make such authorization. As far as is known, monitoring of international mail and telephone calls continues. Under the new land decree, the "national community" owns all land. Private "ownership" is in the form of land use certificates. The Government has lifted restrictions on the sale of such certificates and has implemented a decree to return property confiscated after 1975 to those original owners who repatriate to Laos. However, in cases where the property is now used as housing by government officials, the petitions to have property returned remain in litigation, and the 30-some officials of the former government who were convicted in absentia in 1975 are not eligible. A 1990 decree confiscated their property.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Despite the constitutional guarantees of freedom of speech and freedom of the press, the exercise of these freedoms is broadly controlled by the Government. The Government reacts harshly to expressions of political dissent. As noted above, three persons arrested in 1990 for reportedly advocating a multiparty system each received 14-year sentences. The Penal Code bars slandering the State, including distorting party or state policies, and spreading false rumors conducive to disorder. It also bars disseminating books and other materials that are deemed indecent or that would infringe on the national culture. In January the Government released from jail and expelled from the country two Americans who had been separately arrested the previous fall, allegedly for having imported politically sensitive and pornographic materials and for taking pictures in off-limits areas and bearing false documents.

Newspapers, radio, and television are instruments of the Government, reflecting its views. The Government has traditionally sought to control the flow of information from abroad, and there are limitations on the importation of foreign publications, though some Thai and Western newspapers and magazines are sold. The Government makes no effort to discourage reception of Thai radio or television broadcasts, which are widely listened to and watched in the Mekong river valley. In Vien-

tiane, the capital, satellite televisionreceiving dishes have proliferated in the yards of foreign residents and others who can afford them. Video rental stores operate largely without restrictions in most Lao cities, although such stores are prohibited from carrying pornographic or politically inflammatory material.

Academic freedom remains tightly controlled. Lao academicians are sometimes denied permission to travel abroad for conferences or training. The Government also restricts and monitors the activities of Western scholars doing research in Laos.

b. *Freedom of Peaceful Assembly and Association.*—The Government controls and organizes most large public gatherings except for religious, athletic, and communal events. The Penal Code expressly prohibits demonstrations or protest marches aimed at causing turmoil and social instability, prescribing penalties of from 1 to 5 years' imprisonment. Unspecified "destabilizing subversive activities" are also banned. Although the Constitution specifies the right of Lao citizens to organize and join associations, all associations are party controlled and disseminate official policy.

Contact between ordinary Lao and foreigners have increased in recent years as restrictions, such as the requirement for government approval of invitations to most foreigners' homes, are no longer enforced. The prohibition against foreigners staying with Lao families has also been eased in urban areas, and the Government allows Lao citizens to marry foreigners as long as government approval of the marriage is obtained first. Marriages conducted without government approval may be annulled and the foreign spouse subject to fine or arrest.

Other restrictions on association with foreigners still apply. Government officials require government approval to travel in other countries. The Government sometimes requires that diplomats hire domestic help only from a list provided by the Government. Restrictions on foreigners traveling upcountry appear aimed in part at forestalling contact with insurgent groups or at preventing religious proselytizing.

c. *Freedom of Religion.*—In official statements the Government has recognized the right to freedom of religion as well as the contributions religion can make to the development of the nation, and the Constitution contains provisions for religious freedom. However, the Government continues to restrict freedom of religion, especially for non-Buddhists.

Links with coreligionists and religious associations in other countries require government approval. The Government does not formally ban missionaries from entering Laos to proselytize but almost always denies them permission to enter. Many resident foreigners are active in Lao churches and provide assistance in setting up new churches. The Government welcomes nongovernmental organizations with religious affiliations as long as they contribute to national development and do not proselytize openly.

All Christian seminaries were closed by the new Government in 1975, and they have not reopened. Those wishing to enter the priesthood must study privately with priests or ministers. Almost all Protestant ministers are lay preachers. Even so, Roman Catholics and Protestants are permitted to worship openly, and new churches have opened since 1990. About a dozen Catholic and Protestant churches are active in Vientiane, with many other churches scattered throughout the country.

Although many highland Lao are animists, and there are Christian and Moslem minorities, nearly all lowland Lao are Buddhists. Having restructured the Buddhist organizations after coming to power in 1975, the Government now tolerates and encourages the open practice of Buddhism, and it has openly supported Buddhist organizations in the last few years. High-ranking government officials routinely attend Buddhist functions, and Buddhist clergy are prominently featured at important state and party functions. The Government permits religious festivals without hindrance. Many temples are being repaired and restored, and the number of Buddhist monks has increased in recent years; about 30,000 are now practicing in Laos.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government retains the right to require citizens to obtain official permission for internal travel, and foreign residents in Vientiane must obtain permission to travel outside the prefecture. Similar restrictions apply to foreign tourists except when their travel in Laos is with an officially sanctioned tour group. In contrast, most Lao may easily obtain passports and exit permits from the Ministry of Foreign Affairs for travel abroad. Border-crossing permits for Lao to visit Thailand are routinely available from local village committees for a modest issuance fee. Travel to the United States and other Western countries has risen dramatically in the past several years. In recent years the number of Lao emigrating to live with relatives abroad has increased sharply, and the Government does not appear to interfere with persons desiring to emigrate.

The stated government policy since 1977 has been to welcome back the approximately 10 percent of the population who fled after the change of governments in 1975 (except for the 30-some persons convicted in absentia; see Section 1.f.). Since

1988 thousands of Lao living abroad have returned to visit family and friends. A number of Lao have returned to investigate business possibilities, and several have remained to operate businesses.

Almost 19,000 Lao have voluntarily returned to Laos since 1980 under the auspices of the United Nations High Commissioner for Refugees (UNHCR), including some 4,200 in 1993. Perhaps another 30,000 have repatriated without official involvement. About 30,000 Lao refugees and asylum seekers remain in Thailand; and another 1,700 in China.

Laos, Thailand, and the UNHCR are cooperating on a phased return of the hilltribe Lao remaining in Thailand who wish to return to Laos. This program includes provisions for the careful monitoring of returnees to ensure they are given the same rights and treatment as resident Lao.

According to the UNHCR and voluntary agencies that work with it, returnees have not been the subject of discrimination or persecution and are allowed back with all the belongings they accumulated while outside of Laos.

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

Citizens do not have the ability to change their government despite constitutional provisions for secret ballots and universal suffrage in the public election of National Assembly members. The Assembly elects the President, and it is beginning to assert itself on matters that do not affect the fundamentals of the political system. However, because the LPRP continues to dominate government and politics, there is no structured way in which citizens could remove the LPRP from power. Its primacy is set forth in the Constitution. All candidates for the National Assembly election in December 1992 had to be approved by the party, no other parties were permitted to organize, and voting was mandatory. Nevertheless, the Assembly does include a number of non-LPRP members.

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

There are no domestic human rights groups. Any organization wishing to investigate and publicly criticize the Government's human rights policies would face serious obstacles, if it were to be permitted to operate at all. Laos generally does not cooperate with international human rights organizations. The Government has, however, permitted visits by officials of international humanitarian organizations and has communicated with them by letter.

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

Women.—There is no pattern of widespread domestic or culturally approved violence against women, and reports of sexual harassment are rare. But lowland Lao and especially some hilltribes tend to hold women in lower esteem than men. Traditionally, women in Lao society have been subservient to men and have often been discouraged from obtaining an education, in part because some families tend to keep school-age daughters at home to tend to domestic duties. The Government claims a higher percentage of girls are in school now than before 1975 and that women are being encouraged to assume a greater role in economic and political activity. The Government relies on the Women's Union and youth organizations to educate girls and young women against the schemes of recruiters for brothels and sweatshops in Bangkok and elsewhere. Many women occupy responsible positions in government and private business, and in urban areas their income is often higher than that of their husbands. Yet only 7 of the 78 members of the National Assembly are women, the 53-member Central Committee has only 2 women on it, and there are no women on the Politburo or Council of Ministers.

Children.—Physical abuse of children is rare, although many drop out of school at an early age, and children commonly work on their families' farms and shops. The Government is concerned about the welfare of Lao children, but in light of many pressing demands on very limited resources, it has not committed the funding or personnel needed to implement its good intentions effectively.

National/Racial/Ethnic Minorities.—Approximately one-half of the population is ethnic Lao, also called "lowland Lao," and most of the other half is a mosaic of upland hilltribes. There are also ethnic Vietnamese and Chinese, particularly in the towns. Their rights to Lao citizenship are uncertain as long as the law on nationality, which would convey that right, remains unimplemented. The Constitution provides for equal rights for all minorities, and there is no legal discrimination against them.

The Government attempts to integrate the hilltribes through voluntary programs and to overcome traditional antagonisms and prejudice between lowland Lao and

minority groups. While the Government encourages the preservation of minority cultures and traditions, minority tribes have virtually no voice in government decisions affecting their lands and the allocation of natural resources. The party and the Government continue to be dominated by lowland Lao males, though efforts have been made to include minorities in the political and governmental elites. The Minister of the Interior is a member of an ethnic minority, but there are no minorities represented on the Politburo and only five on the Central Committee.

The Hmong, the largest highland tribe, are split along clan lines. During the Vietnam war, many were strongly anti-Communist while others sided with the Lao and Vietnamese Communists. The Government has repressed many of those who fought against it, especially those perceived to be still resisting its authority. On the other hand, many Hmong who supported the Lao Communists before 1975 today occupy important positions in the Government, and an increasing number of Hmong who fled the country after 1975 have repatriated back to Laos without suffering persecution by the Government.

People with Disabilities.—There is no outright discrimination against people with disabilities. Neither is there any government assistance, save for casualties of the revolutionary war that brought the Government to power. Typically, the family and the community take responsibility for the disabled. Unless severely disabled, such children attend public schools despite the absence of special facilities for them. Provision of accessibility for disabled persons has not been manadated legislatively or otherwise.

Section 6. Worker Rights

a. *The Right of Association.*—Although the Constitution provides citizens the right to organize and join associations, all associations are party controlled and disseminate official policy (see Section 2.b.).

An estimated 85 percent of Lao are subsistence farmers. Among salaried workers, the majority are employed by the State, though this has been changing as the Government privatizes state enterprises and encourages private investors to open new factories. In response to the emerging private sector, the Government in 1990 adopted a Labor Code that permits labor unions to be formed in the private enterprises so long as they operate within the framework of the officially sanctioned Federation of Lao Trade Unions (FLTU), which in turn is controlled by the LPRP. The extent to which the FLTU is free to engage in contacts and activities with foreign labor organizations is unknown.

b. *The Right to Organize and Bargain Collectively.*—There is no right to organize and bargain collectively. Wages and salaries for government employees are set by the Government, while wages and salaries for private business employees are set by management. The Labor Code stipulates that disputes should be resolved through workplace committees composed of employers, representatives of the local labor union, and representatives of the FLTU, with final authority at the Ministry of Labor and Social Welfare. The incidence of labor disputes has risen with the increase in foreign investment. There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Labor Code prohibits forced labor except in time of war or national disaster, when the State may conscript laborers. In practice, however, prisoners in work camps must do manual labor, including growing their own food. They are routinely required to work on nearby state and private enterprises without wages.

d. *Minimum Age for Employment of Children.*—Under the Labor Code, children under 15 may not be recruited for employment. Because many children help their families on farms or in shops, the Labor Code allows younger children to work for their families, provided they do not engage in dangerous or difficult work. Employment of children in industry is not widespread, although it is common in urban shops. The MOI and Ministry of Justice are responsible for enforcing these provisions, but enforcement is ineffective owing to a lack of inspectors and other resources. Education is compulsory through the fifth grade, but this requirement is rarely observed in the rural areas or among the urban poor.

e. *Acceptable Conditions of Work.*—The Labor Code has provisions for a broad range of worker entitlements, including a workweek limited to 48 hours (36 in dangerous activities) and safe working conditions. The Labor Code requires employers to provide a safe work environment and offers special compensation for dangerous work. Employers are supposed to provide all expenses for a worker injured or killed on the job. The government-stipulated daily minimum wage is $1.39 (1,000 kip), effective December 1992, which is insufficient to provide a decent standard of living for a worker and his family. However, almost no families in the monetized economy depend only on one breadwinner. Some piecework employees, especially on construction sites, make less than the minimum wage. In April the Ministry of Labor and

Social Welfare announced that employers would have 30 days to comply with Labor Code provisions on minimum wage, overtime, leave, social security, and health care, and that it would periodically inspect workplaces to ensure compliance. Despite its intentions, the understaffed Ministry lacks effective enforcement mechanisms, and the Labor Code is not effectively enforced.

MALAYSIA

Malaysia is a federation of 13 states with a parliamentary system of government based on periodic multiparty elections. The ruling National Front Coalition has held power since 1957. There is political competition within the United Malays National Organization (UMNO), the major partner in the coalition, and opposition parties actively contest elections, currently controlling two state governments.

The Government justifies internal security laws allowing preventive detention (and arrests under such laws) by citing the long-defunct Communist insurgency, the need to ensure that the peace and stability of the country are protected, and concern about longstanding racial tensions and endemic narcotics trafficking problems. However, the Government also has used these laws more broadly to detain persons when available evidence is insufficient to bring formal charges under the Criminal Code, as well as to detain political opponents. The existence of these laws therefore serves to inhibit active opposition to government policies.

The Royal Malaysian Police has primary responsibility for internal security matters; it reports to the Minister of Home Affairs. Prime Minister Mahathir also holds the Home Affairs portfolio. Credible reports of mistreatment of prisoners and detainees by the police and prison officials continued in 1993. Such mistreatment was not widespread.

Rapidly expanding exports of manufactured goods, especially in the electronics sector, are a major source of the country's vibrant economic growth. Crude oil exports and traditional commodities (tropical logs, palm oil, rubber) add to Malaysia's trade revenues. Malaysia's strong economic performance in recent years has led to dramatic reductions in poverty, a rise in the standard of living, and more equal income distribution.

There is an effective system of justice based on common law principles. The Government, however, continues arbitrarily to arrest and detain citizens without trial. The Government also limits judicial independence and restricts freedom of association and of the press.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of political or other extrajudicial killings by the Government or any other political organization.

b. *Disappearance.*—There were no reports of disappearance attributable to the Government or any other political organization.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Credible reports of abuses by police officers interrogating criminal suspects continued during 1993, including strong psychological pressure and instances of physical abuse. In some cases, police officials have been investigated for such abuses. However, information on whether the investigations led to further action is unavailable. For example, three police officers were charged with "culpable homicide not amounting to murder" after a burglary suspect died in police custody. In another case, police set up a special team to investigate the death, apparently while in police custody, of an alleged drug addict suspected of burglary.

Malaysian criminal law prescribes caning as an additional punishment to imprisonment for those convicted of crimes such as narcotics possession. Judges routinely include caning in sentencing those convicted of such crimes as kidnaping, rape, and robbery. The caning, which is normally carried out with a ½-inch thick wooden cane, commonly causes welts and scarring.

d. *Arbitrary Arrest, Detention, or Exile.*—Three laws permit the Government to detain suspects without judicial review or filing formal charges: the 1960 Internal Security Act (ISA), the Emergency (Public Order and Prevention of Crime) Ordinance of 1969, and the Dangerous Drugs Act of 1985. The Government continued to use long-term detentions without trial in cases alleged to involve national security, as well as in narcotics trafficking and other cases. According to the Home Affairs Ministry, as of July, there were 1,947 people in Malaysia being detained without trial; most of those detainees are being held under the Dangerous Drugs Act.

Passed more than 30 years ago when there was an active Communist insurgency, the ISA empowers the police to hold any person who may act "in a manner prejudicial to the security of Malaysia" for up to 60 days. According to the Government, the goal of the ISA is to control internal subversion, although there is now no serious threat to national stability in Malaysia. The Government also uses the ISA against passport and identity card forgers, 37 of whom were being held as of July 21. Security authorities sometimes wait several days after a detention before informing the detainee's family. The Minister of Home Affairs may authorize, in writing, further detention for periods up to 2 years. Even when there are no formal charges, the authorities must inform detainees of the accusations against them and permit them to appeal to an advisory board for review every 6 months. Advisory board decisions and recommendations, however, are not binding on the Home Minister, are not made public, and are often not shown to the detainee. A number of ISA detainees have refused to participate in the review process under these circumstances.

In response to a question from an opposition Member of Parliament (M.P.), the Home Ministry reported in December that there were 51 ISA detainees at that time, down from 128 as of December 1992. Approximately 27 former detainees have been released subject to "imposed restricted conditions," which will be in effect for the balance of their detention periods. Most of these ISA detainees were released subject to conditions limiting their rights to freedom of speech, association, and travel outside the country.

During 1990 and 1991 the Government detained under the ISA seven Malaysians from the east Malaysian state of Sabah, including the brother of the chief minister, for alleged involvement in a secessionist plot. The Government released one detainee in March 1991 upon expiration of the intitial order. The remaining six were released in 1993 when their detention orders were suspended. There are conditions attached to their freedom, however.

Amendments to the ISA severely limit judicial review of detentions, contravening international standards of due process. During 1993 opposition leaders and human rights organizations called on the Government to repeal the ISA and other legislation that deprives individuals of the right to defend themselves in court. Senior government officials explain that the ISA in its present form continues to be necessary to preserve peace and harmony in a multiracial society. The Government did not detain anyone in 1993 for political activities. However, the threat of detention remains and serves to constrain participation in political activities.

The Emergency (Public Order and Prevention of Crime) Ordinance was instituted after intercommunal riots in 1969. Although Parliament regained its legislative power in 1971, the state of emergency declared at the time of the riots has never been lifted. The Home Affairs Minister can issue a detention order for up to 2 years against a person if he deems it necessary to protect public order or for the "suppression of violence or the prevention of crimes involving violence." According to figures released by the Home Ministry, as of July 21, 93 people were in detention under the Emergency Ordinance, down from 114 people in 1992.

Drug suspects are detained under provisions of the 1985 amendments to the Dangerous Drugs Act, which give the Government specific power to detain suspected drug traffickers. Many of these detainees are suspected members of organized crime gangs or secret societies. The suspects may be held up to 39 days before the Home Minister must issue a detention order. Once the ministry has issued an order, the detainee is entitled to a habeas corpus hearing before a court. In some instances, the judge may order the detainee's release. Suspects may be held without charge for successive 2-year intervals, with periodic review by an advisory board, whose opinion is binding on the Home Minister. However, the review process contains none of the due process rights that a defendant would have in a court proceeding. As of July 21, approximately 1,750 drug suspects remained under detention or under restrictions equivalent to house arrest under this statute. Suspected narcotics traffickers and firearms offenders are frequently rearrested under the preventive measures clauses of the Dangerous Drugs Act or the ISA after an acquittal in court on formal charges under separate provisions of those acts.

A 1989 peace agreement allows members of the Communist Party of Malaya (CPM) to return to Malaysia. According to the Government, the agreement stipulates that they satisfy certain conditions, including taking a loyalty oath "to king and country" and renouncing the CPM in writing. Since 1989 at least 608 former CPM members have applied for return to Malaysia under the agreement. Sixty-six subsequently withdrew their applications because they objected to the conditions on their repatriation imposed by the Government. The Government has rejected an unknown number of applications by former CPM members to return to Malaysia. Since December 1989, 338 former Communists and 50 dependents have been "rehabili-

tated" by the Malaysian security authorities and resettled in Malaysia. A credible report indicates that this rehabilitation consists of detention without trial under the ISA at the Kamunting detention center in Perak state. In addition, rehabilitated former CPM members who have reintegrated into Malaysian society are subject to being restricted to certain areas where security authorities watch them carefully for up to 6 years. These rehabilitated persons cannot resume full participation in Malaysia's political life until this period of surveillance demonstrates that they have abandoned their former ideology.

e. *Denial of Fair Public Trial.*—Most civil and criminal cases are fair and open. The accused must be brought before a judge within 24 hours of arrest, and charges must be levied within 14 days. Defendants have the right to counsel, bail is available, and strict rules of evidence apply in court. Defendants may appeal court decisions to higher courts and, in criminal cases, may also appeal for clemency to the King or local state rulers as appropriate. Criminal trials are heard by a single judge without a jury, except in murder trials where juries are the norm. The defense in both ordinary criminal cases and the special security cases described above is not entitled to a statement of evidence before the trial.

The right to a fair trial is restricted in criminal cases where the Attorney General invokes the Essential (Security Cases) Regulations of 1975. These regulations governing trial procedure normally apply only in firearms cases. In cases tried under these regulations, the standards for accepting self-incriminating statements by defendants as evidence are less stringent than in normal criminal cases. Also, the authorities may hold the accused for an unspecified period of time before making formal charges. The Attorney General also has the authority to invoke these regulations in other criminal cases if the Government determines that the crime involves national security considerations, but such cases are rare.

The public and the legal community have long regarded the Malaysian judiciary as committed to the rule of law. The judicial system traditionally exhibited a high degree of independence, seldom hesitating to rule against the Government in criminal, civil, or occasionally even politically sensitive cases. For example, the High Court ruled in February 1988 that the dominant party in the Government coalition was illegally constituted. However, the Government's dismissal of the Supreme Court Lord President and two other justices in 1988, along with a Constitutional amendment and legislation restricting judicial review, resulted in less judicial independence and stronger executive influence over the judiciary in politically sensitive cases. These developments created the possibility that Malaysians who might otherwise seek legal remedies against government actions would be reluctant to do so. The 1988 changes have also resulted in less willingness by the courts to challenge the Government's legal interpretations in politically sensitive cases.

The Government, following criticism of some of its policies by the Malaysian Bar Council, attempted to gain greater control over the Council in 1991 and early 1992. Although there was concern that the Bar Council's freedom of expression and independence were being threatened, government criticism of the Bar Council has since ebbed.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—These rights are normally respected and protected by law. Provisions in the security legislation (see Section 1.d.), however, allow the police to enter and search without a warrant the homes of persons suspected of threatening national security. Police may also confiscate evidence under these acts. In a limited number of cases each year, police have used this legal authority to search homes and offices, seize books and papers, monitor conversations, and take people into custody without a warrant.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Although the Constitution provides for freedom of speech and press, some important limitations exist, and over the years the Government has restricted freedom of expression of media organizations and individuals. For example, the Constitution provides that freedom of speech may be restricted by legislation "in the interest of security . . . (or) public order." Thus, the Sedition Act amendments of 1970 prohibit public comment on issues defined as sensitive, such as citizenship rights for non-Malays and the special position of Malays in society. The Government has not brought charges under the Sedition Act since 1986, when a trial court acquitted a former president of the Bar Council.

Press freedom is subject to important limitations in the Printing Presses and Publications Act of 1984, under which domestic and foreign publications must apply annually to the Government for a permit. The act was amended in 1987 to make the publication of "malicious news" a punishable offense, expand the Government's power to ban or restrict publications, and prohibit court challenges to suspension or revocation of publication permits. Government policies create a chilling atmos-

phere for independent journalism and result in self-censorship of issues the Government might consider sensitive.

In practice, press freedom is also limited by the fact that leading political figures or companies controlled by the leading political figures in the ruling coalition own all the major newspapers and all radio and television stations. These mass media provide generally laudatory, noncritical coverage of government officials and government policies, and give only limited and selective coverage to political views of the opposition or political rivals. Editorial opinion in these mass media frequently reflects government positions on domestic and international issues. Because they can be read only by a minority of Malaysians (chiefly ethnic Chinese), Chinese-language newspapers are generally more free in reporting and commenting on sensitive political and social issues.

Despite strong political influence on the editorial decisions of major publications, small-circulation publications of opposition parties, social action groups, unions, and other private groups actively cover opposition parties and frequently print views critical of government policies. The Government does retain significant influence over these publications by requiring annual renewal of publishing permits. During 1992 the Government acted to revoke the permits of at least two newspapers. In one case, credible allegations suggest that the Government revoked the newspaper's permit because it printed articles critical of the Prime Minister and government policies. In the other case, a tabloid weekly's permit was revoked evidently for publishing embarrassing gossip about members of several of Malaysia's royal families. The Government continued to withhold a publishing permit for those papers in 1993. In addition, a newspaper editor in the east Malaysian state of Sabah was charged in 1992 with printing "malicious news" about an alleged ISA detention of a Roman Catholic clergyman. The editor challenged the charges on constitutional grounds. In August the Supreme Court ruled that the Printing Presses and Publications Act is valid although it imposes restrictions on the right to freedom of speech and expression conferred by the Constitution. The Supreme Court decided that in this case Parliament could impose such restrictions under another constitutional clause that permits certain restrictions on the right to freedom of speech and expression. The editor still faces trial.

Since 1991 the Government has warned two newspapers published by opposition parties that the terms of their licenses limited distribution to party members only. A legal challenge to quash enforcement of the license limitation failed, resulting in limiting circulation of these publications during 1992 and 1993. In 1993 the Home Affairs Ministry sent a final warning to one opposition party regarding the distribution and sales to the public of its paper, informing the permit holder that the Ministry would take stern action for any future violation of the rules. The paper has since disappeared from newsstands.

In June 1990, Parliament enacted legislation making the Government-controlled Malaysian News Agency (BERNAMA) the sole distributor of foreign news in Malaysia, formalizing previous practice. The parliamentary opposition opposed the bill, arguing that it would increase government control over foreign news. Although the Government has not to date used this law to restrict foreign news coverage or availability, in the past the Government has banned under separate legislation individual editions of foreign publications. In 1993 the Government censored portions of photographs and a text in issues of foreign news magazines.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the rights of freedom of peaceful assembly and association, but there are significant restrictions. These rights can be limited in the interest of security and public order, and the 1967 Police Act requires police permits for all public assemblies with the exception of workers on picket lines. Spontaneous demonstrations occur periodically without permission, but they are limited in scope and generally occur with the tacit consent of the police. In the east Malaysian state of Sarawak, groups of indigenous people have held peaceful demonstrations to protest government policies and actions.

In the aftermath of the intercommunal riots in 1969, the Government banned political rallies. While the formal ban has not been rescinded, both government and opposition parties have held large indoor political gatherings dubbed "discussion sessions." Government and opposition candidates campaign actively. There are, however, some restrictions on freedom of assembly during campaigns. During the actual campaign period, political parties submit lists of times and places for their "discussion groups." Although theoretically no police permit is required, some opposition discussion group meetings in past campaigns have been canceled for lack of a police permit. Outside of the campaign period, a permit is required, with most applications routinely approved.

Other statutes limit the right of association, such as the Societies Act of 1966, under which any association of seven or more members must register with the Government as a society. The Government may refuse to register a new society or may impose conditions when allowing a society to register. The Government also has the power to revoke the registration of an existing society for violations of the act, a power it has selectively enforced against political opposition groups. In 1993 the Registrar of Societies deregistered a political party of long standing in the east Malaysian state of Sabah when it formed a coalition with the ruling opposition party, and threatened to do the same to the national opposition party Semangat '46 if it continued to claim that it was the legitimate successor to the original UMNO party. The threat of possible deregistration inhibits political activism by public or special interest organizations. Another law affecting freedom of association is the Universities and University Colleges Act; it mandates government approval for student associations and prohibits student associations, as well as faculty members, from engaging in political activity. Campus demonstrations must be approved by a university vice chancellor.

c. *Freedom of Religion.*—Islam is the official religion. Religious minorities, which include large Hindu, Buddhist, Sikh, and Christian communities, generally are permitted to worship freely but are subject to some restrictions. Ethnic Malays are legally bound in some civil matters, such as family relations and diet, by Islamic religious laws administered by state authorities through Islamic courts. An Islamic religious establishment is supported with government funds, and it is official policy to "infuse Islamic values" into the administration of Malaysia. At the same time, the Constitution provides for freedom of religion, and the Government has refused to accede to pressures for the imposition of Islamic religious law beyond the Muslim community.

The Government opposes what it considers extremist or deviant interpretations of Islam. In the past the Government has imposed restrictions on certain Islamic sects. It continues to monitor activities of the Shi'ite minority.

There are persistent allegations that some state governments are slow in approving building permits for non-Muslim places of worship. In one instance, a municipal council had approved the construction of a Catholic church headquarters. In August 1993, after a public outcry by the predominantly Muslim local community, the state government rescinded its approval. The Government has limited the circulation of a popular Malay-language translation of the Bible, and some states restrict the use of religious terms by Christians in the Malay language.

Conversion to religions other than Islam is permitted but discouraged. Proselytizing of Muslims has long been proscribed by law in some states and strongly discouraged in other parts of the country. In a March 1990 decision, the Supreme Court upheld the primacy of the Constitution over inconsistent state laws by ruling that parents have the right to determine the religion of their minor children under the age of 18. The decision eased fears of the non-Muslim community over state laws that in religious conversion cases set the age of majority at puberty based on Islamic law.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Malaysians generally have the right to travel within the country and live and work where they please, but the Government restricts these rights in some circumstances. The states of Sabah and Sarawak have the independent right to control immigration into their territories; Malaysians from peninsular west Malaysia and foreigners are required to present passports for entry. The power to regulate internal movement is exercised for provisionally released ISA detainees. The Government limits the movement of some released ISA detainees to a designated city or state. As of December 1993, approximately 27 former ISA detainees were under "imposed restricted conditions," which will last for the remainder of their detention periods.

Malaysians generally are free to travel abroad, although in some cases the Government has refused to issue or has withheld passports on security grounds or in the belief that the trip will be detrimental to the country's image. Most government action is taken because of drug trafficking offenses or involvement in serious crimes. In July, immigration authorities withdrew the passport of a lawyer and poet allegedly to prevent him from reading his poems, which supported antilogging activities. Immigration authorities returned his passport in late August. The Immigration Department in the east Malaysian state of Sarawak, on instructions from the Home Ministry, in August confiscated the passport of a Sarawak native who was on his way to an international conference of indigenous peoples. Two other Sarawak natives who planned to attend conferences had their passports confiscated in 1992; government authorities still have not returned their passports. In 1992 the Government began confiscating the passports of returning Malaysians who had overstayed

their visitors' visas when abroad, on the grounds that violating the immigration laws of foreign countries is an embarrassment to Malaysia. Malaysians are not permitted to travel to Israel. Former restrictions on travel to South Africa and to several Communist countries, including China, were eliminated in 1990 and 1991. Generally, the Government does not restrict emigration.

There are estimates of up to 1 million foreign workers in Malaysia, many "illegals," who work in low-skill jobs in the plantation and construction sectors of the economy. Although some illegal workers ultimately are able to regularize their immigration status, others depart voluntarily after a few months, while some are formally deported as illegal migrants. In 1992 the Government conducted a registration program designed to regularize the immigration status of illegal workers. After the registration program ended, however, the Government launched combined police and military operations to enforce immigration and passport laws. According to government officials, by April 1993, 50,000 illegal immigrants had returned voluntarily to their countries of origin, while 40,000 others had been arrested and repatriated. In 1993 at least 3,000 people deemed to be illegal foreign workers were detained. There have been some credible reports of inadequate rations in the temporary camps. In 1991 and 1992, separate groups of asylum seekers from the Indonesian province of Aceh (totaling approximately 300) arrived in northwestern Malaysia, allegedly fleeing violence stemming from a separatist rebellion in Indonesia. These asylum seekers requested refugee status. Despite expressions of concern by local and international human rights organizations and foreign governments, the Government denied their requests, ruling that the asylum seekers were "illegal immigrants" subject to deportation. According to government sources, approximately 163 Acehnese asylum seekers had returned home voluntarily as of June 1993. The Government is holding 131 Acehnese in immigration detention facilities.

Although there are credible reports of mistreatment of the Acehnese detainees, the Government has denied the United Nations High Commissioner for Refugees (UNHCR) and others access to visit the immigration detention sites. Government officials continued to stress during 1993 that Malaysia would not force Acehnese asylum seekers to return against their will but would encourage them to repatriate voluntarily. In June 1992, a group of 48 asylum seekers claiming to be Acehnese took refuge in the compound outside the UNHCR offices in Kuala Lumpur, demanding refugee status; 45 still live there. While it regards this group as illegal immigrants, the Government declared its readiness to assist in their repatriation to Indonesia if they wish to return and said the Indonesian Government had provided assurances that the group would face no government oppression if they chose to return home. Members of the group living in the UNHCR compound come and go freely.

Having provided first asylum to more than 254,000 Vietnamese boat refugees since 1975, the Government began to deny first asylum to virtually all arriving Vietnamese in May 1989, in contravention of its commitments under the Comprehensive Plan of Action (CPA) on Indochinese refugees adopted in 1989. Since May 1989, Malaysia denied first asylum to 10,495, of which all but 145 arrived in 1989–90. Credible reports indicate that Malaysian authorities put back to sea a vessel bearing 23 Vietnamese asylum seekers in May 1993. Historically, Malaysian authorities allow Vietnamese boats to land and normally hold asylum seekers in temporary camps closed to observers. The Government provides life jackets, boats, and essential supplies to asylum seekers put back to sea. Interviews with asylum seekers indicate that the Government takes positive steps to safeguard the lives and welfare of those denied first asylum and disciplines personnel involved in abusive behavior. Recently, however, there are indications that Malaysia has ceased its policy of redirecting boats.

In accordance with the CPA, Malaysia continued to screen Vietnamese boat people in its first-asylum camps. Malaysian military officers do the screening, with legal consultants from the UNHCR present during each interview. As of December 1993, about 7,500 Vietnamese remained in camps in Malaysia. The Government has reiterated that it will not forcibly return screened-out asylum seekers but will continue to urge voluntary repatriation.

The Malaysian screeners and UNHCR consultants make every effort to develop the asylum seekers' claims to refugee status. The Government discusses all disputed cases with the UNHCR before announcing a decision. An administrative appeal is available to denied cases. UNHCR officials have praised the Government's treatment of Vietnamese asylum seekers in Malaysia under provisions of the CPA.

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

By law Malaysians have the right to change their government through periodic elections. Malaysian elections are procedurally free and fair, with votes recorded accurately. However, electoral irregularities detract from the overall fairness of the electoral process. Legal restrictions on campaigning and government influence over the media contribute to UMNO's continuing political dominance. Malaysia has a Westminster-style parliamentary system of government. National elections, required at least every 5 years, have been held regularly since independence in 1957. Through UMNO, Malays dominate the ruling national front coalition of ethnic-based parties that has controlled Parliament since independence. Within UMNO there is active political debate.

Non-Malays fill 8 of the 25 cabinet posts. The government coalition currently controls 11 of 13 states. Ethnic Chinese leaders of a member party of the government coalition hold executive power in the state of Penang. In opposition-ruled Sabah the party in power is controlled by Sabah's predominant indigenous ethnic group and headed by a Christian. An Islamic opposition party controls the northern state of Kelantan.

Women face no legal limits on participation in government and politics, but there are practical impediments. Women are represented in senior leadership positions in the Government in small numbers. Women comprise approximately 6 percent (holding 11 seats out of 180) in the elected lower house of Parliament and approximately 19 percent (holding 13 seats out of 68) of the appointed upper house. They also hold high-level judgeships.

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

After a 2-year struggle for registration, the National Human Rights Association, a local human rights society of prominent Malaysians, began operating in 1991. This association publicly criticizes the Government, although it does not investigate the Government except in response to individual complaints. Currently, it is pushing hard against the ISA and it is also reviewing Kelantan's efforts to impose Islamic restrictions in that state. A number of other organizations, including the Bar Council and public interest groups, devote attention to human rights activities. The Government tolerates their activities but rarely responds to their inquiries or occasional press statements. Malaysian officials criticize local groups for collaborating with international human rights organizations, representatives of which have visited and traveled in Malaysia but rarely are given access to government officials. In 1992 a group seeking to form a local chapter of a prominent international human rights organization appealed a government rejection of their application under the Societies Act. In 1993 the Government rejected the appeal.

The Government has not acceded to any of the major international covenants on human rights, generally maintaining that such issues are internal matters. It rejects criticism of its human rights record by international human rights organizations and foreign governments. However, during 1992 and 1993 the Prime Minister and other Cabinet officials were vocal advocates of human rights with respect to Serbian atrocities in Bosnia and Herzegovina and the plight of the Rohingyas in Burma.

Foreign government officials have discussed human rights with their Malaysian counterparts, and private groups occasionally have done so.

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

Women.—The cultural and religious traditions of Malaysia's major ethnic groups heavily influence the condition of women in Malaysian society. In family and religious matters, Muslim women are subject to Islamic law. Polygyny is allowed and practiced, and inheritance law favors male offspring and relatives. Some Malay families practice a modified form of female genital mutilation (circumcision) involving the removal of a small piece of the prepuce. The Government has not commented publicly on this practice. The Islamic family law was revised in 1989 to provide better protection for the property rights of married Muslim women and to make more equitable a Muslim woman's right to divorce.

Non-Muslim women are subject to civil law. Changes in the Civil Marriage and Divorce Act in the early 1980's increased protection of married women's rights, especially those married under customary rites.

Many government-sanctioned nongovernmental organizations (NGO's) push for legislative and social reforms to improve the status of women in Malaysia. Statistics on domestic violence in Malaysia are sketchy, but both the Government and wom-

en's organizations agree that the problem is growing. With no specific laws in force on domestic violence, cases of wife beating or child abuse normally are tried under provisions of the Penal Code governing assault and battery, which carry penalties of 3 months to 1 year in prison and fines up to $750. Women's groups have collaborated in lobbying for a domestic violence bill since 1985 but have had no success to date. Women's issues were the subject of a number of public seminars and media specials in the government-dominated media during 1993.

There are no national laws or regulations restricting the economic rights of women. Government policy supports women's full and equal participation in education and the work force. Women are represented in the professions, although their participation as of 1990 in the administrative and managerial occupations was less than 1 percent, and they generally receive lower wages. In the opposition-controlled state of Kelantan, the state government has imposed restrictions on all female workers, including non-Muslims. Female workers cannot work at night and are restricted in the dress they must wear in the workplace. The state government justifies these restrictions as reflecting Islamic values. Given Malaysia's federal structure of government, there are no legal means by which the central Government can overturn such state laws.

Children.—The Government is committed to children's human rights and welfare; it spends 23 percent of its current budget on education. According to statistics publicized by the National Unity and Social Development Ministry, there were 588 cases of child abuse from January to October 1993. The Government has taken some steps to deal with abuse directed against children. Parliament passed the Children's Protection Act in 1991 which went into force in 1993 after the Attorney General prepared implementing regulations. Since 1992 public attention and debate on child abuse have increased significantly. In 1993 Malaysian news media featured regular reports, commentary, and graphic public service announcements on these social problems, and public symposia sponsored by social and political organizations discussed their policy implications.

Statistics on the extent of child prostitution are not available. The Health Ministry announced that it would work closely with the police to stamp out child prostitution. Although there are no official statistics about child labor, the Government has regulations governing child labor (see Section 6.d.).

Indigenous People.—In theory indigenous groups and persons are accorded the same Constitutional protection of their civil and political rights, along with the same limitations. In practice, federal laws pertaining to indigenous people vest almost total power in the Minister of Rural Development to protect, control, and otherwise decide issues concerning indigenous people. Decisions affecting land rights of the indigenous people in peninsular Malaysia are left to the state governments. In east Malaysia, although state law recognizes indigenous people's right to land under "native customary rights," the definition and extent of these lands are in dispute. Indigenous people in the state of Sarawak continue to protest the alleged encroachment by the state or private logging companies onto land that they consider customary territory. In 1992 the Government arrested 95 indigenous people in Sarawak who protested these alleged encroachments. The protests and arrests continued in 1993. According to government figures, the indigenous people in peninsular Malaysia, who number fewer than 100,000, are the poorest group in Malaysia.

National/Racial/Ethnic Minorities.—Ethnic minorities are represented in cabinet-level positions in government, as well as in senior civil service positions. Nevertheless, the political dominance of the Malay majority means in practice that the most powerful senior leadership positions in government will be held by ethnic Malays.

The Government implements extensive "affirmative action" programs designed to boost the economic position of the ethnic Malay majority, which remains poorer, on average, than the Chinese minority despite the former's political dominance. Such government affirmative action programs and policies do, however, limit opportunities for non-Malays in higher education, government employment, business permits and licenses, and ownership of newly developed agricultural lands. Indian Malaysians continue to lag behind in Malaysia's economic development, although the national economic policies target less advantaged populations regardless of ethnicity. These programs, which have operated since the 1969 riots, are widely credited with helping assure the generally strife-free ethnic balance.

People with Disabilities.—While physically disabled persons are not subject to legal discrimination in employment, education, and provision of other state services, governmental budgetary allotments for people with disabilities are very small. Public transportation is not adapted to the needs of the disabled. Special education schools exist, but they are not sufficient to meet needs. Disabled persons work in all sectors of the economy, but the prevalent feeling in society remains that disabled

people cannot work. A campaign through the government-dominated Malaysian news media encouraged businesses and private individuals to increase their understanding and volunteer activities to assist disabled people. The Government allocates money for the administrative expenses of rehabilitation centers for the handicapped across Malaysia. The Government has not mandated accessibility for the disabled, either legislatively or otherwise.

Section 6. Worker Rights

a. *The Right of Association.*—By law workers have the right to engage in trade union activity, and tens of thousands of workers in both the public and private sector are members of trade unions, including at least 14 national unions. Within certain limitations, unions may organize workplaces, bargain collectively with employers, and form federations.

The Industrial Relations Act prohibits interfering with, restraining, or coercing a worker in the exercise of the right to form trade unions or in participating in lawful trade union activities. The Trade Unions Act, administered by the Director General of Trade Unions (DGTU), sets rules for the organization of unions, recognition of unions in the workplace, the content of union constitutions, election of officers, and financial reporting. The act's definition of a trade union, however, restricts a union to representing workers in a "particular establishment, trade, occupation, or industry or within any similar trades, occupations, or industries," contrary to International Labor Organization (ILO) guidelines.

The DGTU may refuse to register a trade union and, in some circumstances, may also withdraw the registration of a trade union. When registration has been refused, withdrawn, or canceled, a trade union is considered an unlawful association. Nationwide congresses of trade unions from different industries are required by law to register as societies under the Societies Act rather than as trade unions under the Trade Unions Act. During 1993, acting on complaints by private parties alleging electoral and constitutional irregularities, the Registrar of Societies required both major trade union congresses, the Malaysian Trades Union Congress (MTUC) and the Malaysian Labor Organization (MLO), to show cause why they should not be deregistered. In their answers, both groups admitted not having followed their own constitutional procedures and agreed to correct the irregularities. Having done so, both bodies retained their registrations.

Government policy discourages the formation of national unions. The Government posits a social compact where in each sector, government, employer, and worker are part of an overall effort to create jobs, train workers, boost productivity and profitability, and ultimately provide the resources necessary to fund human resource development and a national social safety net. The Government has used its power to prevent the Electrical Industry Workers Union, an MTUC affiliate, from organizing national unions in the American and Japanese dominated electronics industry on the grounds that electrical industry workers and electronics industry workers are not "similar" as required by the Trade Union Act. The Government permits only "in-house unions" in the electronics industry. At year's end, there were six such unions registered in the electronics industry, of which four were recognized by the companies involved, and two had collective bargaining agreements negotiated with their employers. All members of one of these unions were dismissed in 1990 following reorganization of its American-owned company's structure. The union charged the company with union-busting and wrongful dismissal. The case was filed in September 1990; an appeal from an Industrial Court decision is pending in the High Court. Malaysia's restrictions on freedom of association in the electronics industry have been the subject of complaints in the ILO.

Unions maintain independence both from the Government and from the political parties, but individual union members may belong to political parties. Although union officers are forbidden to hold principal offices in political parties, individual trade union leaders have served and currently serve in Parliament as opposition politicians. Malaysian trade unions are free to associate with international labor bodies and actively do so. Although strikes are legal, the right to strike is severely restricted in practice. Malaysian law contains a list of "essential services" in which unions must give advance notice of any industrial action. The list includes sectors not normally deemed "essential" under ILO definitions. The Industrial Relations Act of 1967 requires the parties to notify the Ministry of Human Resources that a dispute exists before any industrial action (strike or lockout) may be taken. The Ministry's Industrial Relations Department may then become actively involved in conciliation efforts. If conciliation fails to achieve a settlement, the Minister has the power to refer the dispute to the Industrial Court. Strikes or lockouts are prohibited while the dispute is before the industrial court. The result, in effect, is compulsory arbitration. The Industrial Relations Act prohibits employers from taking retribu-

tion against a worker for participating in the lawful activities of a trade union. Where a strike is legal, these provisions would prohibit employer retribution against strikers and leaders. However, as there are no reports of such cases alleging employer retribution against strikers, it is impossible to assess the effectiveness of government enforcement.

By law federations of trade unions may represent only a single trade or industry or similar trades or industries. Only three national labor federations are currently registered: one for public servants, one for teachers, and one consisting of state-based textile and garment workers unions.

b. *The Right to Organize and Bargain Collectively.*—Malaysian workers have the legal right to organize and bargain collectively, and collective bargaining is widespread in those sectors where labor is organized. About 860,000 workers are covered by collective bargaining agreements, representing 12 percent of the total work force. Designed to curb strikes, amendments in 1980 to Malaysia's Labor Law contain provisions that the MTUC believes erode the basic rights of workers, restrict union activities, and result in government and employer interference in the internal administration of unions. Despite subsequent amendments, the MTUC charges that the Labor Law does not meet ILO standards. Many union leaders also believe that the creation of the Industrial Court further weakened their collective bargaining rights. Malaysian law prohibits antiunion discrimination by employers against union members and organizers. Complaints of discrimination may be filed with the Ministry of Human Resources or the Industrial Court. When conciliation efforts by the Ministry of Human Resources fail, critics note that the Industrial Court is slow in adjudicating worker complaints.

Companies in free trade zones (FTZ's) must observe labor standards identical to those elsewhere in Malaysia. Many workers at FTZ companies are organized, especially in the textile and electrical products sectors. Workers in FTZ companies in the electronics sector are limited by government policy to forming in-house unions. During 1993, amendments to the Industrial Relations Act removed previous restrictions on concluding collective agreements about terms and conditions of service in "pioneer industries." Workers in industries granted pioneer status may now conclude collective agreements on all issues permitted to workers in other industries. The Government took these measures in part to respond to ILO criticism of its previous policy with respect to pioneer industries. The ILO continues to object to other legal restrictions on collective bargaining.

c. *Prohibition of Forced or Compulsory Labor.*—In theory, certain Malaysian laws allow the use of imprisonment with compulsory labor as a punishment for persons expressing views opposed to the established order or who participate in strikes. The Government maintains that the constitutional prohibition on forced or compulsory labor renders these laws without effect. In practice, there is no evidence that forced or compulsory labor occurs in Malaysia, for either Malaysian or foreign workers.

d. *Minimum Age for Employment of Children.*—The Children and Young Persons (Employment) Act of 1966 prohibits the employment of children younger than the age of 14. The act permits some exceptions, such as light work in a family enterprise, work in public entertainment, work performed for the Government in a school or training institution, or work as an approved apprentice. In no case may children work more than 6 hours per day, more than 6 days per week, or at night. Ministry of Human Resources inspectors enforce these legal provisions. However, according to credible reports, the Government still needs to take further steps to regulate child labor. There is no evidence that child labor is used in industries that export to the United States.

e. *Acceptable Conditions of Work.*—Malaysia lacks a national minimum wage, but the Wage Councils Act provides for a minimum wage in those sectors or regions of the country where a need exists. Under the law, workers in an industry who believe they need the protection of a minimum wage may request that a "wage council" be established. About 140,000 workers, or 2 percent of the over 7 million-member labor force, are covered by minimum wages set by wage councils. Representatives from labor, management and government sit on the wage councils. Not having been revised for many years, the minimum wages set by wage councils generally do not provide for an adequate standard of living for a worker and family. Minimum monthly wages for workers covered by wage councils in urban areas range from $70 to $90; for workers in rural areas, the minimum monthly "council" wage is $60 to $80. However, prevailing wages in Malaysia, even in the sectors covered by wage councils, are higher than the minimum wages set by the wage councils and do provide an adequate living.

Under the Employment Act of 1955, working hours may not exceed 8 hours per day or 44 hours per workweek of 5½ days. Each workweek must include one 24-hour rest period. The act also sets overtime rates and mandates public holidays, an-

nual leave, sick leave, and maternity allowances. The Labor Department of the Ministry of Human Resources enforces these standards, but a shortage of inspectors precludes strict enforcement. In October, Parliament adopted a new Occupational Safety and Health Act (OSHA), which replaced the Factories and Machinery Act of 1967. The new OSHA covers all sectors of the economy, except the maritime sector and the military. The act established a National Occupational Safety and Health Council composed of workers, employers, and government representatives, to set policy and coordinate occupational safety and health measures. The act requires employers to identify risks and take precautions, including providing safety training to workers, and compels companies having more than 40 workers to establish joint management-employee safety committees. The act requires workers to use safety equipment and to cooperate with employers to create a safe, healthy workplace. There are currently no specific statutory or regulatory provisions which create a positive right for a worker to remove himself or herself from dangerous workplace conditions without arbitrary dismissal. Employers or employees violating the act are subject to substantial fines or imprisonment for up to 5 years.

Significant numbers of contract workers, including numerous illegal immigrants from Indonesia, work on plantations. Working conditions for these laborers compare poorly with those of direct hire plantation workers, many of whom belong to the National Union of Plantation Workers. Moreover, immigrant workers in the construction and other sectors, particularly if illegal entrants, may not have access to Malaysia's system of labor adjudication. Government investigations into this problem have resulted in a number of steps to eliminate the abuse of contract labor. For example, in addition to expanding programs to regularize the status of immigrant workers, the Government investigates complaints of abuses, endeavors to inform workers of their rights, encourages workers to come forward with their complaints, and warns employers to end abuses. Like other employers, labor contractors may be prosecuted for violating Malaysia's labor laws. The Government has taken action against labor contractors who violate the law, and has assessed fines. The minimum fine currently assessed by law is $4,000. Effective April 1, 1994, the minimum fine will increase five-fold. In principle, serious violators can be jailed, but, in practice, such punishments are rare.

MARSHALL ISLANDS

The Republic of the Marshall Islands, a self-governing nation under the Compact of Free Association with the United States, is composed of 29 small, coral atolls and 5 islands scattered over a large area of the central Pacific, comprising a total land area of about 70 square miles. The population, of Micronesian origin, is approximately 50,000 and concentrated primarily on Majuro and Kwajalein atolls.

Political legitimacy in the Marshall Islands rests on the popular will expressed by majority vote in accordance with a constitution blending British and American precepts, including a strong, American-style bill of rights. The legislature consists of the Parliament, known as the Nitijela, with 33 members and a Council of Chiefs (Iroij), the latter serving a largely consultative function on matters dealing with custom and traditional practice.

The executive branch of the Government consists of the President and his appointed Cabinet, all of whom are elected members of the Nitijela. The President is elected by majority vote from among the membership of the Nitijela. The Constitution calls for an independent judiciary.

Under the Compact of Free Association, the United States is responsible for defense and national security. Consequently, the Marshall Islands has no security forces of its own, aside from national and local police forces, that are firmly under the control of the civil authorities.

The economy depends mainly on transfer payments from the United States. Coconut oil and copra exports, a small amount of tourism, and the fishing industry generate limited revenues.

Human rights abuses are rare, but there was one incident of attempted press intimidation in 1993.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of such killings.

b. *Disappearance.*—No politically motivated disappearances or abductions were reported.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution expressly forbids torture and other cruel, inhuman, or degrading treatment or punishment; the prohibition is observed in practice.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution contains safeguards against arbitrary arrest and detention, and no such incidents were reported.

e. *Denial of Fair Public Trial.*—The right to a fair public trial is expressly provided for in the Constitution and observed in practice. There were no reported denials of fair public trial.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*

The privacy of the home is protected by law and respected by the Government. There was no known instance of arbitrary intrusion by the State into the private life of the individual.

Section 2. Respect for Civil Liberties:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and press, and it has generally been accorded in practice. There are four operating radio stations, one government owned and three privately owned, including one owned by a prominent member of the opposition. There is one television station, operated by the National Museum, and a cable television company which shows U.S. programming only.

A U.S. citizen long resident in the Marshall Islands operates the country's sole privately owned newspaper. The editor and two reporters are U.S. citizens as well. In March the Minister of Justice informed one of the reporters in writing that an article he had published about the prevalence of sexually transmitted diseases in the Marshall Islands was "alarming and unbalanced." The Minister wrote that, if the reporter continued to write similar articles, he would be asked to leave the country.

The Government publishes a monthly gazette with official news and notices only.

b. *Freedom of Peaceful Assembly and Association.*—Freedom of peaceful assembly and association is provided for in the Constitution and observed in practice.

c. *Freedom of Religion.*—Free exercise of religion is provided for in the Constitution and observed in practice. There is no state religion. Missionaries are free to seek converts.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens are free to travel within the country and abroad. There are no restrictions on emigration or repatriation.

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

The Government is chosen by secret ballot in free and open elections every 4 years. Suffrage is universal for men and women 18 years of age and older. There are no restrictions on the formation of political parties, although political activity by aliens is prohibited.

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

While there are no official restrictions, no local nongovernmental organizations that concern themselves with human rights have been formed.

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

The Constitution prohibits discrimination on the basis of sex, race, color, language, religion, political or other opinion, national or social origin, place of birth, family status, or descent.

Women.—Inheritance of property and of traditional rank is matrilineal, with women occupying positions of importance within the traditional system. No instances of unequal pay for equal work or sex-related job discrimination were reported.

Public allegations of violence against women are rare and relate mainly to domestic abuse. No reliable information about the extent of this problem is available. Assault is a criminal offense, but women are reluctant to prosecute their spouses. Women's groups have held infrequent meetings to publicize women's issues and to create a greater awareness of the rights of women.

Children.—Much of the Government's expenditures on children's welfare is in areas of health and education, which make up the largest percentage of its budget. However, this has not been adequate to meet the needs of its sharply increasing population. The current birthrate is over 4 per cent. The Nitijela passed the Domestic Relations Amendment of 1993, which defines child abuse and neglect, and makes the two criminal offenses. Earlier legislation requires teachers, care givers, and

other persons to report instances of child abuse and exempts them from civil or criminal liability. Cultural preferences for large families and the lack of educational facilities and teachers pose special challenges for parents.

People with Disabilities.—There is no legislation specifically prohibiting discrimination based on disability. There are no building codes, and, therefore, no legislation requiring access for the disabled. There have been no reported instances of discrimination against the disabled.

Section 6 Worker Rights

a. *The Right of Association.*—The Constitution provides for the right of free association in general, and the Attorney General interprets this right as allowing the existence of labor unions, although to date there have been no initiatives to form any. The Constitution is silent on the right to strike, and thus far the Government has not addressed this issue.

b. *The Right to Organize and Bargain Collectively.*—There is no legislation concerning collective bargaining or trade union organization. However, there are no bars to the organization of trade unions or to collective bargaining. There are no export processing zones. Wages in the cash economy are determined by market factors in accordance with the minimum wage and other laws.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution specifically prohibits involuntary servitude, and there is no evidence of its practice.

d. *Minimum Age for Employment of Children.*—Marshallese law contains no prohibition on the employment of children. Children are not typically employed in the wage economy, but some assist their families with agriculture, fishing, and other small-scale family enterprises. Public Law 1991–125 instituted compulsory education for children aged 6 to 14; however, the lack of classrooms and teachers makes enforcement impossible.

e. *Acceptable Conditions of Work.*—There is a government-specified minimum wage established by law, and it is adequate to maintain a decent standard of living in this subsistence economy, where extended families are expected to help less fortunate family members. The minimum wage for all government and private sector employees is $1.50. (The U.S. dollar is the local currency.) The Ministry of Resources and Development oversees minimum wage regulations. Foreign employees and Marshallese trainees of private employers who have invested in or established a business in the country are exempt from minimum wage requirements. Since the majority of foreign workers are in white-collar positions, this exemption does not affect a significant segment of the work force.

There is no legislation concerning maximum hours of work or occupational safety and health, although Sunday is widely considered church and family day, and most people do not work on Sundays.

Legislation provided for the establishment of a Labor Board to make recommendations to the Nitijela on minimum working conditions, i.e., minimum wage, legal working hours and overtime payments, and occupational health and safety standards in accordance with International Labor Organization conventions. The Board's meetings are public; however, there appears to be no record of any meeting held in recent years. There is no legislation specifically giving workers the right to remove themselves from situations which endanger their health or safety without jeopardy to their continued employment, and no legislation protecting workers who file complaints about such conditions. There were no reports of industrial accidents in 1993.

FEDERATED STATES OF MICRONESIA

The Federated States of Micronesia (FSM) is composed of 607 small islands, mostly uninhabited, extending over 1 million square miles of the Central Pacific. Four states—Chuuk (formerly Truk), Kosrae, Pohnpei, and Yap—comprise the federation. The population is estimated to exceed 100,000, mostly of Micronesian origin. The four states were part of the Trust Territory of the Pacific Islands, administered by the United States from 1947 to 1986 pursuant to an agreement with the United Nations.

Political legitimacy rests on the popular will expressed by a majority vote in accordance with the Constitution, which is based in large part on the U.S. model. There are three branches of government: a president as chief executive and head of state, a unicameral legislature elected from the four constituent states, and a judicial system that applies criminal and civil laws and procedures closely paralleling those of the United States.

Under the Compact of Free Association, the United States is responsible for defense and national security. The FSM has no security forces of its own, aside from local police and other law enforcement officers, all of whom are firmly under the control of the civil authorities.

The economy depends heavily on transfer payments from the United States, fishing, tourism, and subsistence agriculture.

Traditional customs sustain a value system which distinguishes between people on the basis of social status and sex. Discrimination and violence against women are the principal human rights problems.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—No political killings occurred.

b. *Disappearance.*—There were no disappearances or abductions.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There was no incidence of torture or other cruel, inhuman, or degrading treatment or punishment in 1993.

d. *Arbitrary Arrest, Detention, or Exile.*—Legal procedures for the most part are patterned after U.S. law in its provisions for due process. These provisions are carefully observed. There is no exile.

e. *Denial of Fair Public Trial.*—Public trial is provided for in the Bill of Rights, and trials are conducted fairly. Juveniles may have closed hearings. The Chief Justice of the Supreme Court is appointed by the President, with the advice and consent of the Congress.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such arbitrary interference, and in practice there is none.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—These rights are constitutionally assured and observed. Each of the four state governments controls a radio station broadcasting primarily in the local language. Local television programming in some states shows videotaped and occasionally live coverage of local sports and political and cultural events. Subscription cable television, showing major U.S. programming, is available in Chuuk and Pohnpei. Religious groups operate private radio stations. The national Government and the states of Yap, Chuuk, and Kosrae publish newsletters.

b. *Freedom of Peaceful Assembly and Association.*—The Bill of Rights provides for freedom of peaceful assembly and association, and these rights are honored in practice. During political campaigns, citizens often question candidates at public meetings. Formal associations are uncommon in Micronesia, but student organizations exist.

c. *Freedom of Religion.*—The FSM is hospitable to diverse religions, and missionaries of many faiths work within the nation. The Bill of Rights forbids establishment of a state religion and governmental restrictions on freedom of religion.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no restrictions on freedom of movement.

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

The Congress is elected by popular vote from each state; the Congress then chooses the President and Vice President from its ranks by majority vote. State governors, state legislators, and municipal governments are all elected by direct popular vote. Political campaigning is unrestricted and, as there are no established political parties, political support is generally courted from among family and allied clan groupings. In the 1993 national congressional election, all 10 incumbent 2-year senators were reelected. There were allegations of voter registration list improprieties in one of the districts during the election. As a result of a suit brought by the losing congressional candidate in this disputed district, the Supreme Court ruled that balloting at the one polling place where documented irregularities took place should be repeated. The administration asked the Congress to fund the new vote. The Congress, however, accepted the initial results of the election, citing its constitutional authority to be the final judge of the qualifications and credentials of its members. The Supreme Court accepted the congressional action, and no reballoting took place.

Although there are no restrictions on the formation of political groups, to date there have been no significant efforts to form political parties.

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

There were no known requests for investigations of alleged human rights violations. While there are no official restrictions, no local groups concern themselves with human rights.

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

Women.—Although the Constitution provides explicit protection against discrimination based on race, sex, language, or religion, societal discrimination and violence against women remain serious problems. Women are still at the early stages of finding jobs beyond the entry level in both the public and private sectors. There is one female state legislator. Women's roles within the family as wife, mother, homemaker, and childrearer remain virtually unchanged from earlier times. Allegations of violence against women are usually concerned with domestic conflict between husband and wife, and wife beating under certain circumstances still is condoned among more traditional elements of the population. While assault by a husband or other male relative on women and children within the family is a criminal offense under law, most women are reluctant to bring formal charges. When formal charges are brought by women against men who assault them, the attitude of the authorities is that such issues are best left to the extended family unit to resolve.

In 1992 women began to have organizational representation at the national level with the formation of a National Women's Advisory Council, made up of a National Women's Interest Officer (NWIO) and representative NWIOs from each state. The organizational details of this Council, and its place in the bureaucracy, remained uncertain in 1993.

Children.—Children's rights are respected. Increasing national governmental emphasis was given to the educational needs of children in 1993 with the formation of a separate Department of Education. The FSM Congress this year passed a bill establishing special education programs.

National/Racial/Ethnic Minorities.—Non-Micronesians are prohibited from purchasing land in the FSM. Occasional sentiment against non-Micronesians appears, as in proposed legislation to regulate subsistence fishing and farming by non-Micronesians. But, for the most part, non-Micronesians share fully in the social and cultural life of the FSM. FSM citizenship for non-Micronesians is granted only by individual acts of the national Congress.

People with Disabilities.—There is no de jure discrimination against the physically disabled. There are neither laws nor regulations mandating accessibility for the disabled. FSM schools have established special education classes to address problems encountered by those who exhibit learning disabilities.

Section 6. Worker Rights

a. *The Right of Association.*—Citizens have the right to form or join associations, and national government employees by law may form associations to "present their views" to the Government. However, as yet, neither such associations nor trade unions have been formed in this largely nonindustrial society.

b. *The Right to Organize and Bargain Collectively.*—There is no law dealing specifically with trade unions or with the right to collective bargaining. Wages are set by individual employers. The Government is not a member of the International Labor Organization. Micronesia has no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution specifically prohibits involuntary servitude, and there is no evidence of its practice.

d. *Minimum Age for Employment of Children.*—There is no law establishing a minimum age for employment of children. While in practice there is no employment of children for wages, they often assist their families in subsistence farming activities.

e. *Acceptable Conditions of Work.*—The four state governments have established minimum wages for government workers: $1.49 per hour in Kosrae, effective October 1992; $1.35 in Pohnpei, effective October 1991; $0.80 per hour in Yap, effective January 1980; $0.83 in Chuuk, effective November 1985. Pohnpei is the only state that applies its minimum wage rate to the private sector. In 1993 Chuuk's minimum wage was raised by legislation, but the raise was vetoed by the governor. These minimum wage structures and the wages customarily paid to unskilled workers are sufficient to provide an acceptable standard of living under local conditions.

There are no laws regulating hours of work (although a 40-hour workweek is standard practice) or prescribing standards of occupational safety and health. A federal regulation requires that employers provide a safe place of employment. The

FSM Department of Health has no enforcement capability; working conditions, in practice, vary.

MONGOLIA

In January 1992, the legislature approved a new Constitution which codified Mongolia's transition from a highly centralized Communist state to a multiparty democracy. The new Constitution established Mongolia as a sovereign republic, provided a broad range of rights and freedoms, retained the offices of President and Prime Minister, and restructured the legislative branch of government into a unicameral State Great Hural (SGH) of 76 members. The Prime Minister and the Cabinet are nominated by the President and approved by the SGH. Continuing the positive trend of the previous 3 years, Mongolia in 1993 took further steps to consolidate its fledgling democracy and to enhance the protection of human rights.

In the preliminaries to the June 1993 presidential election, the Mongolian People's Revolutionary Party (MPRP) withdrew its support for then incumbent President Ochirbat and supported the candidacy of MPRP newspaper editor Tudev. The Mongolian National Democratic Party (MNDP) and the Social Democratic Party (SDP), along with other opposition parties, formed a coalition to support Ochirbat's candidacy. This first-ever democratic presidential election in Mongolia's history, held on June 6, 1993, was monitored by international observers, who judged it open and fairly contested. Ochirbat won with 57.8 percent of the popular vote; some 92.7 percent of eligible voters participated in the election.

The state security apparatus—now a department responsible to the Cabinet—continues to redefine its role in Mongolia's post-Communist society. A State Security Law enacted in 1992 establishes SGH control and supervision of the Department of State Security (DSS) and its budget, presidential control of policy, and government oversight of daily activities, with the State Procurator also overseeing the legal aspects of security operations. However, the new law also provides the Department a special right to conduct surveillance in order to carry out its duties and establishes the presence of security representatives in all public enterprises. There have been some reports of police using excess force in dealing with those suspected or accused of criminal activity.

Despite increasing industrialization and urbanization, a large portion of the population is engaged in agriculture, with an emphasis on livestock raising and associated light industry. After decades of nearly total dependency on the former Soviet Union, Mongolia is increasing its foreign trade with other countries and making the difficult transition to a market economy. The new Constitution lays the legal groundwork for this transition by establishing the right to private ownership of property and to conduct private commercial activity. However, these efforts have been handicapped by a severe foreign exchange shortage and a general economic slowdown.

The new Constitution establishes the basis for continued significant progress in most human rights categories. It forbids discrimination of any sort and clearly establishes freedom of speech and press, assembly, and the right of citizens to change their government. This year the SGH considered several laws concerning basic rights enumerated in the Constitution, including emigration, labor relations, and religion.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There has been no evidence of such killings in recent years.

b. *Disappearance.*—There were no known instances of politically motivated abductions or disappearances in recent years.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—According to the new Constitution, "no person shall be subjected to torture, inhuman, cruel, or degrading treatment." There have been no reports that torture or other such treatment or punishment has been practiced in the recent past.

d. *Arbitrary Arrest, Detention, or Exile.*—There were no confirmed reports of arbitrary arrest, detention, or exile.

Under the new Constitution, no person shall be searched, arrested, detained, or deprived of liberty except by law. A person arrested for committing a crime, his family, and his legal counsel are to be notified of the reasons for the arrest within a period of time established by law. A number of new procedural laws have been passed, but Mongolia's Legal Code has not been completely revised. Until that revi-

sion is complete, the existing Legal Code remains in force. That Code permits police to arrest those in the act of committing a crime and hold them for up to 72 hours without a warrant. For incarcerations of longer duration, or when the actual crime was not witnessed, a warrant must be issued by a prosecutor. Prosecutors are appointed by the State Prosecutor for a 5-year term. The State Prosecutor was appointed by the former (pre-SGH) Great People's Hural for a 5-year term.

Under the existing Legal Code, a person in detention has no statutory right to see an attorney, and defense attorneys have been routinely denied access to their clients prior to trial. The new Constitution, however, provides for the right to legal assistance upon request but does not provide for free legal counsel for the indigent.

e. *Denial of Fair Public Trial.*—The new Constitution provides the right to a fair trial, legal assistance, appeal of a court judgment, and request for pardon.

The new Constitution also provides for a number of structural changes in the court system that have not yet been implemented. The Supreme Court is the highest judicial body, while the Constitutional Court has sole authority to interpret the Constitution.

While the Supreme and Constitutional Courts are now functioning, further restructuring of the court system must await enactment of implementing legislation by the SGH. In the interim, the existing three-level court system remains in operation. The local (or "people's") courts handle most routine criminal and civil cases such as assault, petty larceny, traffic accidents, and liability disputes. Provincial courts hear serious cases such as murder, rape, grand larceny, official corruption, and security cases. Provincial courts also review local court decisions. The Supreme Court serves as an appeals court for the people's and provincial courts. To date the Supreme Court has rarely overturned the verdicts of the lower courts. Supreme Court judges were appointed by the former Great People's Hural for 4-year terms. Lower court judges were appointed by provincial hurals, also for 4-year terms. Current civil and criminal codes provide for the right of the accused to judicial process, a legal defense, and public trial "except as stipulated by law." Closed proceedings are permitted in cases involving crimes against the State, rape cases involving minors, and particularly brutal murders. Witnesses are usually required to appear at trials, but written testimony is sometimes accepted instead. The accused must answer all questions put to him by the prosecutor.

Under the provisions of a 1993 law on the judicial system, the formerly separate military justice and railway court systems have been abolished. All legal actions are now considered by a single unified national court system.

In the past the courts have been nominally independent, but in reality were closely controlled by the MPRP. Since the 1990 revolution, there has been a comprehensive review of the Legal Code and the structure of the judiciary in order to establish a legal system which will conform to international standards. The new Constitution stipulates that the judiciary will be independent and strictly guided by law; it remains to be seen how this stipulation will be implemented.

There are no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The right to privacy of Mongolian citizens, their families, correspondence, and homes is provided for in the new Constitution. Despite political reforms and reductions in the apparatus of government, however, the Government, under old regulations still in force, retains the authority to exercise control over individual activity. Warrants must be issued by a prosecutor before persons or premises may be searched.

According to the 1992 State Security Law, the DSS, despite internal reforms, still reserves the right to use special surveillance methods (e.g., wiretaps) in order "to carry out its duties." No information is available on the extent of these practices, but the authority of the DSS seems significantly less than what it was before the 1990 democratic revolution.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech, press, and "expression of opinion" is provided for in the new Constitution and is now widely respected in practice, although some limits remain. Lively debate covering a broad range of political, economic, and social topics continued in 1993. Newspapers are able to publish and circulate freely. However, except for those newspapers which were able to import newsprint directly or obtain it as a gift, newsprint shortages prevented most newspapers from appearing regularly. The Government controls the allocation of newsprint imported through official trade, and opposition parties and other publishers continued to allege that limitations on the quantities of newsprint effectively prevented them from publishing as frequently as the MPRP newspaper, Unen.

A new "independent" but government-financed television company was formed in mid-1992 and now broadcasts 30 hours of programming a week. Government-owned

Mongolian radio and television remain the only national broadcast systems. Although both the opposition and the Government at times have criticized Mongolian television's coverage, it regularly broadcasts the views of opposition parties as well as those of the Government, and its news programs are generally considered balanced.

b. *Freedom of Peaceful Assembly and Association.*—The new Constitution provides for freedom of peaceful assembly. Demonstrations—including hunger strikes—over various issues, mainly protesting government economic policies, were held throughout 1993 without interference by the authorities. Although permits are required for demonstrations, this requirement is not enforced. The new Constitution also grants the right to form a political party or other public organizations and to unite voluntarily in associations according to social interests or convictions.

c. *Freedom of Religion.*—The new Constitution provides for the right both to "worship and nonworship;" there is no state religion. The Constitution explicitly provides for the separation of church and state. Freedom of religion is respected in practice.

On December 10, a new law on religious activity went into force. This law placed limits on religious expression and explicitly favored Buddhism, Islam, and shamanism. However, on January 12, 1994, the Constitutional Court declared those provisions of the law unconstitutional.

Muslims, Buddhists, and Christians all practice their faiths without government interference. The Association of Mongolian Religious People, formed in 1990, continued to function freely. The Government has not interfered with the activities of Christian and other missionaries, and proselytizing is permitted. However, a Ministry of Education announcement stipulates that, because the new Constitution requires that education be kept separate from religion, foreign language teaching must not be used as a means of conducting missionary activity.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The new Constitution provides Mongolians the right to move freely within the country, choose their residence, travel and reside abroad, and return to Mongolia. The right to travel abroad may, however, be limited by law in order to ensure national security and protect public order. At least some Mongolians are required to surrender their passports upon completion of foreign travel and must request their return for further use. Mongolia does not receive many refugees, but a few who have come from China's province of Inner Mongolia have been accepted for resettlement.

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

The 1992 Constitution provides citizens the right to change their government through periodic, free elections with universal suffrage. President Ochirbat, supported by a coalition of opposition parties, won a second term in June in Mongolia's first open presidential election.

The Constitution establishes the unicameral State Great Hural (SGH) as the supreme organ of government. Its 76 members are elected by direct, secret ballot for 4-year terms. The SGH has the right to set the date of SGH and presidential elections and can remove the President. The President of Mongolia serves as Head of State and is elected to a 4-year term (with a limit of two terms) by national secret ballot. The Government has a 4-year mandate and is nominated by the party that wins a majority in the SGH. The SGH, in consultation with the President, will continue to elect the Prime Minister and approve his Cabinet.

There are no legal impediments to the participation of women in government and politics. According to the new Constitution, "men and women shall be equal in political and economic fields...." In 1991 women constituted about 30 percent of the MPRP membership. Three women were elected to the SGH in June 1992.

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

A local human rights group, the Mongolian Human Rights Committee, was formed in 1990. There are no known impediments to its ability to monitor and report on human rights developments. The Government has cooperated with international nongovernmental human rights organizations.

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

The new Constitution provides that "...no person shall be discriminated against on the basis of ethnic origin, language, race, age, sex, social origin, or status..." and that "...men and women shall be equal in political, economic, social, cultural fields, and family affairs."

There appears to be little discrimination in education on the basis of race, sex, or religion.

Women.—According to government statistics, the percentage of women in the work force was 51.3 percent in 1992. Women formed about half of trade union membership and also hold high professional positions in such institutions as the courts, schools, research centers, and hospitals. By law and in practice, women receive equal pay for equal work. Women are, however, virtually absent from the highest ranks of government and the professions.

There is little historical information about the extent of domestic violence, including spousal and child abuse. Only recently has the issue surfaced in the media; many believe that the incidence of such violence is growing as more and more families are confronted by economic and social dislocations, including unemployment and alcohol.

Children.—The Government believes that the growing number of orphaned and abandoned children is becoming a serious national problem that requires additional government action. Mongolia's National Children's Center has been relocated in the Ministry of Social Welfare and Labor, which is helping to prepare new legislation on child protection. A few group shelters have been established for abandoned and street children.

People with Disabilities.—People with disabilities have formed several groups to represent their interests. Under present law, government benefits vary according to the degree of disability. Those who have been disabled in industrial accidents have the right to be reemployed when ready to resume work. The Government also provides tax benefits to enterprises which employ the disabled and some firms do so exclusively. No legislation mandates access for the handicapped.

Section 6. Worker Rights

a. *The Right of Association.*—The right of association for professional associations and trade unions is provided for in the new Constitution. The charter of the Mongolian Trade Unions Confederation (MTUC) provides for the unionization of police and military personnel. Although at present neither group belongs to the federation, their affiliation is under consideration. The MTUC represents some 400,000 Mongolian workers.

Union officials are elected by secret ballot.

There are no arbitrary restrictions on who may be a union official. Union members, other than civil servants and essential service workers, have the right to strike, and several strikes took place during the year. Essential services employees are those critical for national defense and safety, including the police, employees of power plants, water works, public transportation, and public communications, and certain railway employees.

Most unions in Mongolia are currently affiliated with the MTUC, which formerly was a part of the MPRP. The MTUC separated from the party during the 1990 revolution, and its charter now states that all unions have the right to leave it should they so desire. The MTUC also maintains there is no requirement for new unions to register with it or with any government body. The MTUC is apparently no longer an instrument of government control. According to the Constitution, no political parties can be directly represented in the workplace. During 1990 a new union movement called "The Association of Free Trade Unions" (AFTU) emerged. It includes some 70 unions. In 1992 another new union organization, called "Blue Mongolia," came into existence with approximately 40,000 members. Although the AFTU still functions, Blue Mongolia no longer appears to be active.

The new Constitution places no restrictions on the political activity of unions or union officials. There is no statutory prohibition against unions forming federations or joining international bodies. Mongolian unions, formerly affiliated exclusively with international Communist organizations, are broadening their contacts with Western labor movements. The MTUC in 1993 sent representatives to various International Labor Organization, International Confederation of Free Trade Unions, and specialized federation meetings in Japan, Singapore, Thailand, Hong Kong, the Philippines, Israel, and Taiwan.

b. *The Right to Organize and Bargain Collectively.*—Although amendments to the existing Labor Law passed in early 1993 provide for collective bargaining, there are so far no known instances of such agreements. Wage setting is an issue still in flux. According to the MTUC, wages and other work-related issues are supposed to be decided in tripartite contract negotiations between the enterprises, the Government, and unions. The Government's role is to be limited to making sure that the contract meets legal requirements, e.g., hours of work and safety conditions. In practice, wages usually set by the employer alone, whether that employer is a private enterprise or the Government itself. Virtually all enterprises have been privatized, in-

cluding manufactured and service industries. The Government, however, in addition to employing its own ministry officials and teachers, also owns the communications systems, mines, airlines, and other organizations. Where the Government acts as employer, it sets the wages, although the MTUC member unions are trying to carve out a role in it for themselves, e.g, as when the teachers in late 1992 struck for higher wages. However, the unions have not yet established a formal role.

The Labor Law prohibits antiunion discrimination. According to the law, an employer must show work-related cause and must obtain the union's approval to fire a union official who is an employee. The courts have the right to order reinstatement. In practice, in the several known instances of union officials who were faced with dismissal, the matter was resolved and the official continued working without resort to court intervention.

Export processing zones do not exist in Mongolia.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is specifically prohibited by law. However, students are frequently mobilized to help farmers harvest their crops. In 1993 about 9,000 of the 30,000 university students participated in the harvest, while the others paid a fine equivalent to about $5 to avoid such labor.

d. *Minimum Age for Employment of Children.*—The law prohibits children under the age of 16 from working, with the exception of those aged 14 and 15 if allowed by the local trade union committee and given permission by their parents. Those under 18 are statutorily prohibited from working at night, from doing arduous work, or from working in dangerous areas such as mining or construction. Enforcement of these prohibitions, as well as all other labor regulations, is the responsibility of state labor inspectors assigned to regional and local offices. These inspectors visit workplaces and have the authority to order and, reportedly, compel immediate compliance with labor regulations.

Prior to 1991 child employment was banned by the Constitution, and no statistics were kept on such employment. However, in 1991 the Government created the National Commission for Children. The Commission, under the Ministry of Labor, is responsible for verifying the extent and condition of child labor. As a first step, the Commission requested basic information from Mongolian firms, and its staff also visited businesses to obtain data. At the end of the year, firms had still not responded to the Commission's 1992 request for data on child labor. No alternate source of data on child labor appears to exist. In the rural areas, there appears to have been a noticeable drop in school attendance by school-age children. Part of this drop is undoubtedly due to problems faced by rural schools (primarily lack of heat), but part is due to some children having been withdrawn to work in the newly privatized herds.

e. *Acceptable Conditions of Work.*—The government-established minimum wage applies to all workers. The minimum wage was raised in June 1993 to $0.03 per hour (approximately 11 tugriks at December 1993 exchange rates) and again in December 1993 to around $0.065 (25.74 tugriks). Few workers, however, make only the minimum wage; most salaried positions pay three or four times that rate. The minimum wage has not been indexed to reflect the serious inflation of the past 3 years. While it is difficult to determine what portion of the work force is paid at the minimum wage, this wage, together with subsidies provided workers, appears to provide an adequate standard of living, although that is endangered by continuing inflation.

The Labor Law sets 46 hours as the standard workweek, and establishes a minimum rest period of 42 hours between workweeks. For those under 18 the standard workweek is 36 hours: overtime is forbidden by law, except in case of national emergency or natural disaster, such as an earthquake or floods, and then only with the concurrence of the local labor union.

Both government and organized labor recognize the importance of worker health and safety issues, but no specific laws on these topics have yet been presented to the SGH. At present, the Labor Law, the Cooperatives Law, and the Enterprise Law provide occupational safety and health standards, and the Ministry of Labor sets additional standards. These standards are enforced by the Government with the help of the trade unions; violators may be fined and imprisoned. There were no reported incidences of such punishments levied in 1993. According to the Labor Code, workers do have the right to remove themselves from dangerous work situations and still retain their jobs. The Labor Inspector Force (37 investigators) has taken action, even to close factories if the building involved does not meet minimal health and safety regulations. Nonetheless, given Mongolia's near total reliance on outmoded machinery and continuing problems with spare parts and maintenance, accidents are frequent. In the past year, over 300 workers were reportedly killed in industrial accidents.

NAURU

The Republic of Nauru, a small Pacific island with about 9,500 inhabitants, gained independence in 1968, at which time it adopted a modified form of parliamentary democracy. Prior to independence it had been administered by Australia.

Nauru has two levels of government, the unicameral Parliament and the Nauru Island Council (NIC). Parliamentary elections must be held at least triennally. The Parliament, consisting of 18 members from 14 constituencies, is responsible for national and international matters. It elects the President, who is both head of state and head of government, from among its members. The NIC acts as the local government and is responsible for public services. The judiciary is independent. Nauru has no armed forces, though it does maintain a 92-man police force under civilian control.

The economy depends almost entirely on the country's rich phosphate deposits, mined by the government-owned Nauru Phosphate Corporation (NPC). The Government places a large percentage of the NPC's earnings in long-term investments meant to support the Nauruans after the phosphate reserves have been exhausted. Using current extraction techniques, Nauru's phosphate reserves will probably be exhausted by the year 2000. The Governments of Nauru and Australia reached a $70.4 million out-of-court settlement in July for rehabilitation of the Nauruan lands ruined by Australian phosphate mining.

Fundamental human rights are provided for in the Constitution and generally respected in practice, although hard data and systematic records are lacking. Discrimination and violence against women remain the principal human rights problems.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no political or other extrajudicial killings in 1993.

b. *Disappearance.*—There were no political disappearances in 1993.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits these practices, and this prohibition is respected.

d. *Arbitrary Arrest, Detention, or Exile.*—The constitutional prohibition against arbitrary arrest and detention is honored. The police may hold a person for no more than 24 hours without a hearing before a magistrate. Exile is not practiced.

e. *Denial of Fair Public Trial.*—Nauru maintains an independent judiciary, and constitutional provisions for both a fair hearing and a public trial are respected. Defendants may have legal counsel, and a representative will be appointed when required "in the interest of justice." Nauru has only two trained lawyers, and many people are represented in court by "pleaders," trained paralegals certified by the Government. There are no political prisoners.

f. *Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution generally provides protection from these abuses. Searches not sanctioned by court order are prohibited, and there is no surveillance of individuals or of private communications. Nauruan citizenship and inheritance rights are traced through the female line. Until very recently, laws restricted intermarriage of Nauru men and women with non-Nauruans. Although the laws have changed and such intermarriage is practiced and permitted, intermarriage between Nauru women and foreign males still draws substantial social censure. The spouses—male or female—of Nauru citizens have no automatic right of abode in Nauru. They are, however, normally granted short-term "visits" sponsored by the Nauru spouse or they can apply for longer-term work permits. Foreign spouses are not eligible for Nauru citizenship.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of expression. News and opinion circulate freely, rapidly, and widely by the press and word of mouth. The country has two regular publications: the private, fortnightly newspaper, the Central Star News, which operates and editorializes freely; and the Government Gazette, which contains mainly official notices and announcements. The sole radio station, also owned and operated by the Government, broadcasts Radio Australia and British Broadcasting Corporation news reports but not local news. Satellite reception of pay television, broadcast from New Zealand, became available in 1991.

Foreign publications are widely available. However, during the July South Pacific Forum meeting in Nauru, authorities banned the then-current issue of Pacific Is-

lands Monthly, which strongly criticized the financial management and decisions of government investment trust managers regarding Nauru's phosphate resources and income. The issue was available, nonetheless, and no one was detained for possession of it.

There are no prohibitions or restrictions on academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The constitutional right of peaceful assembly and association is honored. No limitations exist on private associations, and no permits need be obtained for public meetings. There were several peaceful demonstrations during the July South Pacific Forum meeting against various government policies and actions.

c. *Freedom of Religion.*—The Constitution protects freedom of religion, and the Government recognizes no religion as official. Several different Christian denominations are well established in Nauru. Missionaries, foreign clergy, and religious publishing are all permitted. Adherence to a particular faith results in no advantage or disadvantage in any secular pursuit.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Nauruans are free to move and travel both domestically and internationally. Foreign workers must apply to their employers for permission to leave during the period of their contracts. They may break the contract and leave without permission but would lose their positions and, often, a sizable bond as a result. In most cases, foreign employees whose contracts are terminated by their employers must leave Nauru within 60 days. Nauru does not revoke citizenship for political reasons. Citizens who have left the country have the right to return, and repatriates receive the same treatment as other citizens. No restrictions on emigration exist.

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

Citizens have, and exercise, the right to change their government. Though Nauru has no organized political parties, persons with diverse points of view run for and are elected to Parliament and to the NIC.

Parliament elects the President. Nauru has had seven changes in presidential leadership since independence. Power has always been transferred peacefully and in accordance with the Constitution. Continuing this tradition, Bernard Dowiyogo was reelected to his parliamentary seat and the Presidency in November 1992. Voting, by secret ballot, is compulsory for all citizens over age 20 for parliamentary elections. There have been multiple candidates for all parliamentary seats during recent elections. The approximately 3,000 guest workers in Nauru have no voice in political decisions. There are no legal impediments to participation in politics by women, and women have in the past served in Parliament, although none of the 18 current parliamentarians are women.

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

There are no restrictions on establishing local groups that concern themselves specifically with human rights, but to date none has been formed. There have been no allegations by outside organizations of human rights violations in Nauru, nor any requests for investigations.

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

Women.—The Constitution contains provisions assuring women the same freedoms and protections as men. They are provided equal opportunities by the Government in education and employment and are free to own property and pursue private interests. Social values have, however, changed very slowly, and women still receive clear signals that their ultimate goal should be marriage and raising a family. Young women studying abroad on scholarship and contemplating marriage face review and possible termination of their educational grants as it is assumed that they will leave the work force and thus not require additional academic training.

Nauru's population has been almost eliminated on several occasions, first by disease and drought, then during World War II as a result of massive removals by the Japanese. The Government has gone to great lengths to encourage large families, and Nauruan women complain that emphasis on their reproductive role reduces their opportunities.

Previous Nauruan governments have shown little interest in the problems of women. Nauruan authorities give high priority to improved health care and education, but the island has no gynecologists. The Government has not specifically addressed the physical abuse of women, which anecdotal evidence indicates to be a serious problem, though there are no statistics showing its extent. Alcohol abuse is generally considered a major contributing factor.

Children.—Child abuse statistics do not exist, but as with violence against women, it can be assumed that alcohol abuse sometimes leads to child neglect or abuse. The Government devotes considerable attention to the welfare of children, with particular stress on their health and educational needs.

National/Racial/Ethnic Minorities.—Foreign laborers, mainly from Vanuatu, Kiribati, and Tuvalu, experience some discrimination. While guest workers are provided free housing, the shelters they are given are often poorly maintained and overcrowded. Some guest workers have alleged that Nauruan police rarely act on complaints they make against Nauruan citizens.

People with Disabilities.—There is no reported discrimination against persons with disabilities in employment, education, and provision of state services. There is, however, no legislation or mandated provisions of accessibility for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for the right to assemble and associate peacefully and to form and belong to trade unions or other associations. However, there are currently no trade unions in Nauru, and past efforts to form them were officially discouraged and ultimately failed. The transient nature of the mostly foreign work force and the relative prosperity of the Nauruans have also served to hamper efforts to organize the labor force. The right to strike is neither protected, prohibited, nor limited by law. No strikes took place in 1993. Nauru is not a member of the International Labor Organization.

b. *The Right to Organize and Bargain Collectively.*—Nauru has virtually no labor laws. The private sector in Nauru employs only about 1 percent of Nauru's salaried workers. For government workers, public service regulations determine salaries, working hours, vacation periods, and other employment matters. There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution forbids forced or compulsory labor, and there have been no instances of either.

d. *Minimum Age for Employment of Children.*—Education is compulsory until age 16; Nauruan law sets 17 as the minimum age of employment. This is honored by the only two large employers, the Government and the NPC. Some children under age 17 work in the few small family owned businesses.

e. *Acceptable Conditions of Work.*—Minimum wages paid on Nauru vary considerably between office workers and manual laborers, but they suffice to provide an adequate, if modest, standard of living. Thanks to yearly dividends paid to Nauruans by the phosphate trust, most families live in simple but adequate housing and almost every Nauruan family owns at least one car or truck. The Government sets the minimum wage for Nauruans administratively for both public and private sectors. Since November 1992, that rate has been $5,958 ($A9,056) for those 21 years of age or older. The rate is progressively lower for those under 21 years of age, dropping to $2,957 ($A4,521) for those age 16. Employers determine wages for foreign contract workers based on market conditions and the consumer price index. Usually foreign workers and their families receive free housing, utilities, medical treatment, and often a food allowance. By regulation the workweek for office workers is 36 hours and for manual laborers 40 hours in both the public and private sectors.

The Government sets health and safety standards. The state-run mining enterprise, NPC, has an active safety program that includes worker education and the use of safety helmets, safety shoes, respirators for dusty conditions, and other safety measures. The NPC has a safety officer, specifically responsible for improving safety standards and compliance throughout the company.

NEW ZEALAND

New Zealand is a parliamentary democracy, with executive authority vested in a 23-member cabinet led by a prime minister. The 99 members of the unicameral legislature include 4 whose seats are reserved for election by persons from the native Maori minority population who wish to be included on a separate electoral roll.

Approximately 12 percent of New Zealand's population of 3,427,000 consider themselves Maori. Immigrants from Europe, Asia, and Pacific islands leaven a population of primarily British descent. The rights of Maori have received increasing public attention in recent years.

Niue and the Cook Islands are self-governing countries in free association with New Zealand. The island group of Tokelau is administered by New Zealand with limited but growing self-government. Inhabitants of all three hold New Zealand citizenship and are entitled to New Zealand passports. Local law in the Cook Islands,

Niue, and Tokelau is compatible with New Zealand and British common law. New Zealand's police and defense forces are responsible to and firmly controlled by civilian officials.

New Zealand is one of the world's most efficient producers of agricultural products. The mainstay of its economy is the export of wool, meat, and dairy products. A small but expanding manufacturing sector is engaged primarily in food processing, metal fabrication, and the production of wood and paper products. Niche industries are developing in such high technology sectors as software production. Recent structural reforms have transformed New Zealand from one of the world's most protected economies to one based on free enterprise. Disparities in wealth are very small (though increasing), and most New Zealanders have a comfortable standard of living.

New Zealanders enjoy a wide range of freedoms, and human rights are respected and protected in law and in practice. Minority rights are given special legislative protection, and provision is made for the economically deprived.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for The Integrity of The Person, Including Freedom from

a. *Political and Other Extrajudicial Killing.*—Such killings do not occur.

b. *Disappearance.*—There have been no instances of politically motivated disappearance.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—New Zealand law prohibits torture and other forms of mistreatment, and these prohibitions are respected in practice.

d. *Arbitrary Arrest, Detention, or Exile.*—Freedom from arbitrary arrest, detention, and exile is respected. The law provides for the writ of habeas corpus and requires that persons arrested be charged promptly. The court provides legal aid to those who cannot afford to pay for a private attorney. Preventive detention is prohibited.

e. *Denial of Fair Public Trial.*—The New Zealand judicial system is based on British common law. A three-tiered, independent, and impartial judiciary assures a prompt and fair public trial. Final appeal in some instances may be made to the Privy Council in London, although this is rarely invoked. The rights of the accused are carefully observed and subject to public scrutiny.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The right to privacy is protected by law. The Government does not violate a person's privacy, the sanctity of the home, or the integrity of correspondence. The office of Privacy Commissioner hears complaints involving violation of personal privacy by individuals or the Government. The Privacy Commissioner is a statutory member of the Human Rights Commission.

Section 2. Respect for Civil Liberties, Including

a. *Freedom of Speech and Press.*—Freedoms of speech and press are provided for in law and respected in practice. Several hundred newspapers and magazines are published reflecting a wide spectrum of political and social thought. Numerous state and privately owned radio stations operate. One private and two state television channels broadcast nationally, and international broadcasts are available for a fee. The Government makes no attempt to censor the press, and opposition viewpoints are freely expressed.

There are no limits on academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—Rights to peaceful assembly and association are recognized in law and respected in practice.

c. *Freedom of Religion.*—New Zealand enjoys a long tradition of religious tolerance. All faiths receive equal treatment under the law.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law places no limitations on internal movement or resettlement, nor does it restrict foreign travel or the right to return. To the extent of its resources, New Zealand accepts and resettles refugees and asylum seekers.

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

The people freely elect their government. Two major parties, National and Labour, dominate the political scene and have formed governments chosen in triennial elections for more than 50 years. The law provides for universal suffrage at age 18. Except for the seats reserved for Maori, no restrictions based upon sex, creed, or national origin limit participation in the political process. Women, Maori, and other minorities regularly serve in Parliament and the Cabinet. Currently, of the 99 Members of Parliament (M.P.'s), 21 are women. Voting rates are high, and participation

in political groups is common. Opposition groups freely voice their views and can influence government policies.

Responding to complaints that the current "first-past-the-post" electoral system, or simple majority system, unfairly disadvantages small parties, the Government asked voters in the 1993 general election to determine whether to adopt proportional representation. A majority of voters supported a change to Mixed-Member Proportional representation (MMP). Under this system, half of an expanded parliament will be elected from constituencies and half selected from party lists in order to achieve proportionality. The change is likely to result in a larger number of parties, coalition governments, and a greater role for individual M.P.'s. Proponents claim it will redress a situation under which a government could use an artificially inflated parliamentary majority to push through legislation that was not supported by a majority of the population. Elections held after mid-1995 will be held under MMP.

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

New Zealand has a long history of commitment to the protection of human rights, both at home and abroad. Basic human rights are guaranteed by law and respected in practice. A wide variety of international and local human rights organizations operate freely.

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

The New Zealand Human Rights Commission hears complaints of discrimination based on sex, marital status, national or ethnic origin, and religious or ethical belief. The Race Relations Conciliator, a statutory member of the Human Rights Commission but empowered under separate legislation, hears complaints based upon racial discrimination. In July New Zealand enacted legislation that replaced and expanded the Human Rights Commission Act 1977 and the Race Relations Act 1971. The Human Rights Act 1993 incorporates existing bans against discrimination on the basis of sex (including pregnancy and sexual harassment), marital status, religious or ethical belief, race, color, or ethnic or national origin. It adds new bans against discrimination on the grounds of physical or psychological disability (including disability or impairment due to the presence in the body of organisms capable of causing illness), age, political opinion, employment status, family status, or sexual orientation. Such discrimination is prohibited in the areas of employment, education, access to public places, provision of goods and services, and housing and accommodation.

Women.—The law in New Zealand addresses violence against women, including spousal rape, and provides for the suppression of victims' names. Police coordinate effectively with the numerous victim support service agencies available to women, including women's refuges, rape crisis centers, and sexual abuse centers. In August Parliament passed antipornography legislation banning material that promotes coerced sexual activity or depicts acts of extreme violence and cruelty. The legislation is designed to reduce material that could lead to violence against women and children. As the first country to grant full suffrage to women, New Zealand celebrated the centennial year of that decision in 1993 with a series of conferences and activities designed to promote a positive image of women.

Children.—New Zealand pays careful attention to the rights of children. The Commissioner for Children has submitted to the Government for review a broad plan of action on children's rights. The 1989 Children, Young Persons, and Their Families Act increased specific safeguards for children's rights and made special provisions for the treatment of children by the legal system. The act also created the independent office of a Commissioner for Children to provide advocacy before the law for children without legal competence and to monitor compliance with and implementation of the act. The Commissioner has broad powers of audit and inquiry into all aspects of children's rights.

Indigenous People.—Approximately 12 percent of New Zealand's population claim at least one ancestor from the country's indigenous Maori or Morioni minorities. Despite a legal prohibition on discrimination, significant portions of the indigenous population remain marginally educated and economically disadvantaged. Maori experience high rates of infant crib death and child abuse and are less likely to graduate from high school. A relatively high percentage of Maori are unemployed and receive state assistance. Maori also figure disproportionately in crime statistics and among the prison population. Government policy recognizes a special role for indigenous people and their traditional values and customs, including cultural and environmental attitudes that have an impact on issues of commercial development. The

Ministry of Maori Development oversees programs aimed at furthering the economic, social, and cultural development of the Maori people. In addition, every national, regional, and local government agency is required by law to consult with Maori representatives on any decision that might affect them.

A special tribunal was empowered in 1975 to hear Maori tribal claims to land and other natural resources stemming from the 1840 Treaty of Waitangi. Progress on resolving land disputes was slow until recently. The tribunal's decisions are binding on state-owned resources but not on private land. A major agreement between the Government and Maori leaders resolving Maori claims to fishing rights was reached in 1992. While not immune from racial tensions, New Zealand's Government and society put considerable effort into forging and maintaining mutual respect and partnership between the country's Anglo-Saxon majority and its indigenous Maori minority.

National/Racial/Ethnic Minorities.—While New Zealand actively protects the rights of its indigenous Maori minority, it has not until recently given much thought to the small but growing number of other ethnic minorities. A recent increase in immigration from Asia has led to isolated incidents of discrimination and attempts by the Government to prevent them. Although its official policy is "Biculturalism," the Government has encouraged immigration from Asia and portrayed in a positive light the contributions of immigrants from outside the European and Maori cultures. The Human Rights Act 1993 outlaws material that would incite hostility based on color, race, or ethnic origin.

People with Disabilities.—Increasing popular attention to the problems faced by the disabled has led the Government to act to remove, to the fullest extent practical, impediments to their living normal lives. In 1991–92, the Government created the Office of Disability Support Services to coordinate disability programs. The Human Rights Act of 1993 prohibits discrimination in employment, education, access to public places, provision of goods and services, housing and accommodation on the grounds of physical, and intellectual or psychological disability or impairment.

Section 6. Worker Rights

a. *The Right of Association.*—New Zealand workers have unrestricted rights to establish and join organizations of their own choosing and to affiliate those organizations with other unions and international organizations. The principal labor organization, the New Zealand Council of Trade Unions (NZCTU), is affiliated with the International Confederation of Free Trade Unions (ICFTU) and with its subregional grouping, the South Pacific and Oceanic Council of Trade Unions. A second national labor federation, the New Zealand Trade Union Federation (TUF), was established on May Day 1993. The TUF has not affiliated with any global international organization, although some of its affiliates have retained longstanding ties with the ICFTU's international trade secretariats. There are also a number of labor unions independent of both groups.

Labor organization is rudimentary in the New Zealand dependency of Tokelau (population 1,800) and in the freely associated state of Niue (population 2,000). In the more populous New Zealand associated state of the Cook Islands (population 18,000), most workers in the public sector, the major employer, belong to independent local unions inspired by New Zealand models. Industrial relations in the Cook Islands are governed by a simplified version of older New Zealand legislation.

Unions in New Zealand are protected by law from governmental interference, suspension, and dissolution, and, in fact, they influence legislation and government policy. Unions operate independently of political parties but can and do support parties whose policies they favor. Unions have and freely exercise the right to strike. Public sector unions, however, may not strike if work stoppages would threaten public safety. Legislation enacted in 1991 prohibits strikes designed to force an employer to become party to a multicompany contract. Workers are also barred from using secondary boycotts and striking to force up the minimum wage.

b. *The Right to Organize and Bargain Collectively.*—The right of workers to organize and bargain collectively is provided by law and observed in practice in New Zealand and its dependencies. Unions actively recruit members and engage in collective bargaining. Labor market deregulation intended to make New Zealand more competitive internationally, which was initiated with the Employment Contracts Act (ECA) of 1991, marks a sharp break with almost a century of prounion industrial legislation. The ECA ended a previous system of national "awards" under which a wage agreement would apply to all employers and employees in an industry whether or not they had been involved in the award negotiations. It also banned compulsory membership in labor unions, abolished the official registration of unions, and ended requirements that unions be of a minimum size. As a consequence of the act, unions now represent less than half of all wage earners, and no longer have an in-

herent right to represent any particular group of workers. Employers are free to choose with which and with how many bargaining agents they negotiate. The NZCTU has presented a complaint, alleging that the ECA violates freedom of association, which is under review by the International Labor Organization.

Employment relationships are based on contracts negotiated either by individual employees or their bargaining agent, which may be a union, another voluntary association of workers, or a private consultant.

Mediation and arbitration procedures are conducted independent of government control. The Employment Court hears cases arising from disputes over the interpretation of labor laws. A less formal body, the Employment Tribunal, is available to handle wage disputes and assist in maintaining effective labor relations. Firing an employee for union activities is grounds for a finding of unjustified dismissal and may result in reinstatement and financial compensation.

There are no export processing zones in New Zealand, Tokelau, Niue, or the Cook Islands.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited in New Zealand and its dependencies. Inspection and legal penalties ensure respect for these provisions.

d. *Minimum Age for Employment of Children.*—Children under the age of 15 may not be employed without special government approval and must not work between the hours of 10 p.m. and 6 a.m. The Department of Labour effectively enforces these laws.

e. *Acceptable Conditions of Work.*—New Zealand provides for a 40-hour workweek, with a minimum of 3 weeks' annual paid vacation and 11 paid public holidays. Under the Employment Contracts Act, however, employers and employees may agree to longer hours than the 40-hour per week standard. In effect since December 17, 1990, the government-mandated minimum wage of approximately $3.30 ($NZ6.125) per hour for workers 20 years of age and older, is adequate for an acceptable standard of living. Most minimum wage earners also receive a variety of welfare benefits. A majority of the work force earns more than the minimum wage.

New Zealand has an extensive body of law and regulations governing health and safety issues, including a new Health and Safety in Employment Act which took effect in April. Under this legislation, employers are obliged to provide a safe and healthy work environment, and employees are responsible for their own safety and health, including the right to remove themselves from dangerous or hazardous situations, as well as for ensuring that their actions do not harm others. The NZCTU has criticized the act, however, for not providing sufficient employee involvement in workplace decisions affecting health and safety. Under the Employment Contracts Act, workers have the legal right to strike over health and safety issues. Unions and members of the general public may file safety complaints on behalf of workers. Safety and health rules are enforced by Department of Labour inspectors who have the power to shut down equipment if necessary. The Department of Labour standard is to investigate reports of unsafe or unhealthy working conditions within 24 hours of notification.

PAPUA NEW GUINEA

Papua New Guinea (PNG), with some 1,000 tribes and over 800 distinct languages for a population of about 4 million, is one of the world's most diverse societies. It has a federal parliamentary system based on universal adult suffrage. There have been five constitutional and peaceful transfers of power since it achieved independence in 1975. The Constitution resembles those of other English-speaking parliamentary democracies and emphasizes respect for individual rights.

The Government has constitutional authority over the armed forces (PNGDF), police, and intelligence organizations. However, weak PNGDF discipline has led to human rights abuses involving civilian communities near military bases and on Bougainville island. Similar problems continue to plague the Royal Papua New Guinea Constabulary, the country's only police force.

The economy is characterized by a relatively small but modern free enterprise sector, heavily dependent on foreign investment, and a traditional subsistence sector that supports over 80 percent of the population. The modern sector produces most of the wealth and, normally, slightly less than 80 percent of government revenue, with the balance of the budget needs made up by assistance, including a cash grant from Australia.

Prime Minister Wingti has given priority to resolving the crisis in Bougainville Island, the last redoubt of secessionist insurgents, and to reestablishing law and

order. Despite an increased commitment of financial and military resources and a general decrease in violence on the island during 1993, a political solution to the Bougainville crisis remained elusive at year's end. During the year, the Government continued to extend its control over Bougainville, partly because Bougainvilleans called for a restoration of public services and partly because of popular revulsion against human rights violations perpetrated by members of the Bougainville Revolutionary Army (BRA).

In 1993 efforts to control an exceptionally high crime rate led Parliament to strengthen anticrime law and to pass the Internal Security Act which legal experts attacked because of its threat to internationally recognized rights, including those of freedom of expression, association, and movement. The Prime Minister has also taken the necessary first steps to amend the Constitution to shift the onus of proof to the defendant in cases of armed robbery, kidnaping, murder, and rape and to establish a national identification system. At year's end, the proposed amendments were awaiting parliamentary action.

In October the Ombudsman filed a suit against the Internal Security Act, charging that it was unconstitutional. The Supreme Court heard the case in November. The ruling had not yet been issued at year's end. The major human rights abuses continued to be extrajudicial killings by security forces and insurgents on Bougainville, physical abuse of detainees and prisoners by police, extensive discrimination against women, and a culture of violence, including rape.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—In Bougainville there continue to be credible reports of instances where either the PNGDF or the resistance have executed alleged BRA members or their supporters. In February, as security forces moved into the former North Solomons provincial capital of Arawa, they confirmed the removal of three patients from the local hospital, including Ken Savia, a member of the province's suspended government and a minister in the "interim" government supportive of the BRA. Although little is known of what happened to the other two persons (see Section 1.b.), there are credible reports that either the security forces themselves or the resistance forces associated with them executed Savia, perhaps in retribution for the killing of eight PNGDF soldiers during the Arawa operation. In August, in Buka, BRA insurgent Moses Tseraha was also killed. According to official sources, he was ambushed after slipping into Buka from Bougainville to conduct operations against the community's infrastructure and government representatives. Other reports indicate that he had entered Buka to arrange his surrender but was instead hunted down and executed by the security forces.

A BRA spokesman claimed that security forces were responsible for the August deaths of five men from Matukori village in the Siwai area, three of whom were allegedly thrown into the sea from a helicopter, and the deaths of five civilians in September at the Tabago Care Center in southern Bougainville. However, the three men allegedly thrown from the helicopter appeared alive on national television in December.

The judiciary has so far taken few steps to investigate allegations of security force atrocities relating to the Bougainville conflict, although the magistrate system was reestablished in Buka during the year and government control extended throughout much of the island. No progress has been publicly reported in an inquest ordered in 1991 by former Attorney General Narokobi into the deaths of 11 persons in North Solomons Province in 1989 and 1990.

Government sources hold the BRA responsible for 13 deaths of PNGDF personnel and the deaths of at least 2 policemen. There are also credible reports that the BRA killed civilians. In one case, the Government reported that in a 6-day period in January, the BRA killed 17 civilians as they traveled to and from their garden plots.

Outside of Bougainville, a national court in Rabaul sentenced four policemen to 14 years each for the 1992 murder of a plantation worker. In October a PNGDF soldier was formally charged in the death of another soldier.

b. *Disappearance.*—Security forces are believed responsible for the February disappearance of two patients removed from the Arawa hospital along with Ken Savia (see Section 1.a.). There were also credible allegations of BRA-perpetrated disappearances in rebel-held areas.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution forbids torture and other cruel or degrading treatment or punishment. Reliable reports nonetheless continue to suggest that PNG security forces (PNG soldiers, police, and correctional personnel), as well as BRA insurgents on Bougainville, engage in such practices. Reports of torture or other abuse by the

PNGDF on Bougainville originating with BRA rebels or sympathizers are frequently exaggerated. Such reports, however, cannot be dismissed out of hand, given the PNGDF's difficulty in maintaining discipline. PNGDF soldiers were implicated in the burning down of a Port Moresby club, apparently in revenge following the death of one of their members.

Instances of torture and abuse by PNG police were reported from regions throughout PNG in 1993, reflecting continued weakness in Royal Papua New Guinea Constabulary discipline and lack of respect for human rights. Villagers in the Yangora region of East Sepik Province, for example, complained of police brutality during a raid early in the year when police also allegedly burned their homes. In July police were also accused of staging revenge raids against squatter settlements and villagers near the Porgera gold mine, including burning of homes, following the death of one policeman. Such attacks are frequently used by the police as a form of collective punishment. In July police in Western Highlands Province allegedly fired into a crowd while trying to restore calm during a land dispute, killing a schoolboy. Credible reports of police brutality were widespread and were frequently related to alcohol. In October, in Port Moresby, police allegedly beat a government minister during an arrest for traffic violations.

The courts do address cases of police abuse that are pressed through the court system, although many cases never reach the courts for lack of evidence or financial resources. In April, in Rabaul, a court sentenced two policemen to 3 months in jail for assault. A court also ordered the state to pay approximately $230,000 as compensation for damage caused in 1991 by a police raid in Sepil in the Western Highlands. Police announced they would conduct an investigation of the incident near the Porgera mine. They conducted an investigation into the alleged mistreatment of the Government minister but did not make the results public, reportedly to protect the minister.

Prisons are severely overcrowded and understaffed. Jailbreaks are common. Family members are allowed to visit and supply food to supplement the prison diet, although at Goroka's Bihute prison visits and privileges were curtailed for 2 months following a breakout.

Judicial redress is available to victims of official misconduct. Nevertheless, the case brought by a Member of Parliament from Bougainville seeking compensation for injuries suffered at the hands of security force members in 1989 was still pending at year's end. The Supreme Court introduced a simple form in 1989 enabling citizens to file human rights complaints with the National Court, but this innovation seems to have had only a marginal impact on the enforcement of constitutionally guaranteed human rights.

The Ombudsman Commission is empowered to investigate official abuse of authority and to refer cases to public prosecutors. Because of the expense involved in proceeding through the judicial system, however, few cases result in actual charges. PNG's free press frequently publicizes allegations of human rights violations by the uniformed forces. At year's end, the Government had not established the human rights commission it had announced at the June World Conference on Human Rights.

d. *Arbitrary Arrest, Detention, or Exile.*—The courts strongly enforce constitutional protections against arbitrary arrest and detention. Those protections have, however, been weakened by the passage of the Internal Security Act and amendments to existing anticrime legislation. Judicially issued warrants are no longer required when the authorities suspect that a person has committed any offense against that act or in the case of certain, largely white-collar offenses. The act further permits a person to be classified as a member of a proscribed organization solely on the basis of an affidavit filed by the police commissioner, without further proof. Those under arrest have the right to legal counsel; accused persons are informed of charges; and their arrest is subject to judicial review. Under legislation passed in 1993, only National or Supreme Court judges may grant bail in certain criminal cases involving a firearm. In all other cases, bail may be granted unless a judge rules otherwise.

Exile is not practiced.

e. *Denial of Fair Public Trial.*—The law guarantees a public trial, and the Constitution provides for due process; an independent court system enforces both.

Defendants have the right to an attorney. Legal counsel is provided either by the public solicitor's office, or by the law society on recommendation of the solicitor's office, for those accused of serious offenses and unable to afford counsel. "Serious offenses" are generally defined as felony charges or any case heard in either the national or district court (as opposed to village or magistrate courts). Defendants and their attorneys may confront witnesses, present evidence, plead their cases, and appeal convictions. Given the relative shortage of police and judicial resources and an exceptionally high crime rate, periods between arrest and trial can be long. Such

periods of detention, however, are subject to strict judicial review. The courts are completely independent of executive, political, or military authorities, and the Government does not hold any prisoners on purely political grounds.

A lack of access to Bougainville Island proper continues to hamper the judiciary's ability to investigate human rights violations there. Nevertheless, in September a former BRA rebel was charged with the 1990 kidnaping of five government officials and businessmen. BRA activity continues in some government-controlled areas, discouraging the restoration of judicial services in all areas except Buka. Because of the passage of time and lack of reliable evidence, it is not clear if and when the National Court in Rabaul will be able to adjudicate the 66 claims of human rights abuses filed by Bougainvilleans against the Government that have been pending since 1991.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Privacy rights are not widely abused, but police are known to burn homes in the highlands to quell intertribal conflict and punish communities suspected of harboring criminals. There have also been reports of forcible entry into homes by police searching for criminals or stolen goods.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Armed conflict on Bougainville Island decreased in the last half of the year. Nevertheless, both sides claim the other committed abuses against civilians. In January the PNGDF reported killing nine BRA rebels at sea as they returned to Bougainville from the Solomon Islands. The BRA claimed the victims were unarmed civilians. The Government also reported that in the last half of the year in central and southern Bougainville, increasing numbers of civilians left BRA- controlled areas seeking food, shelter, and health care. There were widespread reports of BRA attacks against civilians, both to hamper economic activity and to intimidate them to remain in BRA-controlled areas. The BRA allegedly has burned homes and villages throughout Bougainville in retaliation for cooperation with security forces and to deny opponents their use. In August a Bougainville citizen who had lived for 4 years under BRA control claimed that the BRA had beaten him on four separate occasions, ostensibly because they suspected him of being an informer. He also charged that the BRA had murdered his three brothers.

In September the Government authorized the PNG Red Cross to reestablish a humanitarian assistance office in Wakunai on Bougainville Island after resisting earlier requests.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech, including freedom of the broadcast media and publications. A tradition of independence in the news media, an effective judiciary, and a functioning democratic system of government have helped promote these freedoms in society.

The Government has been actively debating an enhanced role for the Department of Communications in regulating the media. The Government also holds a majority share of the second daily newspaper, which started publishing in November. This increased government interest in the media, which are traditionally independent and privately owned, has provoked some concern, but there have been no overt efforts to censor the press. There have been subtle efforts on the part of government officials to pressure the host of a popular radio talk show, but these threats dissipated in the face of strong public support for the radio host. There were credible reports that the Government also used subtle pressure to keep reports of the proceedings looking into the legality of the Prime Minister's September resignation and reelection off the front page, although the reporting was not censored. The restrictions on access of journalists to Bougainville remain another controversial issue, but more reporters have been able to cover the court proceedings than in the past, and the Government does not attempt to censor their coverage.

The nation's only television station has been engaged in a running battle with the censorship board over alleged pornography in some of its programs. While this dispute has provoked general debate over media freedoms, it is not political in nature but rather concerns the right of the censors to define and ban what they consider to be pornography. Two Australian television news show programs were banned in 1993, one on the singer Madonna and one on child abuse by Australian priests.

Citizens and foreigners are also occasionally convicted of possession of pornography under the Censorship Act. Freedom of expression, both in public and in academia, is not restricted. The courts and the Ombudsman Commission have supported the right of free speech over government prerogative in most of the cases that they have been asked to address.

b. *Freedom of Peaceful Assembly and Association.*—Private associations and public assemblies are legal. Associations do not require formal registration. International

affiliation of church and civic groups is also freely permitted. Public demonstrations require police approval; this is frequently denied on the grounds that such activities encourage bystanders to engage in vandalism and violence. Police in the National Capital District did, however, grant permission in September for a protest march on Parliament organized by university students following parliamentary maneuvering in which the Prime Minister engineered his own reelection. They successfully discouraged another protest rally several days later organized by unknown persons.

c. *Freedom of Religion.*—There are no restrictions on and no discrimination against the practice of religion, which is protected by the Constitution. Many indigenous and Christian denominations flourish side by side with small Buddhist and Muslim groups. Expatriate missionaries have traditionally moved freely throughout the country and provided most social services in many remote areas.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—PNG security forces continue to require travelers to Buka and Bougainville Islands to obtain permits. Even when their visits have been authorized by the Prime Minister, visitors have been turned back by the security forces. The Government prohibits unauthorized vessels or aircraft from calling at or landing on either island. Otherwise, freedom of movement within and outside the country has not been restricted in practice. However, the Internal Security Act, which came into force in midyear, authorizes the Government to exclude from any part of the country anyone convicted under the act or likely to commit an offense under the act. In addition, the Government has announced its intention to introduce legislation establishing a national system of registration and identification cards. Provincial politicians continue to encourage squatters from other parts of the country to return to their home regions.

The Government hosts between 9,000 and 10,000 Melanesian refugees from Irian Jaya, the neighboring province of Indonesia. Approximately 6,000, many of whom have land or kinship ties with Papua New Guineans, live along the border just inside Papua New Guinea. They are not provided services by either the Government or by the United Nations High Commissioner for Refugees (UNHCR). While Papua New Guinea recognizes Irian Jaya as an integral part of Indonesia, the Government nonetheless grants asylum to qualified refugees, and regulations allow foreign citizens who meet the 10-year residency requirements to take up PNG citizenship. The Government administers UNHCR assistance to about 3,700 refugees at the sole remaining camp at East Awin.

There were no known forced repatriations of Irian Jayan insurgents to Indonesia during 1993. Over 200 were voluntarily repatriated.

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

Citizens freely exercise the right to change their government through direct elections with a secret ballot and universal adult suffrage. The voters elect a unicameral Parliament made up of 109 members from all 19 provinces and the Port Moresby National Capital District. Any citizen can stand for election, and several foreign-born citizens sit in Parliament. With a multiplicity of small parties, coalition governments tend to be weak and shifting; none has yet survived its 5-year electoral mandate, although in September Prime Minister Wingti took steps to ensure that his coalition remained in office for the entire period, provoking a constitutional crisis.

In Henganofi, new elections for Parliament ordered by the court following disputed 1992 by-elections were contested by 10 candidates and conducted peacefully. Postelection violence caused by disgruntled supporters of losing candidates continues to occur, however. In July, in Simbu Province, such disturbances reportedly caused at least 19 deaths following provincial elections.

Although there are no legal barriers to their participation in political life, women are not found in significant numbers in senior positions in government or in politics (see Section 5). No women sit in Parliament or in the Cabinet.

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

There are no official barriers to the formation of human rights groups. The PNG Association for Human Rights, formed in 1992, has been relatively inactive. A second nongovernmental organization focused on human rights and the environment, the Individual and Community Rights Advocacy Forum (ICRAF), was established early in the year. Numerous localized nongovernmental organizations—some dealing only tangentially with human rights issues, others focusing almost exclusively on women and children—exist throughout the country. Nongovernmental organizations have exercised their right to comment on human rights issues in PNG media without any known government interference or retribution.

The U.N. Human Rights Commission adopted a resolution in March urging the Government to permit international factfinding missions and calling on the Government to negotiate with all factions of the Bougainville peoples. While the Government has invited potential donors, including the European Community and participants in the Lome convention, to visit Bougainville, it has not extended invitations to human rights nongovernmental organizations that have expressed interest in conducting investigations into alleged human rights abuses.

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

Extreme ethnic and geographic diversity prevents domination by any one tribe or clan. The democratically elected government, based on loose coalitions, cannot afford to favor one group over another consistently.

Women.—Despite extensive rights for women provided by the Constitution and law, traditional patterns of discrimination against women result in a significant denial of human rights. Some women in the modern sector have achieved senior positions, serving as doctors, lawyers, business executives, civil servants, and in high government positions. Despite constitutional and legal guarantees regarding family law, marriage, and property rights, most women, even those in urban areas, still live in a system that relegates them to second-class status. Village courts tend to enforce traditional attitudes and values that oppress both women and youth. Violence against women, including domestic violence and gang rape, is prevalent. Some tribal and clan cultures emphasize antagonism between the sexes. While women are ostensibly protected by their family and clan, they are nonetheless often victims of violence and force. Traditional village deterrents, such as requirements for compensation, are breaking down. Attacks on women remain common in intertribal warfare as well.

Fear of rape, especially gang rape, is justifiably common among women and constrains not only their movements and social activities but also their ability to exercise authority and discipline in business and professional activities. Rape is punishable by prison sentences, but assailants are seldom apprehended. Most areas without access to law enforcement services rely on "payback," a traditional form of revenge, directed at the offender's tribe or clan, to deter or punish rape. Domestic violence such as wife-beating, also common, is usually viewed by police and citizen alike as a private, family matter. Such violence is often related to alcohol.

Village court justices tend to be overly severe on women, for instance, by imposing jail terms on women found guilty of adultery, while letting men off lightly. There is no pattern of similar discrimination against women by circuit-riding National Court justices. Indeed, the latter frequently annul village court sentences and free unjustly imprisoned women. Both the Government and public organizations are working to upgrade the status of women, so far with limited results. The Government provides a grant to the National Council of Women and has instituted an Office of Women's Affairs in the Department of Home Affairs and Youth.

Children.—Approximately 44 percent of PNG's population is under the age of 16. In PNG's traditional clan system, children are generally cared for within the extended family, in accordance with financial resources and the tribe's access to services. Because of the geographic isolation and remoteness of many villages, an estimated 38 percent of children under 5 are malnourished. Though infant mortality rates for children under 5 have declined, they remain extremely high at 114 per 1,000 live births. Maternal mortality is the fourth highest in the world, at 900 per 100,000 births. Pneumonia and other acute respiratory infections, together with childbirth, diarrhea, and malaria, are the main causes of serious illness and death. Although statistics are not available, child abuse does occur but does not appear to be as prevalent as wife-beating.

Education, a government priority, takes approximately 15 percent of the Government's budget. While the percentage of eligible students enrolled in primary schools has increased substantially, only 38 percent complete primary studies. Only 15 percent of secondary age children are enrolled in school, due in part to high costs and limited availability. Vocational schools are limited and underfunded. In 1991 the Government adopted the National Youth Service Act, aimed at increasing youth involvement in agriculture, tourism, and civic action, but it has not been implemented. Most programs to protect and develop youth are operated by nongovernmental organizations and religious organizations. Many government programs are severely underfunded. Within its limited resources, the Government is committed to the welfare and protection of the rights of children.

People with Disabilities.—Through the National Board for the Disabled, the Government provides limited funding for the disabled to approximately 14 nongovernmental organizations which provide services. The Government does not provide pro-

grams or services directly. Services and health care for the disabled, except for that provided by the traditional family and clan system, do not exist in several of the country's provinces. No legislation mandates accessibility for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—The right to form and join labor unions is protected by law, subject to registration by the Department of Labor. While the Government does not use registration as a form of control over unions, an unregistered union has no legal standing with the Department of Labor or before the courts and, accordingly, cannot operate effectively. Unionized workers account for one-half of the 250,000 wage earners in the formal economy and are organized into some 50 trade unions, most of which are associated with the Trade Unions Congress. Unions are independent of the Government and of political parties. They may freely affiliate with international organizations.

Both public and private-sector unions exercised their right to strike in 1993. Concerned over perceived politicization of the appointments of departmental heads, approximately 100 attorneys and staff in the Office of the Attorney-General, with support from the Public Employees Association, struck to revoke a controversial appointment as Secretary of Justice. After a week, the strike was abandoned in favor of a legal challenge, which was ultimately accepted by the courts. Mining workers have been responsible for the most visible union activity in the private sector. Laborers at the Ok Tedi Mine struck three times in 1993—first over wages, then management activities, and finally work-related conditions.

b. *The Right to Organize and Bargain Collectively.*—The Constitution provides for the right to engage in collective bargaining, to join industrial organizations, and to seek employment. These rights are exercised freely. In past years, the International Labor Organization (ILO) has admonished the Government to amend the law that gives it discretionary power to cancel arbitration awards or declare wage agreements void when they are contrary to government policy. This has not been accomplished because of a lack of resources. The ILO has now offered its technical assistance.

The law prohibits antiunion discrimination by employers against union members and organizers. The Department of Labor and Employment, as well as the courts, resolve complaints. There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution forbids slavery and all forms of forced or compulsory labor, and there were no reports of their practice in 1993.

d. *Minimum age for employment of children.*—The minimum working age, as established in Chapter 373 of the Employment Act, is 18. However, children between the ages of 11 and 18 may be employed in family related work provided they have parental permission, a medical clearance, and a work permit from a labor office. Such employment is rare, except in subsistence agriculture. The Department of Labor and Employment and the courts take steps to enforce the minimum age law, but they are hampered by a lack of resources.

e. *Acceptable Conditions of Work.*—Minimum wages for the private sector are set by the Minimum Wage Board, a quasi-governmental body with worker and employer representation. The most recent determination, which became effective in October 1992, dramatically reduced the minimum wage to $22.50 (kina 22.96) per week. Approximately 10 percent of private-sector wage earners are subject to the minimum wage, and the determination represents a setback, particularly for new and unskilled workers. The minimum wage would not support a decent standard of living for a worker and family who exist solely on the cash economy. There is no means to judge statistically the effect of the new minimum wage, though employment in the formal sector continued to decline slightly. The Department of Labor has received no formal complaints that higher wage workers have been fired in order that a lower cost replacement might be hired, although union leaders claim that this has occurred. Minimum wage levels, allowances, rest periods, holidays, leave, and overtime are regulated by law. The workweek is limited by law to 42 hours (44 in rural areas).

Enforcement of the Industrial Health and Safety Law and related regulations is the responsibility of the Department of Labor. The law requires that inspections take place on a regular basis, but, due to a shortage of inspectors, they occur only when requested by workers or unions. In 1992 businesses have been closed on several different occasions due to violation of safety laws. Health and safety regulations are still under revision.

THE PHILIPPINES

The Philippines has a republican form of government with a democratically elected president, a bicameral legislature and an independent judiciary. The current President, former Defense Secretary Fidel Ramos, won a closely contested but generally fair election in May 1992.

A large percentage of the approximately 109,000-strong Armed Forces of the Philippines (AFP), which shares counterinsurgency responsibilities with the Philippine National Police (PNP), a civilian force numbering 96,000, were deployed in field operations against a declining but still active Communist insurgency and Muslim separatist insurgents. Both the AFP and PNP are under the control of the Government which is publicly c mmitted to respecting human rights. However, elements of the security forces, including local civilian militias, continued to commit significant human rights abuses in the course of counterinsurgency operations. The Communist Party of the Philippines (CPP) and its armed wing, the New People's Army (NPA), were also responsible for human rights violations, as were Muslim insurgent groups.

Growth of the market-oriented economy has lagged behind that of its more dynamic Asian neighbors in recent years, in part because of the political instability which plagued Ramos' predecessor. While there have been some signs of recovery, formidable obstacles remain, and gross domestic product (GDP) growth may fall short of the current 2.3 percent rate of population increase. Structural problems include an entrenched oligarchical elite which dominates the economy and politics and is resistant to reforms which threaten its interests. The Philippines also continues to be characterized by glaring income disparities and widespread poverty.

Information from both the Government and nongovernmental human rights organizations (NGO's) indicate a decrease in reports of human rights violations for 1993, continuing the downward trend of recent years. Principal abuses by government forces against individuals included extrajudicial killings, disappearances, arbitrary arrests, torture, and harassment of suspected insurgents and their supporters. The decline in abuses on the part of both the Government and insurgent forces reflected a reduction in the number of military encounters. However, a wide range of human rights abuses continued to occur within the context of illegal activities of police and military personnel, including protection rackets, political gangsterism, kidnap-for-ransom syndicates, and assistance to illegal loggers. Although there were a few cases of successful prosecutions, there still was very little observable progress in trying, convicting, and appropriately punishing the perpetrators of human rights abuses, most of whom continue to go unpunished.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—The Commission on Human Rights (CHR), a constitutionally mandated agency of the Government, reported 93 incidents of political or extrajudicial killing during the first half of 1993. This compares with 353 such killings for all of 1992 reported by the CHR. Task Force Detainees of the Philippines (TFDP), a prominent NGO (see Section 4), reported 30 people killed extrajudicially in the first half of 1993 as compared to 139 for all of 1992. The numbers given by CHR are higher because the CHR includes violations by both the Government and insurgent groups, including the CPP/NPA. The TFDP, however, lists only offenses attributed to government authorities.

Both CHR and TFDP attribute the majority of human rights abuses, including extrajudicial killings, to military forces and the police. In an incident in Manila in June described as typical, a police officer shot to death an individual who he claimed was a car thief. However, witnesses and companions of the victim claimed that the police officer, who had been drinking with several other officers, shot the victim after the motorized tricycle he was driving almost collided with the car the police officer was in. In another case, William Rom, a researcher for Sildap-Sidlakan, an NGO serving tribal communities in Surigao Del Norte, was hacked to death in July by bolo-wielding CAFGU members, who accused him of being an NPA member.

According to the Center for Trade Union and Human Rights (CTUHR), an NGO, three trade union leaders and labor activists were killed in connection with their activities during the first year of the Ramos presidency. There were also 15 attempted murders. The victims of the murders reported by the CTUHR were generally union organizers, while the targets of the attempted murders were often strikers. The assailants were private security forces or local police, and most incidents occurred in the context of labor disputes. In one case cited by CTUHR, Rodrigo Gavino, a union vice-president actively involved with workers' issues at the

General Milling Company in Cainta, Rizal province, was shot dead by company security guards inside the factory premises on April 5.

President Ramos and the PNP leadership have expressed concern about police excesses and have initiated various programs to cleanse the force of abusive and criminal elements. Although progress has been slow, some offenders have been brought to justice. For example, a court in Benguet province in July sentenced five of the six policemen accused in the June 1992 rape-murder of three women and the attempted murder of another in La Union province to three consecutive life terms each. Nonetheless, these instances are the exception to the general rule of impunity that has prevailed for many years.

Civilian militia units or "CAFGU's" (Citizens Armed Forces Geographical Units) also committed numerous extrajudicial killings. Organized by the police and AFP to secure areas cleared of insurgents, these nonprofessional units are often inadequately trained, poorly supervised, and prone to violence. (TFDP attributes 19 percent of all human rights abuses in the first year of the Ramos Presidency to CAFGU's.) In a case that attracted wide attention, CAFGU personnel were charged with killing Chris Batan, a TFDP worker, in Mountain province in February. Batan and two coworkers were doing field research related to human rights abuses during the Marcos era when they encountered several CAFGU members, who allegedly opened fire on Batan without provocation. Two CAFGU members were charged in Batan's death, but only one was arrested. The presiding judge in the case rejected the suspect's request for bail last October, but the suspect was reportedly on temporary release from jail at year's end. The judge has not yet ruled on a request by Batan's family for a change of venue from Bontoc in Mountain province, where they claim their personal safety is threatened. Inasmuch as Batan and his assailants were members of different hill tribes, this case also illustrates the role of intertribal hostility and other local feuds in some CAFGU-related human rights abuses.

In January the International Labor Organization (ILO) added its voice to Philippine human rights organizations and other groups which have called on the Government to disband CAFGU's. The Government indicated that it would do so once the level of insurgent activity is brought down to the point where CAFGU's are no longer required. In October, President Ramos announced plans to demobilize 11,000 CAFGU's (out of a force of 72,000) by the end of 1994, using part of the 1994 CAFGU budget for separation allowances. Critics assert, however, that the Government is unlikely to carry out this plan because it fears resistance from militiamen and the sudden increase in local unemployment that would result from their disbandment.

The NPA also was responsible for extrajudicial killings throughout the country in 1993. Several such killings were attributed to the Alex Boncayo Brigade (ABB), a notorious Communist hit squad controlled by the Manila-Rizal Regional Committee of the CPP, whose leader publicly threatened in June to use the ABB to assassinate up to one 1,000 drug dealers, corrupt officials, and other criminals unless the Government takes action against them. Other politically motivated murders were carried out by Muslim extremists, including members of the Moro National Liberation Front (MNLF), the largest Muslim insurgent group. In April, for example, suspected MNLF members ambushed a passenger jeepney on the outskirts of the town of Baliguian in Davao Del Norte, killing five people and wounding eight others. Muslim extremists were also implicated in a series of terrorist bombings which injured or killed innocent bystanders. Most such bombings occurred in the south but several took place in Manila.

Private security forces maintained by local landowners and other influential figures were another source of extrajudicial killings. National attention was focused on this longstanding problem by the arrest of the mayor of a town near Manila and a number of his henchmen (some of whom were policemen) on charges of murdering a University of the Philippines coed and her boyfriend in June. The publicity generated by the case inspired the Ramos Administration to undertake a nationwide campaign to dismantle "private armies." Although some arms have been confiscated, critics charge that most of these were old and of little practical use, and that the campaign has not targeted private armies controlled by politically powerful individuals. In what was seen by most observers as a tacit admission of the program's ineffectiveness, in November the administration indefinitely extended the deadline for dismantling private armed groups.

Another wave of extrajudicial killings occurred after Manila mayor Alfredo Lim vowed in November to rid the city of its drug problem in six months or resign. During the next several weeks, about 20 alleged drug pushers were found murdered, many with signs beside their bodies reading, "Don't push drugs, you'll end up like me." While no suspects were charged, attention focused on drug gangs or police elements acting without official sanction.

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b. *Disappearance.*—The CHR cited five cases of disappearance in the first half of 1993 compared with 32 cases for all of 1992. TFDP reported a total of three disappearances for the first half of 1993 compared with 19 cases for all of 1992. The decline is largely attributable to the continued decrease in insurgent activity. The most notable case of disappearance was that of Olongapo publisher-columnist Romeo Legaspi who vanished on January 11. The Philippine Movement for Press Freedom, an NGO, claims that members of the local police force were responsible, citing Legaspi's history of criticizing the Olongapo police.

Legaspi's family filed a complaint, but a regional trial court dismissed it for lack of evidence. Disappearance is linked with the problem of kidnapings for ransom. A spate of such kidnapings, mainly involving wealthy Philippine-Chinese as victims, attracted international attention in 1992. A concerted government crackdown, spearheaded by Vice President Joseph Estrada's Presidential Anticrime Commission, broke up several major kidnaping rings and sharply reduced the incidence of these crimes in early 1993. However, the problem of kidnaping persists, particularly in Mindanao where law and order problems are most severe. In August Senator Anna Domini Coseteng claimed that about 100 people were abducted by bandits, Communists, and Muslim extremists. Many of the victims were wealthy Philippine-Chinese who did not report the cases because they believed that law enforcement personnel were involved with the kidnapers. Kidnaping-for-ransom again emerged as a problem towards the end of the year, with wealthy Filipino-Chinese professionals as the primary targets, particularly those in Mindanao. Active service police and military are often implicated as leaders or members of kidnap gangs. For example, police general Dictador Alqueza and Col. Reynaldo Berroya were indicted in connection with the May kidnaping of a Taiwanese businessman.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture and makes evidence obtained thereby inadmissible in court. Guidelines issued by the CHR in 1988 direct all law-enforcement agencies and military elements to avoid unnecessary force during investigation, arrest, detention, interrogation, and other activities. Public outrage over highly publicized crimes led to government-supported moves in Congress to reinstate the death penalty. On December 13, President Ramos signed legislation reimposing capital punishment for 13 crimes classified as heinous, among them rape, kidnaping, and several drug-related offenses.

The CHR reports two cases of torture in the first half of 1993, compared with 11 cases in 1992. The TFDP cites 14 cases in the first half of 1993, down from 33 during the second half of 1992. This decrease stems primarily from a decline in the number of government counterinsurgency operations. The CHR also cites an improved human rights awareness in the military, which it attributes to its practice of providing AFP promotion panels with "certificates of clearance" on officers' human rights performance. However, the statistics generally exclude incidents of torture involving common criminals or others outside the context of counterinsurgency activities. In addition, many cases go unreported because the victims fear reprisal if they seek redress. Although physical punishment is prohibited by law, it does occur in jails and prisons. Foreigners imprisoned in the Philippines have reported beatings and other maltreatment.

Abuse of prisoners most commonly occurs in the arrest and interrogation stage, and police forces appear to be the chief offenders. In August a television crew videotaped police officers in Manila shooting and mauling suspects in a robbery case after they had been subdued. Allegations of such abuse are sometimes invoked in judicial proceedings, a notable example being the trial of six defendants charged with the 1991 rape-murder of Estrellita Vizconde and her daughters. In September, the judge in the case acquitted all six on the grounds that their confessions were obtained through intimidation and torture.

CAFGU forces also frequently abused prisoners. Many CAFGU abuses of this type occur within the context of local political squabbles and tribal conflicts.

d. *Arbitrary Arrest, Detention, or Exile.*—Although the Constitution requires a judicial determination of probable cause before issuance of an arrest warrant, and prohibits holding prisoners incommunicado or in secret places of detention, illegal arrest and detention continue to occur. Detainees have the right to a judicial review of the legality of their detention and, except for offenses punishable by a life sentence, to bail. An executive order requires authorities to file charges within 12 to 36 hours of arrest, depending on the seriousness of the crime. The CHR listed 42 cases of illegal arrest and detention for the first half of 1993 compared with 158 for all of 1992. The TFDP found that 254 persons were arrested illegally in the first half of 1993 compared with 938 such arrests in the previous year. This decline is attributable in part to the Government's efforts to promote the domestic peace process. In September 1992, it repealed the 1957 Antisubversion Law which had pro-

vided the legal basis for warrantless arrests and searches. President Ramos also approved "guidelines for grant of bail, release or pardon of persons detained or convicted of crimes against national security and public order, and violation of the Articles of War."

Notwithstanding these measures, the TFDP claims that there are still about 350 political prisoners being held illegally. The Government disputes this charge, contending that all of the prisoners in question are being held for common crimes. It is likely that some of the 350 prisoners in question may have committed common crimes in the pursuit of their political beliefs. It is also possible that a few are actual or suspected Communists who were framed for common crimes. Proving this is difficult, however, and the burden of proof lies with the prisoner.

The CTUHR reported an increase in the arrest and detention of workers during Ramos' first year (195 in the first half of 1993, compared to 54 in the second half of 1992). CTUHR attributes this increase in arrests and detentions to the Ramos administration's emphasis on economic development, which it claims has emboldened employers and their security forces and/or local police with close ties to important local business interests.

The NPA is responsible for some extrajudicial arrests and detentions, often in connection with "courts" set up to try civilians and local politicians for "crimes against the people." Many defendants in such trials are summarily executed.

e. *Denial of Fair Public Trial.*—The Constitution calls for an independent judiciary and provides that those accused of crimes shall be informed of charges against them and have the right to counsel. Trials are public. Defendants are presumed innocent and have the right to confront witnesses against them, to present evidence, and to appeal their convictions. The right of defendants to a lawyer is generally respected.

Despite these safeguards and guarantees, the slow pace of justice continued to be a major problem. An example is the 3 years it took to obtain the conviction in March of one of the suspects in the 1990 killing of a U.S. Marine outside of Subic Bay naval base.

Most trial courts remained backlogged, and only a few were in compliance with the 90-day limit for hearing a case. There continued to be an urgent and widely recognized need for more judges and courtrooms. The case of the policemen charged with the 1987 assassination attempt on former Polytechnic University of the Philippines president Nestor Prudente remained in the Philippine court system, and no information is available as to when the case may finally be settled. Bribery of judges and other court officials often results in indefinite postponement of trials and outright dismissal of cases. Out of court settlements also preclude many offenders from being brought to justice.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Under the Constitution, search warrants may be issued by a judge on a finding of probable cause. Restrictions on search and seizure are generally observed, although raids on private homes without search warrants are occasionally reported. Judges have thrown out evidence obtained illegally, even in politically sensitive cases, such as that of former NDF Chairman Satur Ocampo who was released in September 1992.

The Government does not interfere with the free personal use of the mails or other public communications systems except upon issuance of a court order in the course of an investigation. It also does not interfere with the right of citizens to practice their personal beliefs in the privacy of their own home in matters such as family planning and the teaching of religion to their children.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Although clashes between government and insurgent forces declined, they continued to inflict hardships on civilians, particularly in remote areas which were the scene of most fighting. One example is the Marag Valley in northern Luzon, where many homes and livestock of indigenous peoples were destoyed in the course of government counterinsurgency operations agaist NPA units. According to TFDP figures, in the first half of 1993 there were 15 forced evacuations, two food blockades, four "violent dispersals" (i.e., forced evacuations in which violence was used), and 79 houses demolished. Most of these categories showed sharp declines over 1992. No information is available on the court martial recommended by the CHR in 1992 for two military officers responsible for bombing a refugee camp in Surigao Del Sur. According to the CHR, pre-trial investigations of its recommendations for courts martial often result in no charges being filed.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—There are virtually no legal restrictions on freedom of expression or speech, though libel and slander are criminally actionable. Freedom of the press is generally respected and courts have been consistent in their

protection of the media. There are some 25 privately owned newspapers in Manila and many more in the provinces that cover the political spectrum and freely criticize the Government. (Most are owned or controlled by politicians and prominent businessmen.) Radio and television also enjoy considerable freedom. CPP publications became legal with the repeal of the Antisubversion Law in 1992. Journalists have been able without legal penalty to meet and interview both Communist insurgents and military rebels.

The press, however, continues to face hazards in reporting on gambling, illegal logging, governmental corruption, or the drug trade. The dangers are greatest outside Manila where powerful vested interests involved in such activities sometimes employ violence to discourage media exposes. The Philippine Movement for Press Freedom (PMPF), an NGO, reports that in the first half of 1993 two journalists were killed, not including Romeo Legaspi (see Section 1.b.), who is still classified as missing, but presumed dead. The PMPF also reports several cases of reporters being assaulted or harassed, usually by local police or employees of local politicians.

Academic freedom is respected in theory and practice. The Government does not censor subject matter in classes, university publications, or conferences.

b. *Freedom of Peaceful Assembly and Association.*—Permits from local authorities are required for outdoor demonstrations in public places and are routinely issued. Nevertheless, rallies and marches are often held without permits. Private, professional, religious, social, charitable, labor, and political organizations are permitted to affiliate with recognized international bodies in their fields.

c. *Freedom of Religion.*—There is no state religion. Freedom of religion is fully respected, and no official discrimination is practiced against any religious group or its members.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Filipinos enjoy unhampered freedom to change their place of residence and employment within the Philippines. Movement within the country is largely unimpeded. With rare exceptions, such as pending court cases, Filipinos are allowed to travel and work abroad. In December, President Ramos authorized the issuance of a passport valid for six months to CPP Chairman Jose Maria Sison to allow him to enter the country for peace talks with the Government.

The Government continued to provide first asylum to Indo-Chinese boat people and to allow the United Nations High Commissioner for Refugees immediate access. However, the historically tolerant official Philippine attitude toward refugees may be changing. In June the United States Government withdrew its year-long request to allow the temporary training of former Vietnamese political prisoners in the Philippines, citing unacceptable conditions put forward by the Philippine Government. Nevertheless, the Philippine Government does allow the United Nations to continue to operate the first-asylum camp on Palawan, housing 3,700 asylum seekers, and the Philippine Refugee Processing Center in Bataan, from which approximately 15,000 persons were resettled in third countries in 1993.

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

The 1987 Constitution restored a presidential system of government similar to that in existence from 1946 to 1972. The new Constitution established a bicameral legislature, the Congress, and an independent judiciary as checks on executive power. Presidential authority to declare martial law was curtailed. Filipinos are free to organize political parties so long as they do not seek to overthrow the Government by force. Democratic opposition to the Government is widely tolerated, and there are no restrictions in law or practice on participation by women and minorities in politics. The Philippines has a multiparty political system with free elections based on universal (18 years and older) suffrage.

In the Congress, the 24-member Senate is dominated by an opposition majority. While in the 200-seat House of Representatives, the Administration Party holds a majority and leads a coalition which includes several minor parties. Nineteen women now serve in the House, and three in the Senate.

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

The best known domestic human rights NGO is the TFDP. Established in 1974, it collects information on alleged human rights violations and publishes statistics on abuses attributed to the Government.

The TFDP does not report on abuses by antigovernment organizations such as the NPA, and it includes in its definition of political prisoners those who have been detained for committing criminal acts in pursuit of their political beliefs. Other groups active in the human rights field include the Free Legal Assistance Group (FLAG)

and the Philippine Alliance of Human Rights Advocates (PAHRA). The latter organization represents numerous NGO's that monitor human rights conditions among various social and occupational groups.

While these groups operate without government restriction, they are often viewed with suspicion by the military and police. Some local civilian officials also have been uncooperative. Employees of human rights groups in the field sometimes encounter harassment and a few have been killed. Chris Batan (see Section 1.a.) was a TFDP member. With 16 field offices and a staff of over 600, the CHR is the largest human rights organization in the Philippines. Although it lacks prosecutory powers, it is constitutionally mandated to investigate all alleged violations of human rights. The CHR has come under criticism for its failure to conduct field investigations unless a complaint is filed with one of its offices; a lack of direction from the Manila office, resulting in great variation in the effectiveness of the regional offices; and its inability to monitor the progress of cases referred to the Department of Justice or the military courts. However, the CHR's standing in the human rights community has risen since the appointment in late 1992 of a respected diplomat and prominent human rights activist as its chairman.

The Presidential Committee on Human Rights (PCHR), composed of both government and NGO representatives, was established by Executive Order in late 1988 primarily to address the problem of disappearances. It subsequently evolved into an all-purpose human rights investigative task force and became the main forum for public debate on human rights issues during the final years of the Aquino administration. The PCHR is chaired by the Justice Secretary, and its members include representatives from the CHR; the Departments of National Defense and Foreign Affairs; the Office of the President; the Congress; and two private human rights groups, the PAHRA and the FLAG. TFDP and other groups are observers. In October, the PHRC met for the first time since President Ramos took office. Two subsequent meetings were held in November and December.

Representatives of international human rights groups are free to travel in the Philippines and investigate alleged abuses. Government officials routinely meet and discuss human rights problems with foreign governmental and nongovernmental organizations and the United Nations.

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

Women.—Women enjoy most, but not all of the legal rights and protections enjoyed by men. With the signing into law of the "Women in Development and Nation Building Act" in 1992, previous restrictions on women's rights to buy and sell property were terminated. It is uncertain, however, whether such legislation will be implemented fully. Past practice is not encouraging. For instance, a 1954 law allowing a woman to inherit the tenancy rights of her deceased husband is still often not enforced, in part due to women's lack of awareness of their legal rights, but primarily due to failure on the part of the Government to ensure its enforcement.

Women and girls in the lower economic strata are particularly vulnerable to exploitation by unethical operators who promise employment overseas or arranged marriages with foreign men. Some of these women end up working as prostitutes or suffering abuse at the hands of their foreign employers or husbands. The plight of abused Philippine maids in Kuwait attracted widespread attention, but there were similar cases in other countries. Fillipino women were also extensively victimized by international sex trafficking syndicates, which recruited them through local placement firms to work abroad, ostensibly as maids, entertainer or models. Some women were duped by such offers, but others, facing bleak employment prospects at home, accepted them in the knowledge that they would be required to engage in prostitution. The Philippine Government has publicly warned Filipino women to beware of sex traffickers but it has not been notably successful in curbing their activities. The Government deplores these abuses, but has not moved energetically to bring criminal charges against those who profit from it. Violence against women, particularly domestic violence, is a serious problem in the Philippines. Wife beating is a common but is rarely reported, in large part because it is considered a private or family affair. Rape is also a major problem. According to a 1989 report by the National Peace and Order Council, police receive one rape case every five hours. The Center for Women's resource data bank estimates, however, that only 5 percent of rape victims report such crimes. Women's groups charge that accused rapists are dealt with leniently by the male-dominated law enforcement and judicial systems. A report prepared for a 1990 meeting of the ASEAN women's programme suggests that marital rape, which is not a crime under Philippine law, accounts for up to 90 percent of reported rape cases.

Children.—A number of government agencies, including the Departments of Health, Social Welfare and Development, and Education, Culture, and Sports have programs devoted to the welfare and development of children. The Philippines-UNICEF Fourth Country Programme of Cooperation for Children (1994 to 1998) has just been completed. This $60 million plan has a $22.5 million commitment from UNICEF, which is seeking supplementary funding for the balance.

Many Philippine children face serious problems stemming from widespread poverty and government inability to intervene effectively. Street begging, child prostitution, child labor, and truancy are all too common. Child prostitution is a particular problem in the larger cities. While there are few available statistics and studies on this problem, social workers and others who work among the poor attest to its gravity. There are no truancy laws in the Philippines, but free public education and cultural values act to keep about 60 percent of children in school through grade six (age 12). In 1993 the Government acted to strengthen laws to stem the practice of child labor (see Section 6.d.). Many children have been orphaned or otherwise adversely affected by the ongoing insurgencies. Some have been traumatized, often with lasting deleterious effects, by witnessing warfare on a regular basis. This problem is particularly acute in the mountainous areas of northern Luzon and Mindanao where fighting continues.

Considerable public attention has focused on the plight of the between 5,000 and 10,000 Amerasian children living in poverty near former U.S. military bases. Although Philippine culture is relatively tolerant toward the offspring of racially mixed marriages, some Amerasians do experience discrimination. A suit pending in U.S. courts alleges that the U.S. Navy encouraged the prostitution that contributed to this problem. Many groups in the Philippines, some of which receive USAID funding, are working to provide improved health care, housing, and educational opportunities for disadvantaged children, including Amerasians.

Indigenous People.—Indigenous peoples, found throughout the Philippines but primarily in mountainous areas, account for 2 to 3 percent of the total population. The two areas of greatest concentration are the Cordilleran region of northern Luzon and Mindanao. Although there are no specific laws that discriminate against indigenous peoples, the remoteness of the areas they inhabit and a cultural bias against them by the majority population tend to prevent their full integration into Philippine society. Their ability to participate meaningfully in decisions affecting their lands, cultures, traditions, and the allocation of natural resources is minimal. Although the 1987 Constitution calls for the protection of the ancestral lands and culture of indigenous peoples, no enabling laws have been passed to give effect to these provisions.

Because they inhabit mountainous areas favored by guerrillas, indigenous peoples suffer disproportionately from counterinsurgency operations. TABAK, an indigenous peoples' NGO, reports that the vast majority of the 7,568 families displaced by fighting in Mindanao during the first half of 1993 were indigenous peoples.

Another major grievance of indigenous peoples is the loss of their ancestral lands to what they regard as "development aggression." The Government often does not recognize the legality of indigenous peoples' claim to such lands, which have been utilized extensively for hydroelectric dams, mining operations, and other large-scale development projects. The indigenous peoples affected by these projects deeply resent their forced relocation and the destruction of farming and hunting lands they have used for centuries. In April, for example, members of the Bugkalot Tribe in Nueva Viscaya protested the construction of a 300-megawatt dam on the Cagayan River that will submerge 3,600 hectares of their land and displace 18,000 members of their tribe.

National/Racial/Ethnic Minorities.—Although people of Chinese ancestry have extensively intermarried with other Philippines and are relatively well assimilated, there is a distinct Philippine-Chinese community numbering perhaps 1 to 2 percent of the population. Its wealthier members play a prominent role in the nation's economic life and are the object of some resentment. As noted in Section 1.b., they have been a primary target of kidnaping for ransom.

Religious Minorities.—Muslims, who comprise about 5 percent of the population and live principally in Mindanao and adjacent islands, constitute the largest minority group. Muslims historically have been alienated from the dominant Christian majority, and their disaffection increased with the influx of Philippine Christian settlers since the 1950's. Efforts to integrate Muslims into the political and economic fabric of the country have met with only limited success. Philippine culture, with its emphasis on familial, tribal, and regional loyalties, creates informal barriers whereby access to jobs or resources is provided first to those of one's own family or group. Another factor is that many Muslims prefer to educate their children in

Muslim schools, which has deprived them of the skills required to advance in some occupations.

The autonomous region of Muslim Mindanao (ARMM) was inaugurated in November 1990 to meet the demand of Muslims for local autonomy in areas where they hold a majority or are a substantial minority. However, the ARMM continues to suffer from serious problems. Limited to the four provinces which elected to join, it falls short of representing the aspirations of all Muslims in the region. Additionally, the ARMM government is hobbled by an inadequate tax base and a continued shortfall in promised central government assistance.

People with Disabilities.—A 1983 law provides for equal physical access for the disabled to all public buildings and establishments and a law passed in 1992, provides for "the rehabilitation, self-development, and self-reliance of disabled persons and their integration into the mainstream of society". It is intended to protect the disabled from discrimination and to provide them health and social services. Advocates of the handicapped maintain that these laws have not been enforced fully, citing inadequate government funding, widespread evasion, and lingering prejudice against the handicapped among many Filipinos. Under the Aquino administration, one of the appointed sectoral seats in the House of Representatives was filled by a disabled person tasked to represent the concerns of the disabled. President Ramos has not appointed anyone to such a position.

Advocates of the disabled welcome increased efforts by the Government to immunize children and improve their primary health care, which will help to decrease the number of disabled in the future. In early 1993, the government launched an immunization campaign which included a program to eliminate polio by the end of the decade.

Section 6. Worker Rights

a. *The Right of Association.*—The right of workers, including public employees, to form and join trade unions is assured by the Constitution and legislation, and it is freely practiced without formal government interference throughout the country. Trade unions and trade union federations are largely independent of the Government and of political parties. Unions have, and exercise freely, the right to form or join federations and confederations and to affiliate with international trade union organizations. Subject to certain procedural restrictions in the 1989 Labor Code (the Herrera Act) and emergency executive powers, strikes in the private sector are legal. Restrictions include the obligation to provide notice, respect for mandatory cooling-off periods, and the need to obtain majority approval before calling a strike. The 1989 law also stipulates that all means of reconciliation must be exhausted and the strike issue has to be relevant to the labor contract or the law. Some labor organizations maintain that these stipulations favor employers by giving them many avenues to declare a strike illegal and take action against the strikers.

The ILO's Committee of Experts (COE) reiterated in 1993 its criticisms that some of the Philippine Labor Code provisions, including the Secretary of Labor's power to order compulsory arbitration to thwart strikes in industries deemed essential to the national interest, are not in conformity with ILO Convention 87 on Freedom of Association. Labor law also bans unfair practices strikes during the term of a collective bargaining agreement, which has been the subject of international criticisms as well. Labor organizations have also expressed concern that the growing practice of subcontracting by employers adversely affects unions.

Strikes in the transport and banking sectors were significant in 1993. However, the total number of participating workers and lost workdays declined compared to 1992.

According to the Center for Trade Union and Human Rights (CTUHR), an NGO, three trade union leaders and labor activists were killed in connection with their activities during the first year of the Ramos Presidency. There were also 15 attempted murders.

The CTUHR reported an increase in the arrest and detention of workers during Ramos' first year (195 in the first half of 1993, compared to 54 in the second half of 1992).

b. *The Right to Organize and Bargain Collectively.*—Except for government employees, labor's right to organize and bargain collectively is guaranteed by law. The number of collective bargaining agreements in force has increased in recent years, as have the number of registered unions. There were 5715 such unions as of June. Dismissal of a union official or worker trying to organize a union is considered an unfair labor practice under Philippine law. Nevertheless, employers sometimes attempt to intimidate workers by threats of firing or closure. The CTUHR has documented cases of worker dismissals which it claims were intended solely to get rid of union members. Allegations of intimidation and discrimination in connection with

union activities are grounds for review as possible unfair labor practices before the National Labor Relations Commission (NLRC). The NLRC and the National Conciliation and Mediation Board (NCMB) provide the DOLE with quasi-judicial mechanisms for hearing and adjudicating workers' claims. The process has been slow but no slower than other parts of the courts and the bureaucracy.

Through the first 9 months of the year, a total of 100 work stoppages were recorded, resulting in some 515,000 workdays being lost. On an annualized basis, this suggests a lower total number of workdays lost in 1993 than in 1992 (724,000). Labor law and practice are uniform throughout the country, including export processing zones (EPZ's). The rate of unionization and the number of collective bargaining agreements concluded in most EPZ's are similar to those in the rest of the country, although the proportions are much lower in the new EPZ's. However, some labor sources have complained that anti-union discrimination does exist in the EPZ's. The Kilusang Mayo Uno (KMU), one of the more militant labor organizations, reported that 200 strikers were injured when they were fired on by police water cannons during a strike in the Bataan EPZ on August 9. According to the KMU, the plant was closed but later reopened under a different name and hired nonunion employees.

c. *Prohibition of Compulsory or Forced Labor.*—The Philippines has ratified ILO Convention 105, which prohibits forced labor and has the force of law in the country. The ILO has criticized provisions in the law that punish workers convicted for participation in illegal strikes with an obligation to perform prison labor.

d. *Minimum Age for Employment of Children.*—The Constitution prohibits the employment of children below age 15, except under the responsibility of parents or guardians, and then only if the work does not interfere with schooling. It allows employment for those between the ages of 15 and 18 for such hours and periods of the day as are determined by the Secretary of Labor but forbids employment of persons under 18 years of age in hazardous or deleterious work. However, a significant number of children are employed in the informal sector of the urban economy or as field laborers in the more rural areas. Secretary of Labor Confesor has spoken publicly against the health hazards to children working with pesticides in agricultural areas.

In June 1992, President Aquino signed into law the Child Protection Act, most provisions of which were applauded by advocates of children's rights, except for a controversial clause permitting the provisional employment of children under the age of 15. Legislation this year tightened this provision to allow employment under the age of 15 only under the direct and sole responsibility of a parent or legal guardian, or where the employment in cinema/theater/radio or television is essential. The parent/guardian or employer is in each case required to ensure the child's health, safety, and morals and to provide for the child's education or training and to procure a work permit from DOLE.

The most serious violations of child labor laws occur in piecework or contracting out of embroidery and other garment-related production, much of which is exported. Children have also been used in dangerous and ecologically damaging forms of fishing that use dynamite. The Government has investigated and attempted to reduce violations of child labor laws outside the agricultural sector through well-publicized raids on reported violators. Government investigators have relied on tips provided by concerned NGOs.

In July the National Bureau of Investigation (NBI) raided a sardine factory in Manila and found 27 children under 17 years of age working in sweatshop conditions. The NBI acted on a tip from the Kamalayan Development Center, an NGO, which found that some of the youths, who were brought in from the provinces by a recruitment agency, had been working in the factory for over a year without pay and had not been allowed to leave.

e. *Acceptable Conditions of Work.*—The Minimum Wage Act of 1989 is the authority for minimum wages set by regional wage boards. The rates were last set in December 1990, with the highest in the Manila area and lower rates in rural areas. The minimum wage for workers in the nonagricultural sector in the national capital region was $4.21 (P118) per day, which was well below the National Economic Development Administration's standard of a $5.57 (P156) per day minimum subsistence level for a family of six in that area. The lowest regional minimum wage was $3.18 (P89) per day in Mindanao. Despite labor's calls for an across-the-board increase in the minimum wage, the Ramos administration has favored leaving responsibility for adjustments to the minimum wage with the country's 15 tripartite regional wage boards. Boards that met in late 1993 set wage increases to take effect in December 1993 or early 1994.

Judging from available data, compliance with existing minimum wage standards has improved. DOLE surveys show that in the first half of 1993 16 percent of 17,500 establishments nationwide were in violation of minimum wage standards. This fig-

ure is about equal to the 1992 figure and represents a decrease from the 1991 rate of 26 percent. In the national capital region, 7 percent of employers surveyed were in noncompliance. The highest noncompliance rate in other regions was 36 percent. However, substantial numbers of workers, such as domestics, laborers, janitors, messengers, and drivers, are not covered by minimum wage requirements.

The standard legal workweek before overtime is 48 hours for most categories of industrial workers and 40 hours for government workers, with an 8 hour per day limit. An overtime rate of 125 percent of one's hourly rate is mandated for any hours worked over the 8 per day limit. The law mandates a full day of rest weekly. The enforcement of workweek hours is managed through periodic Labor Department standards inspections by the DOLE. Employees with more than 1 year on the job are entitled to 5 days of paid leave annually.

A comprehensive set of occupational safety and health standards exists in law. Little information is available on actual industrial and occupational health conditions beyond the undocumented, but well known, problems in such industries as pyrotechnics, garment manufacturing, canning, and fishing with dynamite or poison. DOLE statistics show that in the first half of 1993, 17 percent of 5,000 establishments inspected were in violation of "technical safety standards". This figure represents a decrease from the 1992 rate of 20 percent.

Multinational firms apply U.S., European, or Japanese standards of worker safety and health to meet the requirements of their home-based insurance carriers.

SINGAPORE

Singapore, a city-state of 3.2 million people, has a republican form of government based on the parliamentary system. The majority of the population is ethnic Chinese (78 percent), with Malays (14 percent) and Indians (7 percent) constituting substantial minorities. Politics is dominated by the People's Action Party (PAP), which has held power since Singapore gained autonomy from Great Britain in 1959. Goh Chok Tong completed his third year as Prime Minister in 1993. Lee Kuan Yew, who served as Prime Minister from independence in 1965 until 1990, remains active politically, holding the title of Senior Minister. The current Parliament was elected in August 1991. The PAP holds 77 of the 81 parliamentary seats.

The Government maintains active internal security and military forces to counter perceived threats to the nation's security. It has frequently used security legislation to control a broad range of activity. The Internal Security Department (ISD) is responsible for enforcement of the Internal Security Act (ISA), including its provisions for detention without trial. All young males are subject to national service (mostly in the military) and receive nationalistic indoctrination conforming to the credos held by the PAP.

Singapore's open economic system has achieved remarkably steady growth in recent years, with GDP climbing 9.8 percent in 1993. There are no duties on over 95 percent of its products. As a result, Singaporeans have an annual per capita income over $15,000. Individual ownership of housing, mostly government built, is enjoyed by 90 percent of Singaporean families. Wealth is distributed relatively equally in what is essentially a full-employment economy.

Intimidation of opposition politicians, exclusion of oppositi[illegible] residential candidates, and restrictions on press freedom were among huma[illegible]its concerns in 1993. In May Dr. Chee Soon Juan, a prominent opposition politi[illegible], lost his teaching position at the National University in a politically motivated action officially justified as dismissal for misuse of university funds. In August two opposition politicians were declared unqualified, on the basis of personal character and financial experience, to run as candidates in Singapore's first presidential election. In July the Government placed limits on the circulation of The Economist because of a dispute over the Government's insistence that it has the right of unedited reply to what it considers inaccurate reporting or unfair allegations.

The Government retained wide powers to detain people and subsequently restrict their travel, freedom of speech, and right to associate freely, and to handicap political opposition. There was no evidence of a change in the Government's basic willingness to restrict human rights when it deemed that necessary in the pursuit of its policy goals.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no known instances of such killing.

b. *Disappearance.*—There were no known instances of politically motivated abduction, secret arrests, or clandestine detentions by either the Government or the opposition.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture is prohibited by law, and government leaders have stated that they oppose its use. However, there have been credible reports of police mistreatment, some of which have been reported in the press. Reliable reports indicate that interrogations at times take place in very cold rooms where prisoners may be stripped of their clothing and doused with water. A reported case in April involved two men arrested for rape. One of the accused claimed that the police obtained his confession during a 17-hour nonstop interrogation in a cold room, during which police punched and physically abused him. The second defendant protested that police stripped him naked and interrogated him in a cold room. The judge in this case rejected the confession of the first defendant. Both men, however, were convicted and sentenced to prison. In a separate case of alleged police mistreatment in March, murder charges were withdrawn against a person who claimed that he was forced to make a confession as a result of police interrogation methods. The police maintained that all proper procedures were followed in taking the confession and that the defendant raised the issue of a forced confession only after many months had elapsed.

The Government reserves the right to use indefinite confinement to pressure detainees to "rehabilitate" themselves as well as to make admissions of wrongdoing. In the past, the Government has acknowledged that in the case of detentions without trial under the Criminal Act, the indefiniteness of detentions served to pressure the detainees. Persons alleging mistreatment under detention may bring criminal charges against those in the Government who are alleged to have committed such acts, but may be discouraged from making accusations for fear of government retaliation in the form of redetention under the ISA.

The Penal Code mandates caning in addition to imprisonment as punishment for offenses involving the use of violence or threat of violence against a person, such as rape, robbery, and extortion. Singapore law also mandates caning in other areas, such as for certain convictions under the Vandalism Act and for specific immigration offenses. Caning is discretionary for convictions on other charges involving the use of criminal force, such as kidnaping and aggravated outrage of modesty, or voluntarily causing grievous hurt. The law prescribes a maximum or minimum number of cane strokes in many of these cases. Women are exempted from caning, as are men over 50 and those determined unfit by a medical officer.

d. *Arbitrary Arrest, Detention, or Exile.*—Arrest without warrant is legally permitted under the ISA, the Criminal Law (Temporary Provisions) Act, the Misuse of Drugs Act, and the Undesirable Publications Act. Those arrested must be charged before a magistrate within 48 hours. At that time, those detained under criminal charges may obtain legal counsel. There is a functioning system of bail for those charged. There were no reported abuses of the bail system in 1993.

The ISA and the Criminal Law (Temporary Provisions) Act authorize detention without trial. The latter act is used almost exclusively in cases involving narcotics and secret criminal societies and is not used for political purposes. According to the Government, 759 persons were in detention under the Criminal Law (Temporary Provisions) Act as of September, of which 320 were for secret society activities and 439 for drug trafficking. The Director of the Central Narcotics Bureau (CNB) can also commit suspected drug users for up to 6 months, with subsequent extensions, to a drug rehabilitation center in cases of positive urinalysis tests.

Those persons detained without trial under the ISA or the Criminal Law (Temporary Provisions) Act are entitled to counsel but have no legal recourse through the courts to challenge the substantive basis for their detention. The ISA also gives broad discretion to the Minister of Home Affairs to order detention without charges if the President determines that a person poses a threat to national security. The President may authorize detention for up to 2 years; the detention order may be renewed for a 2-year period, with no limitation on the number of times the detention order is renewed. A detainee's case is reviewed periodically by an advisory board, to which the detainee may make representations. The board can make nonbinding recommendations that a detainee be released prior to expiration of a detention order. If the Minister wishes to act contrary to a recommendation for release by the board, he must seek agreement of the President.

The ISA empowers the police to detain a person for up to 48 hours; any police officer at or above the rank of superintendent may authorize that the detainee be held for up to 28 days longer. ISA detainees normally have been allowed access to lawyers and visits by relatives once initial interrogation has been completed.

No one has been under ISA detention since 1990. The Government maintains some restrictions on the rights of two former ISA detainees to travel abroad, make

public statements, and associate freely. This was one less than in 1992; restrictions on Teo Soh Lung were allowed to lapse on their expiration in January.

e. *Denial of Fair Public Trial.*—The Singapore judiciary system is based on the British model, but there are significant differences (see below). There are two levels of courts—the Supreme Court, which includes the high court and the court of appeal; and the subordinate courts. In normal cases the Criminal Procedures Code provides that a charge against a defendant must be read and explained to him as soon as it is framed by the magistrate. The accused has the right to be represented by an attorney. Trial is by judge rather than jury. Persons detained under the ISA or the Criminal Law (Temporary Provisions) Act are not entitled to a public trial, which is accorded in all other cases. Judicial review of the ISA and subversion laws is severely restricted, in effect giving the Government a free hand in such cases.

Amendments to establish a single court of appeal, combining the former court of appeal (for civil cases) and court of criminal appeal, took effect in July. The creation of a single court of appeal marked another step toward the Government's objective of eliminating referrals to the Privy Council in London. The Privy Council still remains the last resort for appeals under certain circumstances such as convictions for life imprisonment or the death penalty.

Judges of the Supreme Court are appointed by the President and may remain in office until the mandatory retirement age of 65, after which they may continue to serve at the Government's discretion for brief, renewable terms at full salary. Judges on the court of appeal receive permanent appointments.

Subordinate court judges are appointed by the President. These appointments are for renewable 2-year terms. Subordinate court judges and magistrates, as well as public prosecutors, are civil servants whose specific assignments are determined by the Legal Service Commission which can decide on job transfers to any of several legal service departments. Judicial officials, especially in the Supreme Court, are well entrenched in the Singapore establishment and have close ties to the Government and its leaders.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Government uses its wide discretionary powers when it determines that national security is threatened. In most cases, search warrants, normally issued by the magistrate court, are required for intrusion into the home. Law enforcement officers may, however, search a person, home, or property without a warrant if they decide searches are necessary to preserve evidence.

Warrantless searches can also be conducted under the Misuse of Drugs Act and the Criminal Law (Temporary Provisions) Act in dealing with drug- and secret society-related offenses. Judicial review of such searches can be undertaken by the courts at the request of the defendant but it is not automatic. Divisions of the Government's law enforcement agencies, including the ISD and the Corrupt Practices Investigation Board (CPIB), have wide networks for gathering information.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution permits official restrictions on the freedom of expression and freedoms of speech and press are circumscribed. The Internal Security Act permits the Government to prohibit or to place conditions on publications that incite to violence, that counsel disobedience to the law, that might arouse tensions among the various classes (races, religions, and language groups) or that might threaten national interests, national security or public order. The Government has in some cases applied a broad definition of these laws to restrict political opposition and criticism.

The Singapore Broadcasting Corporation (SBC) is owned by the Government and operates under a statutory board of the Ministry of Information and the Arts. The SBC develops censorship standards with the help of advisory panels with a membership representing a cross section of society. The SBC has a near monopoly on broadcasting, operating all 3 free television channels, all 3 pay channels and 9 of 12 radio stations. Two of the other three radio stations are operated by the National Trade Union Congress (NTUC), which is closely affiliated with the Government; the third is the BBC World Service, available 24 hours a day on the FM band. In addition to the BBC World Service, Malaysian television and radio broadcasts and Indonesian radio broadcasts are received uncensored. Satellite dishes are banned with few exceptions.

All general circulation newspapers, with the exception of a small circulation Tamil-language newspaper, are owned by Singapore Press Holdings (SPH), a private corporation which has close ties to the national leadership. SPH is required by law to issue ordinary and "management" shares; holders of management shares have the power to control all SPH personnel decisions. The Government must approve, and can remove, holders of management shares. Hence, while Singapore news-

papers, especially the English-language Straits Times, print a large and diverse selection of articles from their domestic and a variety of foreign resources, editorials and coverage of domestic events closely parallel government policies and the opinions of government leaders. Government leaders have criticized the "Western model" of journalism in which the media have unrestricted freedom to report the news as they see it. Singapore officials argue that the role of the domestic media is to support the goals of the elected leadership and not to advance its own political agenda.

A case by the Government against the editor of the Business Times, the leading business daily, and 4 other persons, remained before the courts at year's end. The editor and three others—a government official and two employees of a foreign securities firm—were charged in December 1992 for violation of the Official Secrets Act in regard to a report in the Business Times of unreleased government growth figures. A fifth person—another journalist—was charged in the case in July. In December the presiding judge ruled that there was no proof that the accused government official passed classified information and amended the charge to failing to protect the secrecy of official information.

A wide range of international magazines and newspapers may be purchased uncensored in Singapore, although newspapers printed in Malaysia may not be imported. A 1990 law requires foreign publications that report on politics and current events in southeast Asia to register, post a bond the equivalent of $118,000, and name a person in Singapore to accept legal service. These requirements strengthen government control over foreign media. The Government may ban the circulation of domestic and foreign publications under provisions of the ISA and the Undesirable Publications Act. Under amendments to the Newspaper and Printing Presses Act, it may limit the circulation of foreign publications which, by the Government's broad determination, interfere in Singapore's domestic politics.

In its relations with foreign media in 1993, the Government relaxed restrictions in some areas and introduced new ones in others. In August the Government limited ("gazetted") the circulation of The Economist to 7,500 copies per issue after a dispute over the Government's "right of reply," i.e., the Government's insistence that it has the right of unedited reply to what it considers to be inaccurate reporting or unfair allegations. While this limit equaled The Economist's circulation at that time, it prevents any increase. The Government also required The Economist to register in Singapore and meet other requirements of the 1990 Press Law Amendments from which it previously had been exempted.

The Economist was the first non-U.S.-owned publication to be gazetted. The Asian Wall Street Journal (AWSJ), Asiaweek, and the Far Eastern Economic Review, all gazetted in 1987, remained gazetted. However, the limits were raised to 5,000 per issue on the AWSJ and 12,000 per issue for Asiaweek, bringing them back to approximately their full circulations at the times they were gazetted. From 1988 to 1991, the AWSJ was not permitted to have a correspondent in Singapore. Beginning in 1991 an AWSJ correspondent was permitted on a part-time basis. This restriction was further eased in July 1993 with a government decision to accept a full-time AWSJ correspondent.

Singapore censors movies, video materials, and music. Some publications are barred from importation. Censorship of materials and the decision to deny the importation of specific publications is based on the determination that such materials would undermine the stability of the State, are pro-Communist, contravene moral norms, are pornographic, show excessive and/or gratuitous sex and violence, glamorize or promote drug use, or incite racial, religious, or language animosities. There is strong public support for continued censorship of sex and violence in films.

Faculty members at Singapore public institutions of higher education are government employees. A number of university lecturers are concurrently PAP Members of Parliament (M.P.'s). Academics sometimes criticize government policies, but avoid public criticism of individual government leaders and sensitive social and economic policies because of possible sanctions, such as in the case of Dr. Chee Soon Juan. Publications by local academics and members of think tanks rarely deviate substantially from government views.

b. *Freedom of Peaceful Assembly and Association.*—Assemblies of more than five persons in public, including political meetings and rallies, must have police permission. Those who wish to speak at a public function must obtain permission from the Public Entertainment Licensing Unit, a division of the police Criminal Investigation Department. Opposition politicians have experienced delays as long as 26 days, according to police records, before receiving notification of action on their applications.

The Government closely monitors political gatherings regardless of the number present. Associations, societies, clubs, churches, and other organizations with more than 10 members must be registered with the Government under the Societies Act. The Government denies registration to societies it believes likely to be used for un-

lawful purposes or for purposes prejudicial to public peace, welfare, or public order. The Government has absolute discretion in applying this broad and vague language to register or dissolve societies. It prohibits organized political activities, except by organizations registered as political parties. This prohibition extends to the opposition, but it is not clear that it applies to the PAP, which enjoys the support of residential committees and neighborhood groups ostensibly organized for nonpolitical purposes but whose leadership contains many grassroots PAP members (see also Section 3).

c. *Freedom of Religion.*—Freedom of religion is provided for in the Constitution and respected in practice with a few exceptions. There is no state religion and most missionaries are permitted to work and to publish religious texts. However, all religious groups are subject to government scrutiny and must be legally registered. The Government restricts some religious sects by application of the Societies Act and has banned others, such as the Jehovah's Witnesses and the Unification Church. At year's end, five members of Jehovah's Witnesses were reportedly free on bail pending trial after having been charged under the Undesirable Publications Act. The 1990 Maintenance of Religious Harmony Act made illegal what the Government deemed to be the inappropriate involvement of religious groups and officials in political affairs. The Act also denies the judiciary the competence to review possible denial of rights which could arise from the application of the act, and specifically denies judicial review of its enforcement.

The Government provides financial assistance to build and maintain mosques.

Singapore's universal conscription into military service does not allow conscientious objectors' status based on religious beliefs. The law provides that those who refuse to be inducted into the military may receive prison sentences of up to 3 years. Those who refuse on religious grounds to perform annual reservist duty may be jailed for 40 days (or for 4 months if court-martialed) every year for such refusal.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—All Singapore citizens and permanent residents over the age of 12 are required to register with the Government and to carry identification cards. After the completion of national service, enlisted men remain liable for reserve training until the age of 40, and officers to age 50. Reservists who plan to travel overseas for less than 6 months must advise the Ministry of Defense. For trips longer than 6 months, reservists must obtain an exit permit. Males approaching national service age must obtain an exit permit in order to study outside Singapore. The Government may deny a passport, and has done so, in the case of former ISA detainees.

The ISA allows the Minister for Law and Home Affairs to suspend or revoke a detention order or to impose restrictions on former detainees' activities, places of residence, and travel abroad. The right of voluntary repatriation is extended to holders of Singaporean passports. In 1985 Parliament provided for the loss of citizenship by Singaporeans who reside outside Singapore for more than 10 years consecutively. Action under this law is discretionary and has been taken in at least one case involving a well-known government opponent, Tan Wah Piaow.

Former Singaporean members of the Communist Party of Malaya (CPM) residing outside Singapore must appeal to the Government to be allowed to return. They must renounce Communism, sever all organizational ties with the CPM, and pledge not to indulge in activities prejudicial to Singapore's internal security. In addition they must be prepared to be interviewed by the ISD and to abide by any restrictive conditions imposed on them.

Singapore neither accepts the Comprehensive Plan of Action for Indochinese seeking refugee status nor offers first asylum to refugees. Prior to 1991, the Government permitted Vietnamese asylum seekers to disembark if a resettlement country promised to remove them within 90 days and if the rescuing vessel was in Singapore on a scheduled port of call. In June 1991, the Government halted disembarkation on the grounds that resettlement countries had not honored their guarantees of removal. As of September 1, there were 95 asylum seekers at the Hawkins Road camp, all of whom had been denied refugee status through screening procedures conducted by the local office of the United Nations High Commissioner for Refugees (UNHCR). Persons of other nationalities in Singapore who make claims for asylum are permitted to have their status determined by the UNHCR for possible resettlement elsewhere.

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

Constitutionally, Singaporeans have the right to change their government peacefully through democratic means and, in fact, the voting and vote-counting systems in elections are fair, accurate, and free from tampering. This was the case in the August presidential election in which the former PAP Deputy Prime Minister re-

ceived 59 percent of the vote. However, the Government has extensive powers which it uses to place formidable obstacles in the path of political opponents. It also resorts to intimidation, attempting to intimidate the opposition through libel suits and potential loss of employment or professional licenses.

Opposition parties have been unable seriously to challenge the PAP since the late 1960's. Consequently, the PAP's domination of politics in Singapore continues as it had for three decades under the authoritarian leadership of Lee Kuan Yew. The PAP's political success in large part results from government policies which helped Singapore achieve rapid economic growth, thereby enabling the Government to provide a wide array of public services. The PAP enjoys a broad base of popular support, sustained in part through neighborhood, youth, and labor associations.

Political parties, while legally free to organize, are subject to strict regulations on party constitutions, fundraising, and accountability. While the PAP has been able to enjoy the support of ostensibly nonpolitical organizations, the Government has used its broad discretionary powers to hinder the creation of support organizations for the opposition parties. The PAP's grip on power has also been enhanced by patronage; political control of the press, courts, and, to some extent, religion; strong party discipline and performance; and its access to the instruments of power. For example, a government program to refurbish public housing gives priority to PAP constituencies. Government regulations also hinder attempts by opposition parties to rent office space in government housing estates or to establish community foundations which run private kindergartens. The PAP attributes the lack of an effective opposition to disorganization, lack of leadership, and lack of alternative policy programs.

In August Singapore held its first presidential election under 1991 legislation that instituted an elected presidency with expanded powers over civil service appointments, government and statutory board budgets, and internal security affairs. Presidential aspirants were required to obtain prior certification from the Presidential Elections Committee (PEC), a body composed of the Chairman of the Public Service Commission, the Chairman of the Public Accountants Board, and a member of the Presidential Council for Minority Rights. The PEC was responsible for screening applicants on the basis of integrity, character, reputation, ability, and experience in managing the financial affairs of a large institution. Eligibility was considered automatic if the candidate had 3 years' experience as a high-ranking public servant or chief executive officer of a large corporation. The committee rejected the applications of two opposition figures—J.B. Jeyaretnam, Secretary General of the Workers' Party and a former M.P., and another Workers' Party member—for not satisfying the eligibility criteria regarding character and financial expertise.

In 1993 two prominent opposition figures were the targets of investigations conducted by government entities that served to intimidate the political opposition. Dr. Chee Soon Juan, a lecturer at the National University of Singapore and deputy secretary-general of the Singapore Democratic Party, was dismissed from his teaching position in May after a university audit of his financial records uncovered an alleged irregularity involving his use of research funds to express mail his wife's doctoral thesis to her university advisor in the United States. Chee defended his action by arguing that his wife's thesis was relevant to his own research and that he had received prior approval for the mailing from his department chairman, a PAP M.P. Chee, one of the first university lecturers to join an opposition party, rose to prominence during an unsuccessful bid against Prime Minister Goh in the December 1992 by-election. Chee now faces defamation suits from university personnel that stem from remarks he made defending his actions. In the second case, the Singapore Medical Council, a statutory board under the Ministry of Health, found Dr. Tan Bin Seng, chairman of the Workers' Party, guilty on seven counts of "professional misconduct" for overprescribing sleep medication. The Council struck Tan from the medical register, thereby stopping him from practicing medicine. Tan chose not to appeal the case. He can apply for reinstatement on the register after 1 year.

Government leaders continued to use the threat of civil libel or slander suits against opposition leaders. Singapore's Legal Code also provides for criminal defamation offenses, but these provisions are seldom used. In January Singapore Democratic Party politician Ashleigh Seow was threatened with a slander suit by four PAP M.P.'s for making allegedly defamatory remarks during the December 1992 by-election campaign. In his rally speech, Seow called joining the PAP "a very smart career move," and gave examples of Members who had done well since their election to Parliament. Seow settled out-of-court. He agreed to pay the equivalent of $15,000 to charity, pay all legal costs, and place a public retraction and apology in the Straits Times. In April former President Devan Nair withdrew certain statements made in 1988 comparing the behavior of opposition figure Francis Seow with that of Lee Kuan Yew and himself when they were members of the political opposition

in the 1960's. Those remarks had prompted a libel suit against Nair filed by Lee Kuan Yew in 1988. Nair's retraction opened the way to a settlement in which Lee waived damages and costs.

There are no female cabinet members and only 2 of the 81 parliamentary seats are occupied by women. Women are also underrepresented in the highest levels of the civil service.

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

There are no nongovernmental organizations, with the exception of the opposition political parties, that actively and openly monitor alleged human rights violations. While the Government does not formally prohibit them, efforts by any independent organizations to investigate and criticize publicly government human rights policies would face the same obstacles as those faced by political parties. The Government denies that international organizations have any competence whatsoever to look into human rights matters in Singapore. Visa regulations do not recognize monitoring human rights as a "business purpose" for visiting Singapore, but neither is such activity regarded as a "social visit." Amnesty International is not allowed to operate in Singapore.

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

Because of Singapore's history of intercommunal tension, the Government takes affirmative measures to ensure racial, ethnic, religious, and cultural nondiscrimination. Social, economic, and cultural facilities are available to all citizens regardless of race, religion, or sex. Minorities are constitutionally afforded equal rights, actively participate in the political process, and are well represented throughout the government.

Women.—Women enjoy the same legal rights as men in most areas, including civil liberties, employment, commercial activity, and education. The Women's Charter, enacted in 1961, gave women, inter alia, the right to own property, conduct trade, and receive divorce settlements. Muslim women enjoy most of the same rights and protections of the Women's Charter, except that Muslim men are allowed to practice bigamy and may divorce unilaterally whereas Muslim women may not. In 1962 the Government instituted the principle of equal pay for equal work in the civil service and announced the abolition of separate salary scales by 1965. Some areas of discrimination remain. For example, children born overseas to Singaporean women are not granted automatic citizenship as are children born to Singaporean men. Female civil service employees who are married do not receive health benefits for their spouses and dependents as do male government employees. Singapore's Constitution contains no explicit guarantee of equal rights for women.

There is no evidence of any widespread practice of violence or abuse against women. Laws such as the Penal Code and the Women's Charter protect women against domestic violence and sexual or physical harassment. A battered wife can obtain court orders barring the spouse from the home until the court is satisfied that he will stop his aggressive behavior. The Penal Code prescribes mandatory caning and a minimum imprisonment of 2 years for conviction on a charge of outraging modesty that causes the victim fear of death or injury.

Women make up over 50 percent of the labor force and are well-represented in many professional fields, but still hold the preponderance of low-wage jobs as clerks and secretaries. As a result, their average salary levels are only 70 percent those of men. Women hold few leadership positions in the private sector.

A women's organization founded in 1985, the Association of Women for Action and Research (AWARE), enjoys increasing prominence among the educated elite and now has 500 members. AWARE issues research publications and sponsors a 24-hour help line for women suffering from domestic abuse or discrimination. In addition to AWARE, there are over 30 professional and service organizations for women.

Children.—In 1993 the Government revised and reenacted the Children and Young Persons Act. This Act establishes protective services for those children who are orphaned, abused, disabled or refractory; creates a juvenile court system; and provides for the licensing and operation of children's homes. The Ministry of Community Development works closely with the National Council for Social Services to oversee children's welfare cases. The operation of most homes for children is carried out by voluntary organizations. The Government funds up to 50 percent of all child costs, which includes normal living expenses and overhead, as well as expenses for special schooling or supervisory needs. A 1993 U.N. Children's Fund report entitled "Progress of Nations," concerning child welfare criteria, rated Singapore very favor-

ably on infant mortality rates, access to primary education, and availability of vaccinations.

National/Racial/Ethnic Minorities.—The Constitution acknowledges the "special position" of Malays as the indigenous people of Singapore, and charges the Government to support and promote their "political, educational, religious, economic, social, and cultural interests." The Government has concentrated on creating equality of opportunity, especially in education, and does not promote the concept of equality in result, instead leaving it up to the ethnic communities, individual initiative, and the marketplace to determine economic success. Malays currently hold 12 percent of the seats in Parliament, in part the result of government legislation requiring a minority representative in selected constituencies. A presidential council on minority rights examines all current and pending bills to ensure that they are not disadvantageous to a particular ethnic group. It also reports to the Government on matters affecting any racial or religious community and investigates complaints.

Unlike the Indian or Eurasian communities, which have achieved economic and educational success rates on a par with the majority Chinese, Malay Singaporeans still have a lower standard of living, although the gap has diminished in recent years. Malays remain underrepresented at the uppermost rungs of the corporate ladder, a reflection of their historically lower educational and economic position, but also a result of de facto employment discrimination. Job advertisements sometimes specify the ethnicity and gender required of applicants or require fluent Mandarin speakers.

People with Disabilities.—The Government implemented a comprehensive code on barrier-free accessibility in 1990 which established standards for facilities for the physically disabled in all new buildings and mandated the progressive upgrading of older structures. Although there is no legislation that addresses the issue of equal opportunities for the disabled in education or employment, the National Council of Social Services, in conjunction with various voluntary associations, provides an extensive job training and placement program for the disabled. Informal provisions in education have permitted university matriculation for visually handicapped, deaf, and physically disabled students. The Government allows the equivalent of a $2,000 tax deduction for families with a disabled person.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution gives all citizens the right to form associations, including trade unions. Parliament may, however, impose restrictions based on security, public order, or morality grounds. The right of association is delimited by the Societies Act and by labor and education laws and regulations. The Trades Union Act authorizes the formation of unions with broad rights, albeit with some narrow restrictions, such as prohibitions on the unionization of uniformed employees and of the holding of union office by persons with criminal records. The national labor force comprises about 1.65 million employees, of whom more than 233,000 are organized into 83 employee unions. Seventy-four of these unions, representing almost 99 percent of all unionized workers, are affiliated with the National Trades Union Congress (NTUC), an umbrella organization which has a close relationship with the Government.

The NTUC unabashedly acknowledges that its interests are closely linked with those of the ruling PAP, a relationship often described by both as "symbiotic." For example, President Ong Teng Cheong served simultaneously as NTUC Secretary General and second deputy Prime Minister before assuming his current position in September. His successor at the NTUC, Lim Boon Heng, was formerly second Minister for Trade and Industry and continues as Minister without Portfolio. In addition, several other high-ranking NTUC officials are PAP M.P.'s. NTUC policy prohibits union members who actively support opposition parties from holding office in affiliated unions. While the NTUC is financially independent of the PAP, with income generated by NTUC-owned businesses, the NTUC and PAP share the same ideology.

Workers, other than those in essential services, have the legal right to strike but rarely do so; the most recent strike took place in 1986. Most disagreements are resolved through informal consultations with the Ministry of Labor. If conciliation fails, the disputing parties usually submit their case to the Industrial Arbitration Court, which has representatives from labor, management, and the Government. These labor dispute mechanisms, along with the PAP/NTUC nexus, have played important roles in creating amicable labor relations. The Government also attributes the rarity of strikes to a cultural aversion to confrontation, high economic growth rates, and labor shortages in recent years that have sustained regular wage increases, and to the popular conviction that strikes would undermine Singapore's attractiveness to investors.

The NTUC is free to associate regionally and internationally.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining is a normal part of management-labor relations, particularly in the manufacturing sector. Agreements between management and labor are renewed every 2 to 3 years, although wage increases are negotiated annually. Collective bargaining agreements generally follow the guidelines issued by the National Wages Council (NWC), a group composed of labor, management, and government representatives, that makes annual recommendations regarding salary and bonus packages. The Industrial Relations Act makes it an offense to discriminate against anyone who is or proposes to become a member or an officer of a trade union. The offense is punishable by a fine equivalent to $1,250 and/or a 12-month prison sentence. Labor laws and regulations are enforced uniformly. There are no export-processing zones, nor are special concessions given to firms producing for export.

c. *Prohibition of Forced or Compulsory Labor.*—Under sections of Singapore's Destitute Persons Act, any indigent person may be required to reside in a welfare home and engage in suitable work. The International Labor Organization (ILO) has criticized the coercive terms of this act, which includes penal sanctions, on the grounds that it is not in compliance with the ILO Convention on Forced Labor, ratified by Singapore in 1965. The Government maintains that the act is social legislation providing for the shelter, care, and protection of destitute persons; that no one is coerced to work; and that work programs are designed towards reintegrating individuals back into society.

d. *Minimum Age for Employment of Children.*—The Government enforces the Employment Act, which prohibits the employment of children under age 12. A child over age 12 and under age 14 must receive written permission from the Commissioner for Labor for "light work suited to his capacity." Through September, no applications were made in 1993, and all seven such applications made in 1992 were disapproved by the Commissioner. Nonetheless, the Government has chosen not to harmonize its legislation with the requirements of the Convention on Minimum Age (Industry), as recommended by the ILO. Employers must notify the Ministry of Labor within 30 days of hiring a child between the ages of 14 and 16 and must forward medical certification to the Commissioner. The incidence of children taking up permanent employment is also low and abuses are almost nonexistent.

Ministry of Labor regulations prohibit night employment of children and restrict industrial work to no more than 7 hours a day. Children cannot work on commercial vessels, with any machinery in motion, on live electrical apparatus lacking effective insulation, or in any underground job. These laws and regulations are effectively enforced by the Ministry of Labor.

e. *Acceptable Conditions of Work.*—Singapore has no minimum wage or unemployment compensation. The labor market offers relatively high wages and good working conditions. The Employment Act sets the standard legal workweek at 44 hours, and provides for 1 rest day each week. Laws and regulations establishing working conditions are effectively enforced by the Ministry of Labor, as are comprehensive occupational safety and health laws. Enforcement procedures, coupled with the promotion of educational and training programs, have reduced the frequency of job-related accidents by a third over the past decade. There has also been a reduction in the average severity of occupational accidents. While a worker has the right under the Employment Act to remove himself from a dangerous work situation, his right to continued employment depends upon an investigation of the circumstances by the Ministry of Labor.

Because of the domestic labor shortage, over 250,000 foreign workers are employed legally in Singapore, 16 percent of the total work force. Most are unskilled laborers and household servants from other Asian countries. Foreign workers face no legal wage discrimination; however, they are concentrated in low-wage, low-skill jobs. Some 65,000 foreign maids, mainly from the Philippines, Indonesia, and Sri Lanka, are employed in Singapore, and there have been complaints of abuse or poor working conditions. The Government does not bar complainants from seeking legal redress and takes a firm stand against employers who abuse their domestic servants. Foreign workers may find it difficult to obtain legal assistance, however, because the Government closed the Geylang Catholic Center in 1987 and no other organization exists to provide legal aid to foreign workers with less than 3 years' residence in Singapore. Employers who have abused domestics have been fined or imprisoned, often with great publicity.

SOLOMON ISLANDS

Solomon Islands, with its population of over 340,000 people, is an archipelago stretching over 840 miles in the South Pacific and the second largest (after Papua New Guinea) of the Melanesian countries. Its government is based on a modified parliamentary system consisting of a single-chamber legislative assembly of 47 members. Executive authority lies with the Prime Minister and his Cabinet. The Prime Minister, elected by a majority vote of Parliament, selects his own Cabinet. This system, adopted on independence in 1978, accords with both Solomon Islands' experience and the Melanesian tradition of leadership based upon individual achievement and political consensus. Political legitimacy rests on direct election by secret ballot. There have been four general elections since independence, the most recent in June. The courts are independent and vigorously protect individual rights.

A police force of about 500 men is under civilian control. There are no armed forces.

Agriculture is the mainstay of the village economy. About 85 percent of the population engages to some extent in subsistence farming, obtaining food by gardening and fishing, and has little involvement in the cash economy. Improved Solomon Islands export performance, particularly in the forestry sector, continued in 1993. However, the resulting improvements in Solomon Islands' fiscal and balance of payments positions are likely to be temporary.

Most basic individual rights are provided for in the Constitution, respected by the authorities, and defended by the courts, but discrimination and violence against women and restrictions on the press remain serious problems. There is a constitutionally provided Ombudsman to look into and provide protection against improper or unlawful administrative treatment.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killings.*—Political and other extrajudicial killing did not occur.

b. *Disappearance.*—There were no reports of political disappearance.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture is prohibited by law and not practiced.

d. *Arbitrary Arrest, Detention, or Exile.*—There was no evidence of politically motivated arrests. Exile is not practiced.

e. *Denial of Fair Public Trial.*—The judicial system is a blend of British and traditional systems. There is a high court, plus magistrates' courts. Accused persons are entitled to counsel. Provision is made for writs of habeas corpus under the law. It is illegal to coerce statements. Violations of civil liberties are punishable by fines and jail sentences.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—In addition to legal provisions, the traditional culture provides strong protection against these types of abuses.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Although freedom of the press is provided for in the Constitution, the Government placed severe restrictions on the media's news coverage on several occasions in 1993. The former government banned all coverage by local media of the border tensions between Solomon Islands and Papua New Guinea from May, when clashes were first reported, until the election of the new Government in June. The Solomon Islands Broadcasting Corporation (SIBC) initially defied this ban by relying on outside coverage provided by the Australian Broadcasting Corporation and other sources, but this was later stopped by the Government. The new Government, elected in June, has pledged to abolish the media restrictions imposed by the previous government and has hired as press spokesperson a journalist who was fired from the SIBC for defying a censorship order of the former Prime Minister.

Freedom of speech and academic expression is recognized in the Constitution, supported by the courts, and honored by the Government.

b. *Freedom of Peaceful Assembly and Association.*—The right of association is provided for in the Constitution and freely exercised. Demonstrators must obtain a permit, but permits have never been denied on political grounds.

c. *Freedom of Religion.*—Freedom of religion is guaranteed by law. Organized religions as well as indigenous beliefs are freely practiced.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no legal or administrative restrictions on movement of Solo-

mon Islands' citizens within or out of the country. Native-born citizens may not be deprived of citizenship on any grounds. Although they have not been formally granted asylum, a limited number of displaced persons from Papua New Guinea's North Solomons Province, the site of conflict on Bougainville Island, are allowed to remain in the country indefinitely.

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

Citizens have the right to change their government through periodic free elections. Since independence, Solomon Islands has had four parliamentary elections (the most recent in June 1993) and several elections for provincial and local councils. The Governor General declared Francis Billy Hilly Prime Minister following his election by one vote in Parliament in June. The result was contested by former Prime Minister Solomon Mamaloni, but the courts confirmed Hilly's election.

Besides the general elections, three additional changes of government occurred because of votes of no confidence in Parliament. Suffrage is universal over the age of 18.

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

While there are no restrictions on the formation of local organizations to monitor and report on human rights, none has been established to date. There were no known requests for investigation by outside human rights organizations.

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

Women.—Solomon Islands law accords women equal legal rights, however, in most traditional Solomon Islands societies males are dominant, and women are limited to customary family roles. This has hampered women from taking more active roles in economic and political life. Only 1 of the 47 members of Parliament is female, and none of the 15 government ministers is female. A shortage of employment opportunities throughout the country has inhibited the entry of women into the work force.

While actual statistical data are scarce, incidents of wife beating and abuse appear to be common. In the rare cases that are reported, charges are often dropped by the women before the court appearance or are settled out of court. Police are reluctant to interfere in what they perceive as domestic disputes. In addition, many of the laws benefiting women are from the British tradition and are viewed by many Solomon Islanders as "foreign laws" not reflective of their own customs and traditions. The magistrate courts deal with physical abuse of women, on the basis of inherent common law powers, as they would any other assault, although prosecutions are rare.

There is no national policy on women. The government-supported National Council of Women is the principal women's organization involved in trying to improve the status of women in society. While the Council continues to hold workshops and to conduct programs to train women in skills needed to enhance their self-confidence, and to strengthen their participation in the political and economic life of Solomon Islands, its efforts on the legislative front seemed to have slackened. The Government provides support for these efforts through the Women's and Development Division of the Ministry of Health. Various nongovernmental organizations and church groups also actively train women and support their empowerment.

Children.—Children are respected and protected within the traditional extended family system, in accordance with the family's financial resources and access to services. As a result, virtually no children are homeless or abandoned. Although some cases of child abuse are reported, there is no pattern of societal abuse. Nevertheless, due to limited access to health care, infant mortality rates for children under 5 years of age were estimated to be 42.9 per 1,000 live births in 1989, the latest year for which statistics are available. An estimated 25 percent of children under 5 are malnourished. Although education is a government priority, access is limited and school attendance is not compulsory. An estimated 25 percent of school-age children never begin primary studies. Total enrollment for primary-school-aged children was estimated to be 66 percent in 199 . The Constitution grants children the same general rights and protection as adults. Existing laws are designed to protect children from sexual abuse, child labor, and neglect. Within the limits of its resources, the Government is committed to the welfare and protection of the rights of children.

People with Disabilities.—There is no law or any national policy on the disabled, and no legislation mandates access for the disabled. Protection and care of the disabled is left to the traditional extended family and nongovernmental organizations.

Informally, the disabled in urban areas frequently find work through the public service sector. However, with high unemployment countrywide and few jobs available in the formal sector, most disabled persons, particularly those in rural areas, do not find work outside the family structure.

Section 6. Worker Rights

a. *The Right of Association.*—The Solomon Islands' Constitution implicitly recognizes the right of workers in the public and private sectors to form or join unions, to choose their own representatives, to determine and pursue their own views and policies, and to engage in political activities. The courts have confirmed these rights. Approximately 20–25 percent of the total population participates in the formal sector of the economy. Of that, approximately 60–70 percent are organized: 90 percent of the public sector and approximately 50 percent of the private sector. There are two major private sector unions: the Solomon Islands National Union of Workers and the National Bank Officers Association. The major unions in the public sector are: the Public Employees Union, National Teachers Association, Nurses Association, Medical Association, and two unions at the College of Higher Education (one each for lecturers and nonacademic staff). Labor seldom resorts to strikes and prefers to negotiate. Disputes are usually quickly referred to the Trade Disputes Panel for arbitration, either before or during a strike. Employees are protected from arbitrary dismissal while the Panel is deliberating. In practice, the small percentage of workers actually involved in the wage economy means that employers have an ample supply of replacement workers if disputes are not resolved quickly. There is some legal protection for workers against employer retaliatory actions. Once a case has been referred to the Trade Disputes Panel, the employer cannot undertake a lockout or summarily dismiss employees. The definition of "summarily dismiss" has yet to be resolved, however. In 1993 the only strikes of note were a successful work stoppage at an oil palm plantation in support of a pay raise and a contentious strike, followed by a lockout, at the National Provident Fund. The latter may provide the courts an opportunity to define further the rights of those dismissed during a strike. Unions are free to affiliate internationally, and the largest trade union, the Solomon Islands' Union of Workers, is affiliated with the formerly Soviet-controlled World Federation of Trade Unions (WFTU). The Union of Workers remains loosely affiliated with the WFTU. It is also affiliated with the South Pacific Organization Congress of Trade Unions.

b. *The Right to Organize and Bargain Collectively.*—The right to organize and bargain collectively is provided for by the Trade Disputes Act of 1981, and unions engage in it frequently.

Wages and conditions of employment are determined by collective bargaining. If disputes between labor and management cannot be settled between the two sides, the disputes are referred to the Trade Disputes Panel (TDP) for arbitration. The three-member TDP is made up of a chairman appointed by the judiciary, a labor representative, and a business representative. The panel is independent and neutral.

In a labor-management dispute, either party may refer the dispute to the panel for arbitration. While a dispute is before the panel for arbitration, labor is prohibited from striking, and management is prohibited from dismissing workers who are party to the dispute. During arbitration both public and private sector workers may be legally required to return to work. A decision by the TDP is legally binding but may be adjusted by the Government "in the interest of the economy," according to Section 8 of the Trade Disputes Act of 1981. The Government has never taken such action.

Workers are protected by law against antiunion activity, and there are no areas where union activity is officially discouraged. Charges of antiunion activity would be referred either to the High Court or to the TDP for resolution. There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is prohibited by the Constitution, except as part of a court sentence or order, and this prohibition is observed.

d. *Minimum Age for Employment of children.*—Child labor is forbidden for children under the age of 12 except when performed in the company of parents in light agriculture or domestic work. Children under 15 are barred from work in industry or on ships; those under age 18 cannot work underground or in mines. The labor division of the Ministry of Commerce, Trade, and Industry is charged with enforcing child labor laws. Given low wages and high unemployment, there is little incentive to employ child labor.

e. *Acceptable Conditions of Work.*—Although the minimum wage is supposed to be adjusted annually to reflect changes in the retail price index, the present rate

of 23 cents per hour has been in place since 1988. The legal minimum wage is not adequate to sustain a family of four in the capital of Honiara. Because most of the population is dependent to some extent on the subsistence economy, and as there is high unemployment and underemployment, workers are available at the current wage.

The Labor Act of 1969, as amended, and the Employment Act of 1981, as well as other laws, regulate premium pay, sick leave, the right to paid vacations, and other conditions of service. The standard workweek is 45 hours and is limited to 6 days weekly. There are provisions for premium pay for overtime and holiday work as well as provisions for maternity leave. Both an active labor movement and an independent judiciary ensure widespread enforcement of labor laws in major state and private enterprises. The Commissioner of Labor, the public prosecutor, and the police are responsible for enforcing labor laws. However, they usually react to charges of labor law violation rather than take the initiative in monitoring adherence to these laws. The extent to which the law is enforced in smaller establishments and in the subsistence sector is unclear. There appear to be no legal safety and health standards. Workers at construction sites are not required to wear protective clothing or helmets. Malaria is endemic in the Solomon Islands and affects the health of many employees. Agricultural workers have a high risk of contracting malaria but are not provided with malaria suppressants.

THAILAND

Thailand is a democratically governed constitutional monarchy with a history of frequent military coups and powerful military-bureaucratic influence over political life. The King exerts strong informal influence on carefully selected issues.

Thailand's return to democratic government was solidified in 1993, as the popularly elected civilian government has revitalized the country's democratic institutions. After prodemocracy protests were violently suppressed by the military in May 1992, free and fair elections were held that September. The military leaders responsible for the crackdown were removed from their positions or demoted but have not been prosecuted, although many were removed from their positions or demoted. According to government and nongovernmental organization (NGO) sources, approximately 48 protesters are still listed as "missing." Prime Minister Chuan, a veteran legislator widely respected for his strong democratic beliefs, heads a five-party coalition that enjoys a 12-seat majority in the Parliament. He has committed his administration to extending the benefits of Thailand's rapid economic growth to all sections of the country.

The Thai security apparatus has wide-ranging legal powers, largely deriving from past militarily controlled administrations. The military has been supportive of the new democratic government. Nonetheless, military leaders continued to have an informal but influential role in internal politics, especially in areas outside the capital. There continued to be credible reports of summary executions and physical abuse of detainees by police officers, as well as infringements by security forces on the right of peaceful assembly. It is unusual for victims or their families to initiate legal action against the police or military, in part because convictions are rare. Enforcement of a broad range of laws and regulations by police is noticeably lax.

A newly industrializing country with a free enterprise economic system, Thailand continued to enjoy remarkable economic growth, averaging greater than 8 percent annual growth for the past 5 years. The Thai political system generally provides strong protection for individual economic interests, including property rights. Although the industrial sector is still expanding rapidly, 65 percent of the population still lives in rural areas and depends on agriculture as the chief means of livelihood. There has been little progress in rectifying the gap between urban and rural incomes.

Under the Chuan administration, the Government commitment to human rights and civil liberties has become more pronounced. The Government expanded protection of the right to freedom of speech and assembly, increased the number of women in government, sought to reduce child labor and prostitution, and visibly supported human rights organizations operating in Thailand. Government control of the media relaxed somewhat and several new newspapers were established. Areas of human rights abuse in 1993 included instances of extrajudicial killing and abuse of criminal suspects by police along with government failure to prosecute offenders; legal and societal discrimination against women; violence (including trafficking for purposes of prostitution) against women and children, persistent widespread use of child labor, and selected restrictions on free speech and press.

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

a. *Political and Other Extrajudicial Killing.*—There is no credible evidence that criminal suspects are systematically or regularly targeted for violence. However, there continued to be credible reports by legal organizations, reputable nongovernmental organizations (NGO's), and the press that police summarily executed criminal suspects, particularly in areas outside the capital. Reliable NGO sources who have access to court records report that over 60 deaths occurred either during arrest or while in police custody in 1992. These figures represent only the 34 district courts (of a total 95) that reported their 1992 statistics. It is difficult to determine what percentage of police homicides were justified. NGO legal advocacy groups pursued legal action against the police in approximately 15 percent of the cases in 1993. Official government statistics on the number of criminals and suspects killed by police in 1993 were unavailable.

For example, on August 7, five police officers from Ban Pong district, Ratchaburi province, were accused of killing a vegetable exporter who ran a traffic light. The Ministry of Interior (MOI) agreed to conduct an autopsy and initiate an investigation into the incident. Relatives of the vegetable vendor have retained an attorney to help track progress of the MOI investigation, which was still in progress at year's end.

Although in the past there have been reports that police killed detainees to keep them from reporting abuse to authorities, there were no such cases reported in 1993. However, police beat to death a demonstrator during protests against falling rice prices. (See Section 2.b.)

Convictions of police in summary execution cases are rare, as evidence is often lacking due to witnesses reportedly being intimidated or paid not to testify. The law allows personal suits against police officers for criminal actions taken while making an arrest. However, due to flaws in the legal process and ingrained cultural attitudes, victims or their families rarely file suits against the police. During the initial police inquiry, most police investigations routinely determine that no wrongful action was taken on the part of the police; judges generally follow the prosecutor's recommendations. In cases of police homicide, a blood relative of the deceased has the legal right to sue. If pursued by the family, the case is handled by the same office, in some instances by the same prosecutor, who has already ruled that no wrongful death occurred. Reliable law advocacy organizations know of four cases that were filed against the police for homicide in 1992. There is no information to determine how many cases are settled out of court, but in cases where suits are filed, the family of the deceased often receives compensation from the Government and the suit is dropped.

In August the Pattani United Liberation Organization (PULO) Muslim separatist group was blamed for an attack on a train that resulted in one death. In August and September a wave of violence erupted in southern Thailand, resulting in the deaths of several soldiers and one civilian. Muslims and particularly PULO were blamed for the violence, but as of September, the Government had not produced any evidence to link PULO to the violence.

b. *Disappearance.*—There were no new cases of disappearance in 1993.

After months of debate, NGO's, the MOI, and police officials agreed on a list of approximately 48 "missing" protesters following the military's violent suppression of prodemocracy protesters in May 1992. Local investigations into their whereabouts continue, and many family members and NGO's suspect the majority are dead. An amnesty decree, reaffirmed in November 1992 by the new administration, effectively protects military leaders and protesters accused of criminal activities during the May events from criminal prosecution. In response to the decree, NGO's and the relatives of the missing filed a civil suit against three of the top military leaders involved in the May violence. At year's end, the court had postponed the preliminary hearing on the suit while it considered a petition by the plaintiffs that they be allowed to sue in forma pauperis.

Also in response to the May 1992 violence, legislation was passed in July requiring full Cabinet approval before military force can be used to quell civil disturbances. There was no progress in the cases of eight Cambodian criminal suspects who disappeared after being turned over to Thai police in April 1992. With the closure of all Cambodian displaced person camps earlier this year and the repatriation of all displaced Khmer to Cambodia, the Government appears to have dropped this case.

No instances of disappearance at the camps for displaced persons along the Thai borders were reported. On March 2, the MOI charged a police lieutenant colonel with the kidnaping in February 1990 of a Saudi Arabian businessman suspected of

involvement in the 1989 murder of Saudi Arabian diplomats in Bangkok, but in September the charges were dropped. The businessman and two other Thai suspects have been missing since 1990 and family members believe they are dead. The families of the two Thai suspects claim that police repeatedly harassed the men and eventually detained them to try to elicit a confession. The police have no official record of arrests or release of any of the three involved, but all were last seen in police custody.

One lingering disappearance case that began in 1991, that of Labor Congress of Thailand (LCT) President Thanong Po-An, remained unresolved at year's end. The LCT continued to press the current administration to make a more serious attempt to locate Thanong. A government-appointed committee reported in August that it had no additional evidence to determine the fate of Thanong. It is widely believed that Thanong was kidnaped and killed because of his criticism of the military regime that took over the country in February 1991.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although Thailand's Criminal Code forbids cruel, inhuman, or degrading treatment or punishment, there continued to be credible reports of police beatings of prisoners and criminal suspects. Security forces do not use systematic physical abuse or violence to target any particular group. However, criminal suspects regularly complain of police attempts to secure confessions or evidence through the use of torture such as electric shocks.

In general, access to prisoners is not restricted. The foreign prison population regularly receives visitors, and there are scheduled visiting times for both Thai and foreign prisoners. Solitary confinement is sometimes used to punish difficult prisoners.

Conditions in most prisons do not, in general, threaten the life or health of inmates. However, there have been continuing unsubstantiated reports of sporadic physical abuse of both Thai and foreign prisoners by prison guards in response to disciplinary problems. International observers have commented that conditions at the Suan Phlu immigration detention center are so bad as to constitute cruel and unusual punishment, noting extreme overcrowding and lack of medical care. Immigration detention facilities are not administered by the Department of Corrections and are not subject to many of the regulations found in the regular prison system, such as those mandating exercise and medical care or limiting length of detention. Detainees are therefore held for extended periods without being allowed to leave their cells or exercise and may be incarcerated for an indefinite period of time. Thai immigration law requires that prosecutors formally charge detainees in court within 91 days of their detainment. However, some detainees unable to put up bail or pay deportation costs, or detainees whose countries refuse to readmit them, can and have been held longer.

d. *Arbitrary Arrest, Detention, or Exile.*—Thailand's Criminal and Penal Codes are based largely on Western European models. Except in cases of crimes in progress, arrest warrants are generally required. Specific charges must be brought against detainees within 48 hours, but police have the authority to extend the detention period to 7 days if required to complete an investigation. Detainees do not have the right to have their lawyers present during questioning.

There is a functioning bail system, but it is also evident that judges have considerable discretion in determining eligibility for bail. In a recent prominent case of an alleged plot to assassinate the President of the Supreme Court, the presiding judge denied bail to two of four co-defendants, releasing the others (including the alleged mastermind) on bail. The only legal basis for detention without specific charges for long periods (up to 480 days) is the Anti-Communist Activities Act. No one has been detained under the act's provisions since 1984. Nevertheless, some detainees at the Suan Phlu immigration detention center reportedly have been held as long as a year. In response to the amnesty decree, all remaining detainees arrested during the May 1992 events were released from police custody and charges were dropped.

Of the approximately 50,000 inmates in Thailand, it is impossible to ascertain what percentage are pretrial detainees. Prison officials do not maintain statistics on sentencing and detention and pretrial detainees are not segregated from the general prison population.

e. *Denial of Fair Public Trial.*—The Thai legal system provides for the presumption of innocence and access to courts or administrative bodies to seek redress. The civilian judicial system has three levels of courts: courts of first instance, courts of appeal, and the Supreme Court. A separate military court hears criminal and civil cases pertaining to military personnel as well as those brought during periods of martial law. Also, Islamic courts hear civil cases concerning members of the Muslim minority. A serious flaw in providing due process rights is the lack of appeal from decisions of a military court. Trials for misdemeanors are decided by a single judge,

although two or more judges are required in more serious cases, in courts of first instance, and by a panel of judges at the appellate level. While most trials are public, the court may order a trial closed. This is most often done in cases touching on national security or the royal family.

Career civil service judges preside over the courts. Judicial appointments and structures are not subject to parliamentary review. Although generally regarded as independent, commentators frequently charge the judiciary with venality and complain of competition for preference among judges. In March a former Supreme Court judge filed a malfeasance suit against former Prime Minister Anand for failing to comply with a resolution concerning the reassignment of judges. The lawsuit stemmed from Anand's 1992 effort to increase executive branch control over the Judicial Commission, which is responsible for assigning judges.

The widely publicized lese majeste trial against Sulak Siwarak began June 2 after his return from self-exile in December, 1992. The trial was open to the public and Sulak Siwarak remained free on bail during the court proceedings; the trial is expected to continue until mid–1994.

The trial continued in the lese majeste and secession case of four Shiite Muslims, who have been held in prison since their arrest in Pottanim in 1990. Suspects in other similar cases have been released on bail, but repeated attempts to secure bail for the four have been denied without justification.

The 10 officials of the former Chatchai government found to be "unusually wealthy" filed suit to recover assets seized by the former military junta, following a Supreme Court ruling that the decree under which the assets were seized was unconstitutional. In the wake of a subsequent lower court ruling in favor of one of the plaintiffs, the Government announced it would not appeal the order to return the seized assets. It also decided that as a result of the precedent set in this case, it would return the assets of all "unusually wealthy" politicians (minus any outstanding taxes owed) without waiting for the courts to rule on each case. At year's end, the assets of most of the 10 politicians had been returned.

Defendants tried in ordinary criminal courts enjoy a broad range of legal rights. Although they have no right to counsel during the investigative phase of their cases, detainees are granted access to a lawyer of their own choice before and during the trial. A government program provides free legal advice to the poor, but indigent defendants are not automatically provided with counsel at public expense. Most free legal aid comes from private groups, including the Thai Lawyers' Association and the Thai Women Lawyers' Association.

Well-informed legal sources estimate that there are at most 10 political prisoners in Thailand. Political affiliation and questionable evidence may influence the ability of the accused to receive a fair trial or fair punishment.

The trial of 2 members of the outlawed Communist Party of Thailand indicted in 1991 on charges of having joined in a 1982 plot to assassinate the Queen, the Prime Minister, and the army commander continued in 1993. Ex-Major General Manun Rupkhachon, accused of masterminding the plot, returned to Thailand in November 1992 to face similar charges and was released on bail. Little progress was made in the case since his return; only two of 134 state witnesses have testified, and several others refused to appear in court. Attempts to speed up the judicial process were unsuccessful.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law requires that police possess a search warrant prior to entering a home without the owner's consent. However, search warrants are issued by the police with prior approval only from the MOI or provincial governor and are not subject to prior judicial review. There have been credible reports that officers sometimes endorse warrants in advance and then allow their noncommissioned subordinates to apply them as needed. The Anti-Communist Activities Act allows officials engaged in "Communist suppression operations" to conduct searches without warrants, but these powers rarely have been invoked in recent years and were not invoked in 1993.

Thai society is essentially an open one; membership in political organizations is voluntary and the unmonitored exchange of ideas is generally permitted. However, it is widely suspected that security services monitor persons espousing leftist or controversial views.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for, and Thai citizens generally enjoy, a substantial measure of freedom of speech, especially with regard to criticism of government personalities and policies. However, criticism of the royal family (lese majeste), threats to national security (or advocating a Communist system of government), or speaking in a manner likely to incite disturbances or insult religion are not permitted under the law.

The Government permits open criticism of its policies by both journalists and private citizens. Privately owned newspapers and periodicals practice some self-censorship especially with regard to the monarchy and national security issues. Strong criticism of political parties, personalities and the Government is common and quite robust. In the past, there were rare instances of journalists being killed in order to suppress, or retaliate for, their reporting; there were no such cases in 1993. In fact, journalists report they feel free to comment on government activities without fear of reprisal.

The Government maintains tighter control over the electronic media than it does over the print media. Radio stations are government licensed and operated by government, military, and private entities. They are required by law to broadcast government-produced newscasts four times daily and a military-produced commentary once a day. However, in 1993, two prominent university stations refused to broadcast the military commentary. There was no government retaliation for their actions.

Although programmers are generally free to determine the content and nature of television broadcasts, a government committee set up in 1975 reviews television and radio programming. It is common for internal censorship boards to edit or "blackout" portions of programming deemed politically sensitive. In January a popular politically oriented talk show was censored because the frank and open conversation was considered too controversial.

Authorization for the establishment of two new, privately owned television channels was approved last year, and the bidding process began in October. Of the existing five national television channels, two are run by the army and three by the Government. Two cable networks (totalling nine stations) are available in the capital and operate without significant government interference; satellite television is also available in other areas of the country.

Representatives of the Thai film industry continued to criticize the police-controlled film censorship board, which regularly deletes all references in films to a number of topics deemed politically sensitive or considered pornographic. Among the topics subjected to censorship are police corruption, criticism of the Thai military, misconduct by members of the Buddhist clergy, and the 1976 student uprising. Thai domestic publications continued to present a wide range of political and social commentary in 1993.

Unless critical of the royal family or the monarchy, foreign and domestic books normally are not censored and circulate freely. The 1941 Press Law empowers the police Director General to prohibit the import of printed matter deemed dangerous to public order and morals. He publishes a list of books barred from import in the "Royal Gazette" each year. While the list mainly consists of literature widely regarded as pornographic, it also still includes books written by Communists. The Government imposed no new permanent or temporary bans on the import of foreign publications during 1993; the last case of a foreign publication being barred from import occurred in 1989. Academic and technical research was conducted freely, including widely publicized research on corruption in political parties and the police, in 1993 .

b. *Freedom of Peaceful Assembly and Association.*—While the Thai legal system generally recognizes the right to peaceful assembly, in practice government officials at times act to restrict this right.

Official intolerance of public demonstrations appears highest in rural areas, particularly in the northeast of the country. Residents of these areas who stage peaceful public protests are sometimes detained for inciting unrest and assembly of 10 or more persons with intent to commit violence; rarely are protesters actually charged. In one ongoing case, students were charged with inciting unrest after arranging a protest in which one student committed self-immolation; the trial began in 1990 and all defendants are free on bail.

In 1993 there was one notable incident of violence during a peaceful protest. Thousands of farmers in Kamphaeng Phet protested falling rice prices and their rally blocked the main roads leading to the provincial hall. After several days of peaceful protest, farmers allegedly injured several policemen monitoring the scene. Police responded by beating the protesters with batons, causing 25 injuries and one death. After one farmer died from massive head injuries while in police custody, local politicians demanded an investigation into the killing. Soon after the incident, relatives of the victim decided not to pursue legal action against the police after receiving an amount equivalent to $4,000 from the provincial administration. Local officials deny that the compensation was awarded to the relatives to persuade them to stop legal action. An interim report by the government panel investigating the death that was leaked to the press in June absolved the Government of responsibil-

ity for the violence. A police probe to identify those officers responsible for beating the farmer is ongoing.

Freedom of association is generally guaranteed for Thai citizens as long as it is not perceived to threaten national security. Private associations must register with the Government, but permits are not required for private meetings or gatherings unless held on public property.

c. *Freedom of Religion.*—Freedom of religion is generally practiced and protected by law and custom. The de facto state religion is Theravada Buddhism, but other faiths are not restricted. Religious publishing, regardless of faith, is allowed. Foreign clergy are permitted to preach freely, although there are limits on the number of foreign missionaries admitted.

There are no restrictions on religious ceremonies or instruction, or on conversions from one faith to another, but members of minority religious movements have on occasion been subjected to legal action. One example of this has been the ongoing trials (begun in 1990) of dissident Buddhist leader Phra Potirak and his followers, who have been accused of violating the law governing the Buddhist ecclesiastical hierarchy and impersonating Buddhist monks or nuns. Phra Potirak and his followers remain free on bail and have continued their religious activities.

Like other private associations, religious groups are generally required to register with the Government. Since the 1970's, in an effort to limit the number of separate registrations by Christian denominations, the Government has required Christian church bodies to register with one of five umbrella groups. Fixed numbers of work permits for Muslim and Christian missionaries and religious workers are allocated to each umbrella group.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The right of citizens to change their residence or workplace was unabridged. Travel was restricted in certain border areas where foreign or vestigial domestic insurgent groups remain active. Longstanding restrictions on the travel and place of residence of certain Chinese and Vietnamese aliens living in Thailand remained in place in 1993. In addition, some long-term noncitizen residents of Thailand must seek permission from local authorities for domestic or international travel.

Foreign travel by women may be restricted by a new regulation enacted by immigration authorities which requires women to list their marital status. The Government states the new regulation is intended to help reduce trafficking in women for purposes of prostitution. There is also a law dating to the last century that requires women to obtain their husbands' permission before traveling outside Thailand. Available evidence indicates this law is used only to combat trafficking in women for purposes of prostitution. An additional, often criticized requirement that female passport applicants under age 36 sit through a series of interviews regarding their employment records and finances remained intact. Passport applications by single Thai women and children under the age of 14 must also be approved by the Department of Public Welfare. These provisions are intended to prevent the export of children for sale and women for purposes of prostitution.

The Government has not revoked citizenship for political reasons.

While not a party to international conventions on the status of refugees, Thailand has acted impressively in the spirit of those agreements by providing first asylum to over 1 million people from Laos, Cambodia, and Vietnam since 1975.

In May Thai police and soldiers removed 563 Cambodians from the Site 2 border camp and transported them to a U.N. High Commissioner for Refugees (UNHCR) reception center in Cambodia. The group had refused to join the UNHCR repatriation convoys that returned 370,000 Cambodians from camps in Thailand between April 1992 and April 1993. Although the return of the 563 was involuntary, they were not entitled to third country resettlement, and there is no evidence that excessive force was used.

Thailand continued to provide first asylum to Vietnamese and Lao asylum seekers and to process them in accordance with the Comprehensive Plan of Action (CPA) agreed to in Geneva in 1989. There were no reports of any pushoffs of Vietnamese asylum seekers in 1993.

While there were unconfirmed reports of pushbacks of Lao asylum seekers by Thai government officials in 1993, Lao asylum seekers in Thailand continued to be screened under provisions of the CPA to determine their eligibility for refugee status. Thailand announced that all Lao camps are to be closed by 1995 and continued to cooperate with the UNHCR and Laos in a trilateral program to facilitate the voluntary repatriation of certain Lao in Thailand.

Official Thai policy since April 1, 1989, has designated Burmese asylum seekers in Thailand as illegal immigrants subject to deportation. However, senior Thai officials stated on several occasions in 1993 that no Burmese recognized by the UNHCR

as a "person of concern" would be deported. In November 1992, the Government opened a first asylum camp in Ratchaburi province, commonly referred to as the "Safe Area", for Burmese dissidents residing in Bangkok. Residents of the Safe Area have regular access to UNHCR which has concluded that the conditions at the safe site meet broadly accepted international standards for the protection and welfare of asylum seekers. The camp provides legal status for eligible Burmese who have been subject to arrest and deportation as illegal immigrants. About 150 of the 738 Burmese explicitly authorized to live in the camp resided there by year's end. Despite threats of a crackdown, the majority of eligible Burmese refused to move to the camp. Some cited a fear of summary deportation, while others preferred the relative freedom of life in Bangkok. In September the UNHCR temporarily withdrew its contractor from the camp in response to acts of violence by a few residents against her and her property.

Approximately 1,500 Burmese young people, students, and dissidents live in camps along the Thai-Burma border. By year's end, there were also about 73,000 ethnic minority Burmese residing in some 30 camps in Thailand near the Burma border. In 1993 there were increasing reports that some of these camps served as support bases for combatant activities in Burma by ethnic insurgent groups against the Burmese military. On this basis, the Thai Government ordered the relocation of several camps to Burma. The Thai Government continued to permit voluntary agencies to provide food, medical, and sanitation assistance along the border. Thailand also allowed the UNHCR greater access to Burmese border camps in Thailand.

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

The right of Thai citizens to criticize and peacefully alter their government increased in 1993. The democratically elected coalition Government was generally successful in its efforts to strengthen democratic institutions. Although Thailand's history has been marked by frequent military coups and powerful military-bureaucratic influence over political life, since the May 1992 violence the military's role in politics has significantly declined. The multiparty elections held in September 1992 were widely deemed the most free and fair in Thailand's history. Although future military intervention in politics cannot be ruled out, the coalition Government of Prime Minister Chuan is strongly committed to protecting democratic principles. Thailand's current military leadership appears genuinely supportive of the civilian government and of democracy.

While there are no legal restrictions on political participation, women are generally underrepresented in national politics and in high governmental positions. However, the number of women in local and national politics increased in 1993 as a result of more progressive government attitudes and the 1992 MOI decision to abolish regulations that banned women from serving as deputy district officers. In January the Cabinet approved Thailand's first female governor and deputy governor, and in March the first 13 women were appointed deputy district officers by the MOI's Department of Local Administration (DOLA). In May three more categories of civil service positions were opened to women, and the first female police major general was named in August. Also, in September, a woman was named deputy minister of public health—the first woman to be appointed to a Cabinet position by the current Government.

Although there are no laws that prohibit participation of ethnic and religious minorities, these groups remain noticeably underrepresented in national politics. Ethnic minorities in the north often lack documentation of Thai citizenship, effectively barring their participation in the political process. (See Section 5.)

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

Local human rights organizations, which operated without government restriction, were more visiblethan previously in their attempts to press the Government to institutionalize democratic reforms. Local human rights organizations have been credited with helping to bring about changes in laws concerning child prostitution, publicizing environmentally threatening development, and promoting the status of women. They also continued to pressure the Government to account for those still missing after the 1992 demonstrations.

The Government took a more active role in human rights issues in 1993 and has generally received positive assessments from NGO's and other groups concerned with the protection of human rights.

In February the Government allowed a group of seven Nobel Peace Prize Laureates, including the Dalai Lama and Bishop Desmond Tutu, to visit Thailand and advocate the release of fellow Laureate Aung San Suu Kyi, who has been under

house arrest in Burma since 1989. The decision to allow the Nobel Laureates to visit Thailand was significant as it reaffirmed the Government's commitment to human rights, even in the face of some military and civilian opposition.

International human rights NGO's have worked freely in Thailand on potentially controversial and sensitive issues including AIDS, narcotics, and refugees. Although the Government often criticizes these groups for being politically motivated and biased, it has not penalized or repressed human rights observers.

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

Women.—Women generally have equal legal rights, with specific guarantees of equality with men in the areas of education, matrimonial property, the right to choose habitation and employment, and child custody. There has been a National Commission on Women's Affairs since 1991. Inequality remains in the area of domestic law. A man may sue for divorce on the grounds that his wife has committed adultery, while a woman faces the additional legal burden of proving her husband has maintained or honored another woman in a manner equal to his wife. There are no laws in place to punish men who refuse to pay child support.

Though no Thai law specifically addresses domestic violence, the Criminal Code's provisions on assault and abuse make both spousal and child abuse criminal offenses. While reliable statistics are hard to come by, one NGO that counsels abused women states that in 1993, 175 cases of spousal abuse were reported. This NGO notes that between 1980 and 1993, there were an estimated 2,598 reports from battered wives. NGO's concerned with these issues believe the number of abuse cases is rising, and women's rights groups have set up counseling and shelters for victims.

Although the Government denounces domestic violence, law enforcement has not been vigorous; physical abuse often goes unreported. There is no legal procedure to combat domestic violence short of criminal prosecution. Rules of evidence often make prosecuting such cases difficult, especially when the victims are children. Due to these reasons and ingrained cultural attitudes that permit spouse abuse, police are often reluctant to pursue these cases. Private women's and children's rights groups provide limited legal assistance to victims of abuse.

Prostitution is acknowledged as one of the country's most pervasive and troubling social problems. Estimates of the numbers of women and children engaged in prostitution vary widely. According to the Public Health Department, there are approximately 75,000 prostitutes in Thailand. The large number of temporary sex workers and the migratory nature of prostitution in Thailand makes an accurate estimate of the number of women involved in the sex industry difficult. Several well-informed NGO groups estimate that the number of prostitutes at any given time ranges between 200,000 and 500,000; other credible sources place the figure at close to a million. However, all NGO's generally discount the 75,000 figure reported by the Government as grossly misleading.

Women engaged in prostitution typically come from poor rural areas, particularly from the north. With scant economic opportunities in their home villages, many turn to working as prostitutes in urban areas as a way of fulfilling familial obligations and improving the standard of living for themselves and their families. It is common for procurers to advance the parents of young women a substantial sum against their future earnings; the money frequently is used to pay off debts or to build a new house. The women are then obligated to work in a brothel for a fixed period of time in order to pay back the loan. No data are available on the number of women forced into prostitution against their will. Human rights monitors believe that the majority of the women who engage in prostitution are not kept under physical constraint, although such cases exist, particularly with women lured into prostitution from Burma.

In order to combat the lure of prostitution, the Government in January set up a vocational training rehabilitation program to keep women and children from reentering the sex trade. The Government and NGO's also initiated efforts to educate women in rural areas about the dangers of prostitution.

The trend of trafficking in women from hill tribes and neighboring countries continued. Brothel operators reportedly favor such women because they are cheaper to buy and their inability to speak Thai makes them easier to control. In a widely publicized brothel raid in Ranong in July, 150 Burmese women were arrested by police as illegal immigrants and prostitutes. Many of the women claimed they were tricked into coming to Thailand by offers of employment. The women were kept locked in dormitory style rooms, and many complained they were physically abused by the brothel operators if they refused to work as prostitutes. Because they are considered illegal immigrants, the women have no right to legal counsel or health care while imprisoned. Women's rights groups lobbied the Government to allow them to pro-

vide basic health care to the women until they are deported back to Burma, but were denied access to the jail.

There have also been a number of well-documented cases of local networks that "export" women for prostitution to such countries as Germany, Japan, and the United States. Recent press reports publicized the return of 2,000 Thai prostitutes who had been working illegally in Japan. Recruiters reportedly receive $12,000 for each prostitute who successfully enters Japan, thereby making the export of women lucrative for both the procurer and the women themselves, who can earn significantly more money abroad.

Despite occasional high profile raids on brothels, laws against prostitution have not been effectively enforced. In many cases, brothels pay off local government representatives and police. One NGO has reported publicly that it knows of many instances where Thai police drove Burmese women into Thailand in police vehicles and delivered them directly to brothels. In the much publicized raid against brothels, hundreds of prostitutes were arrested while very few brothel owners or police were arrested. Of these, only a small number were charged and even fewer prosecuted. There are currently four laws designed to combat adult and child prostitution, but observers note that these laws are rarely enforced. Under the Penal Code, prostitutes are considered criminals, whereas brothel owners, procurers, and clients are not subject to criminal statutes. In September a Cabinet resolution was passed to begin drafting a revision of the antiprostitution laws to include customers, procurers, and brothel owners and to reduce punishments for the prostitutes themselves. Poor legislation, police corruption, and ingrained cultural norms are widely blamed for the lack of effective measures against prostitution.

Statistics compiled by NGO's concerned with women's issues note that women represent half of the economically active population; women outnumber men in nonfarm enterprises. Women are also more likely to migrate to urban areas for employment, and female workers dominate the primary export industries of textiles, shoe manufacture, food production, and tourism.

The number of women in professional positions has increased, and government regulations require employers to fix the same wages and benefits for similar work regardless of sex. However, discrimination in the workplace continue to exist, and there is a significant gap between average salaries earned by men and women as a result of the concentration of women in traditionally lower paying jobs. In rural areas, sex stereotypes are more pronounced with regard to employment and social status, but even urban women face discrimination and negative stereotypes.

NGO's concerned with the status of women became more active in 1993. Local NGO's have been credited with pressing the Government to abolish discriminatory practices within the civil service (see Section 3). Primarily privately financed and run, women's organizations focus on providing legal assistance, health care, and counseling for victims of abuse. These groups report that while they receive generally positive feedback from the Government and other NGO's, they face difficulty in combating ingrained cultural stereotypes of women.

Children.—There is widespread abuse of children in prostitution and child labor. The Government is committed to eliminating child prostitution, and the Cabinet passed a resolution in September to begin revision of the existing Criminal Code to include clients and procurers of child prostitution. As in the case of adult prostitution, the current laws against prostitution have not been adequately enforced. Although NGO's have attempted to track the number of children involved in the sex industry, there are no accurate statistics. In the past few years, NGO's and government agencies have begun to counsel young people about the dangers of prostitution and the threat of AIDS.

The Criminal Code provides for the protection of children from abuse, and laws on rape and abandonment provide for harsher penalties when the victim is a child. As in the case of domestic violence against women, police are often reluctant to pursue abuse cases, and rules of evidence makes prosecution of child abuse cases difficult.

National/Racial/Ethnic Minorities.—Progress in integrating ethnic minorities into Thai society has been limited. Only half of the estimated 500,000 to 700,000 members of hill tribes are believed to possess documentation as Thai citizens, which prevents them from exercising their basic rights, including participation in the political process. Advocates consistently cite the difficulties faced by many hill tribe members in obtaining Thai citizenship as the primary obstacle to their successful integration into society. The hill tribe population has higher incidences of disease, unemployment, drug abuse, and prostitution than other groups in Thailand.

Vietnamese who entered Thailand prior to 1900 enjoy all the rights of ethnically Thai citizens. However, the approximately 45,000 Vietnamese who fled Indochina in the 1940's and 1950's and reside in northeastern Thailand live under a set of laws

and regulations restricting their movements, residences, education, and occupations. As the threat to Thai national security declined, the Government has seen it in Thai interest to incorporate the Vietnamese population into Thai society. The Government has pursued a more lenient policy toward longtime Vietnamese residents in recent years and moved quickly to process naturalization applications of approximately 30,000 third generation Vietnamese born in Thailand who became eligible for citizenship in 1992. Vietnamese residents must apply for permission to travel within Thailand or to study in the universities, but permission is usually granted. Noncitizen Chinese and their descendants who migrated to Thailand in the 1960's and live in border areas must seek permission from local authorities to travel.

Religious Minorities.—Muslims represent a significant minority within Thailand as a whole and constitute the majority in the four southernmost provinces that border Malaysia. Although the Government has attempted to integrate the Muslim community into Thai society through development efforts and expanded educational opportunities, recent violence in the south demonstrates that divisions remain. The southern provinces are not only separated by religion but by language and culture as well. Discrimination against Muslims is widespread. There are no de jure restrictions on Muslim participation in the political process and several Muslims hold powerful positions within the Government. However, Muslims remain underrepresented in postsecondary education and consequently in many professions.

Following a spate of arson attacks and other violence in southern Thailand in August 1993, security forces arrested and charged four Muslim suspects believed to be supporters of the separatist PULO. The trial of the first suspect arrested has begun, but could take several years as over 40 prosecution witnesses are scheduled to take the stand. The Government has been criticized by some Muslims for its decision to try the suspects in Bangkok in order to protect witnesses from being intimidated. In the wake of the violence, army troops have engaged PULO fighters in occasional skirmishes which have produced minimal casualties on both sides.

People with Disabilities.—Since the disabled rehabilitation bill was approved by Parliament in 1991, the Government has taken few steps to implement the bill's provisions. The bill established a quota system and employer incentives for hiring the disabled, but did not include provisions for special education or training in the workplace. There are no laws or regulations mandating access for disabled persons.

Section 6. Worker Rights

a. *The Right of Association.*—The Labor Relations Act of 1975, as amended in 1991, grants freedom of association only to private sector workers. The 1975 Act extends to these workers the right to form and join unions of their own choosing without prior authorization; to decide on the constitutions and rules of these associations and unions; to express their views without government or employer interference; to confederate with other unions; to receive protection from discrimination, dissolution, suspension, or termination by any outside authority because of union activities; and to have employee representation in direct negotiations with employers. However, no law explicitly protects workers from discrimination due to their participation in organizing new unions which have not yet been officially registered. There are widespread reports that workers seeking to organize unions face discrimination from employers. The 1975 Act specifically withheld from government workers the right to form unions. Nonetheless, civil servants may and do form "employee associations," which are influential in determining salary scales, benefits, and conditions of employment.

Since the advent of the democratically elected Chuan Government, the labor environment has improved. On September 23 a new Ministry of Labor was created to take over functions which were previously the responsibility of the Ministry of Interior, reflecting a change from the traditional tendency in the Government to view organized labor as a security problem. In 1993 the Government also passed laws which improved maternity and overtime benefits for state enterprise workers.

In April 1991, the military-appointed National Legislative Assembly amended the 1975 Act to exclude state enterprise workers, who represented half of organized labor in Thailand, and enacted a new State Enterprise Labor Relations Act (SELRA), which dissolved all unions in this sector. In place of unions, workers in each state enterprise could form a single "association" after at least 30 percent of the enterprise's employees submitted a petition to the Department of Labor to register such association. These associations may submit employee grievances to management and propose changes in benefits and working conditions, but may not negotiate wages. Associations do not have the right to confederate or to join private sector federations. Unofficial contacts between public and private sector unions have continued, however, and the democratically elected Government that took office late in 1992 has not interfered with these relationships. A number of associations have

maintained affiliations their predecessor unions had with international labor organizations.

The SELRA, like the 1975 Act, denies all state enterprise workers the right to strike. In the past, public sector unions circumvented this prohibition by holding "extraordinary meetings" which took workers off the job for days at a time. The SELRA requires associations to hold general meetings only on weekends and holidays, with severe sanctions for holding unauthorized meetings during work hours. Also, under Announcement 54 of 1991, both management and labor must select outside advisers from those who have been certified by the Ministry of Labor as having the requisite qualifications. The ministry offers training courses for those not fully qualified on the basis of prior experience. Advisers can be removed for violations of the government-established standards. Labor leaders maintain that government involvement in the selection of labor advisers weakens their ability to organize and to bargain collectively. Seven labor leaders from the state enterprises have been certified as labor advisers, out of a total of 600. However, many state enterprise labor leaders refuse to apply to become labor advisers, believing that to do so would lend credibility to a system which they do not want to support. Announcement 54 also requires that a proposed strike in the private sector be approved by a majority of the union members in a secret ballot.

In November 1991, the International Labor Organization (ILO) strongly criticized the SELRA. The ILO faulted it for dissolving unions, transferring their assets, limiting the number of associations which may be formed in each state enterprise, setting unusually high minimum membership requirements for associations, denying associations the right to affiliate with private sector unions, and completely forbidding strikes in state enterprises. Enforcement of these restrictions, like enforcement of laws generally, is less than complete. The ILO continues to request that the Government rescind the law. The Chuan Government proposes to replace the SELRA with a new version of the law which effectively restores the rights enjoyed by state enterprise workers prior to the promulgation of the SELRA. The proposed law has been endorsed by state enterprise labor leaders. It has been approved by the Cabinet and by the Juridical Council, but the last parliamentary session in 1993 ended before the legislature could consider the bill. The Government has said the new SELRA will be a priority agenda item when the parliament reconvenes in May 1994.

With respect to the private sector, under the 1975 Act the Government has the authority "to restrict the right to strike whenever a strike would affect national security or cause severe negative repercussions for the population at large." The Government seldom invokes this provision and did not do so in 1993. However, local enforcement officers often threaten to use this provision when dealing with strikes in progress. Thai labor law also forbids strikes in "essential services," defined much more broadly than the ILO standard. No strikes were disapproved on those grounds in 1993.

Labor unrest has been relatively minimal since a period of social upheaval in the mid–1970's. Because of the red tape involved in getting government approval for a work stoppage and the lack of understanding of proper labor procedures on the part of many union leaders, the number of approved strikes has averaged fewer than 10 annually for the past 15 years—there were 7 in the first 6 months of 1993. Unauthorized strikes are far more numerous, with 103 occurring from January to June. In these work stoppages (deemed "unauthorized" because the law's procedures had not been followed) management often ends up making some of the concessions demanded by workers. However, gains from such strikes are frequently won only at the cost of excessive acrimony (by Thai standards) which could be avoided by a more effective bargaining process. There were also seven lockouts in 1993. In two of these instances, the Ministry of Labor determined that management had not bargained in good faith, as required by the 1975 labor law, so as to justify the lockout.

Almost 60 percent of the work force is employed in the largely unorganized agricultural sector. Even before the dissolution of state enterprise unions, less than 3 percent of the total work force, or about 12 percent of the industrial work force, was unionized. Factors discouraging the growth of organized labor are the antiunion sentiment and paternalistic approach of employers, the Thai preference to avoid confrontation, and a provision of Thai labor law permitting the formation of private sector labor unions with as few as 10 members. This provision has resulted in a proliferation of small, weak unions—about 700—grouped into 7 national federations. It also helped to create a type of labor hustlers who formed small unions and threatened strikes in order to extract payoffs.

While violence against labor leaders is rare, the 1991 disappearance of leading labor activist Thanong Podhiarn remains unsolved. There are often reports of intimidation of union leaders by management. In one highly publicized case, the management at the Thai Durable Textile Company announced a layoff of 376 workers

to pave the way for increased productivity. Those to be laid off included the senior local union management. The Government intervened on behalf of the workers, and the Interior Minister threatened to invoke the law and order the company to reinstate the workers. The company then agreed to offer a relatively generous severance package to all workers to stimulate voluntary departures. More than 500 took the offer. However, six union leaders whom the company insisted on dismissing at year's end were still fighting in the labor court to keep their jobs.

Although there is a legacy of corrupt public sector union leaders who were exploited by the military, politicians, or employers for their own purposes, private unions generally operate independently of the Government and other outside organizations. The 1975 Act encourages this policy by exempting union officials from prosecution in pursuing the interest of their followers "provided that the activity does not involve politics." Unions are free to associate internationally with other trade union organizations and they maintain a wide variety of such affiliations.

b. *The Right to Organize and Bargain Collectively.*—The right to organize and bargain collectively is recognized for Thai private sector workers under the 1975 Act, which defined the mechanisms for such negotiations and for government-assisted conciliation and arbitration in cases under dispute. Despite the law, genuine collective bargaining probably occurs only in 10 to 20 percent of workplaces which are unionized. In practice, bargaining in most instances continues to be characterized by traditional paternalistic attitudes on the part of employers and a lack of education on labor organization and/or willingness to be assertive on the part of workers. Under the SELRA, state enterprise employees may propose changes in working conditions, but not wages, to a government-dominated labor relations committee in each state enterprise. The ILO's Committee on Freedom of Association, however, questions whether true collective bargaining takes place within the labor relations committees established by SELRA, since their proposals require approval by the relevant ministry and enterprise.

The Government sets wages for both civil servants and state enterprise employees. A system of labor courts created in 1980 exercises judicial review over most aspects of labor law for the private sector. However, when courts determine that a worker has been unjustly dismissed, they usually order severance pay compensation rather than reinstatement. Workers may also seek redress for their grievances from a tripartite Labor Relations Committee.

The SELRA has no explicit provision allowing state enterprise employees to appeal to the labor courts. Instead, they may apply to an overall State Enterprise Labor Relations Committee. Though no precise records are kept of the determinations of the State Enterprise Labor Relations Committee, it typically hears two or three cases a month and labor leaders have not indicated dissatisfaction with the treatment their concerns have received in this forum.

There are several special export processing zones (EPZ's) in Thailand, with many more planned to stimulate the growth of export-oriented industry. No separate labor legislation applies to EPZ's, where wages and working conditions in fact usually exceed national norms. There are some trade unions and a few collective bargaining agreements in EPZ's.

In August 1993, the Government, for the first time intervened to force resolution of a case where a private company was refusing to bargain in good faith. Workers at the Thai Pattraporn Company had been legally on strike for 10 months when the Government called on both sides to reopen the factory, prompting an illegal lockout. The Minister of Interior invoked Article 35 of the Labor Act of 1975, which forced the Thai Pattraporn Company to end the lockout. After reopening for a time in accordance with the Government's order, the company chose to close permanently rather than submit to arbitration.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor except in the case of national emergency, war, or martial law. The ILO has criticized provisions of legislation which in theory could punish with imprisonment or forced labor acts of labor indiscipline, participation in illegal strikes, or propagation of Communist ideology. At the request of the Government, an ILO direct contacts mission went to Thailand in September to investigate.

d. *Minimum Age for Employment of Children.*—The legal minimum age for employment is 13. The law permits the employment of children between the ages of 13 and 15 only in "light work." The employment of children at night (10 p.m. to 6 a.m.) is prohibited. The Government has estimated that there are 100,000 children between the ages of 13 and 15 in the labor force, but the actual number is probably much greater. Stated government policy is to increase the minimum age to 14 by the end of the Seventh National Economic Plan in 1996, with an expectation to raise the minimum to 15, the ILO standard, by the end of the Eighth Plan in 2001. The Government has initiated a teacher training and school construction program, that

when completed, will allow it to increase the number of years of compulsory education from 6 to 9.

Child labor continued to cause considerable domestic and foreign criticism in 1993. The Chuan Government has committed itself to enforce the existing child labor laws. In June 1993, the ILO, which in 1991 issued a "special paragraph" against Thailand, welcomed the Government's commitment to eliminate exploitation and illegal use of existing child labor but stressed that much more needs to be done.

In 1992 the Department of Labor more than doubled the number of inspectors specifically responsible for child labor issues. In addition, the number of general labor inspectors increased from 500 to 618 in 1993. Prosecutions against employers for illegal child labor rose from 7 in 1991 to 29 in 1992 to 34 in the first 8 months of 1993. As of December, 22 violators had been fined and two had been jailed. Nonetheless, police raids continued to find children under age 13 working illegally and others employed in dangerous, unhealthful, or otherwise harmful circumstances. Enforcement of child labor laws remained inadequate. There are no export industries in which child labor is significant.

e. *Acceptable Conditions of Work.*—A tripartite wage committee consisting of government, employer, and worker representatives in 1993 again increased the daily legal minimum wage. Minimum wage rates now vary between $4 and $5 per day (100 to 125 Baht) depending on the cost of living in different provinces. The wage is not adequate to support a worker and his family, but as the Thai often live in extended families with financial contributions from several members, often including single members working away from home and sending a portion of their wages back, the minimum wage provides the basis for a marginally adequate standard of living overall. Unskilled migrant workers who pour into Bangkok from the poorer countryside often work at less than the minimum wage, as do many in the agricultural sector. The Government has not mandated a uniform workweek for the entire labor force. Commercial employees work a maximum of 54 hours per week, employees in industry 48, and those in "dangerous" work such as in the chemical, petroleum, mining or other industries involving heavy machinery 42. Transportation workers are restricted to no more than 8 hours per day. Enforcement of these standards is spotty.

Working conditions vary widely in Thailand. In medium and large-size factories, government health and safety standards are often maintained. However, in May 1993 fire broke out at the Kader Toy Factory near Bangkok and nearly 200 workers lost their lives in the worst factory fire in Thai history. The majority of those who died were women, many of whom had brought with them their children, who also perished. The tragedy was a vivid reminder of the lax enforcement of safety standards that continues to be all too common even in large enterprises. As of December, the Government was pursuing actions against the company owners in the courts. Thailand's large informal sector is subject to even less effective inspection. Employers are able to ignore safety regulations in part because workers do not have access to safety and health standards and are thus unable to report violations.

TONGA

The Kingdom of Tonga comprises 169 islands scattered over an area of 360,000 square kilometers of the South Pacific. All but a handful of the approximately 104,000 inhabitants are Polynesian. Tonga is a constitutional monarchy in which political life is dominated by the King, the nobility, and a few prominent commoners. Formerly a British protected state, Tonga is fully independent and a member of the Commonwealth of Nations.

The security apparatus is composed of the Tonga Defense Services (TDS) and a police force. The 350-man TDS force is responsible to and controlled by the Minister of Defense.

Tonga's economy is based primarily on the cultivation of tropical and semitropical crops. An increasing demand for imported manufactured goods and products unavailable locally has led to a substantial trade deficit. This has largely been offset by remittances from Tongans employed abroad, overseas aid, and, to a lesser degree, tourism. Continuing world recessionary conditions in 1993 resulted in an abnormally low level of remittances.

The principal human rights abuses remain severe restrictions on the right of citizens to change their government and discrimination against women. The Constitution, dating from 1875, has been increasingly challenged by commoners who are disadvantaged by it, most dramatically by the November 1992 Prodemocracy Convention held in the capital and the results of the February elections.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—No such killings occurred.

b. *Disappearance.*—There were no disappearances and no evidence of people being abducted, secretly arrested, or clandestinely detained.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture and inhuman or degrading punishment or other such treatment are forbidden by the Constitution, and there were no reported instances of such practices.

d. *Arbitrary Arrest, Detention, or Exile.*—The right to judicial determination of the legality of arrest is enshrined in the Constitution and observed in practice. There is no exile, internal or external, and no preventive detention, although there are no statutory limits to the length of time a suspect may be held prior to being charged. There are no statutory limits to access by counsel and family members to such a detained person.

e. *Denial of Fair Public Trial.*—The judiciary is independent of the King and the executive branch. The Court of Appeal, as the appellate court of last resort, is the highest court. Two cases have involved Pro-Democracy leader Akilisi Pohiva who was charged with publishing secret government documents (a not guilty verdict was returned) and later charged with defamation, resulting in a guilty verdict and a fine of one Tongan dollar—less than a U.S. dollar. The King's Privy Council presides over cases relating to disputes over titles of nobility and estate boundaries. The King has the right to commute a death sentence in cases of murder or treason. In addition, Tonga's court system consists of the Supreme Court (which has original jurisdiction over all major cases), the police magistrate's courts, a general court, a court martial for the Tongan Defense Services, a court tribunal for the police force, and a court of review for the Inland Revenue Department.

The right to a fair public trial is provided for by law and honored in practice. No one may be summoned before any court without first having received a written indictment clearly stating the offense with which that person is charged. Defendants are entitled to counsel, and lawyers have free access to defendants. There are no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—By law and practice no one may enter or search the home of another or remove any item of property unless in possession of a warrant issued by a magistrate. There is no arbitrary intrusion by the state or political organizations into a person's private life.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and press is provided for in the Constitution. Tonga has five newspapers (one of which is government owned) and one national magazine. The only radio station is government owned. While there is generally little editorializing in the government-owned media, opposition opinion appears regularly alongside government statements and letters. A privately owned newspaper, Kele'a, openly criticizes the Government without government interference. The Catholic monthly, Taumu'a Lelei, also speaks out freely. The Minister of Police has threatened action against the independent media in one or two cases, but no action has ever been taken. Serious infringement has occurred, usually tied to a specific event such as the November 1992 Pro-Democracy Convention. No such actions were taken in 1993. The February 1993 election campaign took place with no restrictions on freedom of speech or press. All participants took full advantage of their rights and access to the media.

b. *Freedom of Peaceful Assembly and Association.*—Peaceful assembly and association are provided for by law. There are no significant restrictions.

c. *Freedom of Religion.*—Freedom of religion is provided for in the Constitution and observed in practice. Missionaries may proselytize freely.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Tongan citizens are free to travel anywhere within the Kingdom and abroad. There are no restrictions on repatriation. There are no displaced persons in Tonga.

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

Citizens do not have the ability to change their leaders or the system of government. The King and a small group of hereditary nobles dominate political life in Tonga. They assert authority largely through their control of substantial land holdings and their predominant role in the Legislative Assembly. The Constitution allows the monarch broad powers, many of which do not require the endorsement of the legislative branch. The King appoints and presides over the Privy Council,

which makes major policy decisions. (When the King is not presiding, the Privy Council is called the Cabinet.) The King also selects the Prime Minister and other Cabinet ministers, who hold office at his pleasure.

Tonga's unicameral legislature, the Legislative Assembly, consists of 12 Cabinet ministers, 9 nobles elected by their peers, and 9 people's representatives. All literate Tongans, 21 years of age or older, are eligible to vote. The Speaker is appointed by the King from among the representatives of the nobles. Government ministers generally vote with the nobles' representatives as a bloc. People's representatives sometimes vote against the Government. There are no political parties. Elections are held every 3 years, most recently in February 1993. As a result of those elections, the Pro-Democracy Movement extended its influence with the election of strong supporters to six of the nine people's representative seats.

Since 1991 there have been continued calls for more democratic change both by people inside and outside of the government establishment. The Pro-Democracy Movement, which originated in 1986, was formally established in 1992 but does not consider itself to be a political party. This organization maintains that the monarchy is an inalienable part of the Tonga identity, but it believes that the Government must become much more relevant to today's world and that this can be achieved only through greater power sharing by the King and greater accountability on the part of the Government (one of its earliest efforts was to inspect the financial records of the legislature).

The February 1993 elections were seen by many as a referendum for change, with those favoring reform the clear winners. Following its election victory, the Prodemocracy Movement has turned to educational efforts outside the capital and to drafting proposals for revisions to the 1875 Constitution, most notably for popular election of all 30 members of the Assembly and election of the House Speaker from among Assembly members.

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

While there are no known barriers to the formation of local nongovernmental organizations that concern themselves with human rights, no such organizations exist in Tonga. No outside organizations have made requests to investigate human rights violations. Tonga is not a member of the United Nations.

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

Social, cultural, and economic facilities are available to all citizens regardless of race or religion. However, members of the hereditary nobility have substantial advantages in Tongan society. These include control over most of the land and a generally privileged status. Nonetheless, it is possible for commoners to rise to Cabinet positions in government and to accumulate great wealth and status in the private sector.

Women.—In Tonga's male dominated society, women generally occupy a subordinate role. While the strong Polynesian cultural tradition has discouraged the rise of women to positions of leadership, some have become members of the legislature and served in responsible positions in various occupations.

Domestic violence is infrequent. As a result, the country does not have a women's crisis center. Incidents of wife beating that do occur are generally dealt with in traditional ways between the families and village elders; abused wives sometimes return to their families if mediation fails.

Children.—Child abuse, if it occurs, is rare and has not become a source of societal concern. The Government is committed to children's human rights and welfare and provides commensurate funding for children's welfare within the context of the total resources available to the State.

People with Disabilities.—No mandated provisions for accessibility for the disabled exist. There were no known complaints of discrimination in employment, education, or provision of other state services.

Section 6. Worker Rights

a. *The Right of Association.*—Workers have the right to form unions under the 1964 Trade Union Act, but to date no unions have been formed, presumably because of the small size of the wage economy and the lack of a perceived need for unions.

b. *The Right to Organize and Bargain Collectively.*—Since no unions have been formed, collective bargaining is not practiced. There is no legislation permitting and protecting collective bargaining or the right to organize. Labor laws and regulations are uniformly enforced in all sectors of the economy, including in the two small export enhancement zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is prohibited by law and not practiced.

d. *Minimum Age for Employment of Children.*—Child labor is not used in the wage economy, although there is no legislation prohibiting it.

e. *Acceptable Conditions of Work.*—Tonga does not have a minimum wage law. However, the Ministry of Labor, Commerce, and Industry has for some years set minimum daily wages for such sectors of the economy as manufacturing and tourism. The minimum wage applies to so few people that it is not generally known. (Minimum wage figures are not readily available.) Existing minimum wages are not adequate to provide a worker and his family with a decent standard of living. Workers are protected to a degree, however, by the ease with which they can return to their villages and live without a cash income if wages offered are inadequate. The Tongan cultural tradition of extended family support provides an additional economic safety net.

By regulation the workweek in Tonga is limited to 40 hours. Labor laws and regulations are enforced by the Ministry of Labor, Commerce, and Industry. Labor laws and regulations are enforced reasonably well in the wage sector of the economy, particularly on the main island of Tongatapu. Enforcement in agriculture and on the outer islands is limited by isolation.

Industrial accidents are rare, as few industries exist that would expose workers to significant danger. Due to these factors, there has been little or no work done in Tonga on industrial safety standards.

TUVALU

Tuvalu, with about 9,500 people occupying a land surface area of 26 square kilometers on 9 atolls in the central South Pacific, is one of the world's smallest independent nations. The population is primarily Polynesian. Tuvalu became independent from the United Kingdom on October 1, 1978, and it is a member of the Commonwealth of Nations. Its Constitution provides for a Westminster-style parliamentary democracy. Tuvalu's Head of State is the British Queen, represented by the Governor-General who must be a Tuvaluan citizen.

A 32-member police constabulary, the only security apparatus, is responsible to and effectively controlled by civilian authority.

The economy, primarily subsistence based, relies mainly on coconuts, taro, and fishing. Tuvalu depends heavily on foreign aid, mainly from Australia, New Zealand, Japan, and Taiwan. In the early 1980's, with the assistance of the United Kingdom, Australia, and New Zealand, the Government established the Tuvalu Trust Fund to meet its recurrent and capital expenditures. Remittances from Tuvaluans working abroad, the sale of commemorative and thematic postage stamps and of fishing licenses to foreign vessels, provide additional sources of foreign exchange. Tuvalu's isolation and meager natural resources severely limit prospects for economic self-sufficiency.

Tuvaluan society is egalitarian, democratic, and respectful of human rights. Social behavior, as determined by custom and tradition, however, is considered as important as the law and is ensured by the village elders. Land is also key to much of the structure of Tuvaluan society. There were no reports of specific human rights abuses in 1993. However, in the traditional culture of the islands, women occupy a subordinate role, with limits on their job opportunities, although recently there has been substantial effort to accord women equality in employment and decision-making.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no politically motivated killings.

b. *Disappearance.*—There were no disappearances, and no evidence of people being abducted for political reasons.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture and inhuman or degrading punishment are forbidden by the Constitution, and there were no reported instances of such practices. Local hereditary elders exercise considerable traditional authority—including the seldom invoked right to inflict corporal punishment for infringing customary rules—which can be at odds with the national law.

d. *Arbitrary Arrest, Detention, or Exile.*—Constitutional safeguards against arbitrary arrest and detention are observed in practice. There is no exile.

e. *Denial of Fair Public Trial.*—The judicial system consists of the higher courts, namely, the Privy Council, the Court of Appeal, and the High Court; and the lower courts, i.e., those of the senior and resident magistrates, the island courts, and the land courts. The Chief Justice, who is also Chief Justice of the neighboring island nation of Nauru, sits on the High Court about once a year.

The right to a fair public trial is ensured by law and observed in practice. The Constitution provides that accused persons must be informed of the nature of the offenses with which they are charged and be provided the time and facilities required to prepare a defense. An independent people's lawyer is ensured by statute. The services of this public defender are available to all Tuvaluans free of charge. The right to confront witnesses, present evidence, and appeal convictions is enshrined in law. Procedural safeguards are based on English common law. The judiciary is independent and free of governmental interference. Tuvalu has no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The privacy of the home is protected in law and respected by the Government. There is no arbitrary intrusion by the State or political organizations into the private life of the individual.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and press is provided for in the Constitution and observed in practice. Tuvalu has a radio station under government control.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and there are no significant restrictions in practice.

c. *Freedom of Religion.*—Freedom of religion prevails in Tuvalu. The separation of church and state is respected.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens are free to travel within the country and abroad. There are no restrictions on repatriation. Tuvalu has no refugees or displaced persons.

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

The people freely elect their government. Tuvalu's 12-member unicameral Parliament is elected directly by the people. A speaker elected by Members of Parliament (M.P.'s) presides over Parliament. Parliament's normal term is 4 years. The minimum voting age is 18 years.

The Cabinet consists of the Prime Minister, elected by secret ballot from among the M.P.'s, and up to four other ministers, appointed and removed from office by the Governor General with the advice of the Prime Minister. There are no formal political parties in Tuvalu. The Prime Minister may be removed from office by a parliamentary vote of no confidence.

Tuvalu has a 12-member Parliament. The September 1993 election resulted in a parliamentary impasse as no member secured the seven votes needed to be elected as Prime Minister. Governor-General Lauti appointed out-going Prime Minister Bikenibeu Paeniu as caretaker Prime Minister until a new election was held November 24. When the Parliament met on December 10, Kamuta Latasi, supported by his wife and fellow M.P., Naama Maheu Latasi, abandoned former Prime Minister Paeniu's team in exchange for the Prime Ministership. Naama Latasi, a former Minister of Health in the Paeniu government, and the only female among Tuvalu's 12 parliamentarians, was given no cabinet post in the new Government. Each of the islands is administered by six-person councils, also elected by universal suffrage to 4-year terms.

Over the past 2 years, Tuvalu has been debating if it should become a republic, primarily as an economy measure. Former Prime Minister Paeniu called for a national referendum, and a consultative process began in mid-1992. Each island community is deliberating the issue in its respective council. Once all results have been reported to Parliament, the Government will announce its decision.

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

There have been no reported allegations of human rights violations by the Government and no known requests for investigations. While no known barriers block their establishment, there are no local nongovernmental organizations that concern themselves with human rights. Tuvalu is not a member of the United Nations.

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

Women.—The Constitution prohibits discrimination on the basis of race, creed, sex, or national origin. Women increasingly hold positions in the health and education sectors. This trend was partly due to the efforts of Prime Minister Paeniu, who was known to favor greater opportunities for women. Paeniu named women among his senior advisors, included them in his Cabinet, and encouraged increased participation by women in valuable overseas training opportunities. Violence against women is rare in Tuvalu. If wife beating occurs, it is infrequent and has not become a source of societal concern.

Children.—There are no reports of child abuse. If it does occur, it is rare. The Government is committed to children's human rights and welfare, and provides commensurate funding for children's welfare within the context of the total resources available to the State.

People with Disabilities.—Although there are no mandated accessibility provisions for the disabled, there are no known reports of discrimination in employment, education, or provision of other state services.

Section 6. Worker Rights

a. *The Right of Association.*—Workers are free to organize unions and choose their own labor representatives, but most of the population lacks permanent employment and is engaged in subsistence activity. The right to strike is provided for by law, but no strike has ever been recorded.

In the public sector, the country's civil servants, teachers, and nurses—who, taken together, total less than 1,000 employees—are grouped into associations which do not presently have the status of unions. The only registered trade union, the Tuvalu Seamen's Union, has about 600 members, who work on foreign merchant vessels. The Seamen's Union is a member of the International Transportation Workers' Federation.

In 1993 the South Pacific and Oceanic Council of Trade Unions held a seminar in Tuvalu to promote trade unionism. The attendees issued calls for the establishment of a national committee to strengthen the union movement, the setting up of a credit union facility, and a continuing program of union education.

b. *The Right to Organize and Bargain Collectively.*—The Industrial Relations Code (1978) provides for conciliation, arbitration, and settlement procedures in cases of labor disputes. Although there are provisions for collective bargaining, in practice in the private sector wages are set by employers. The Minister of Labor, Works, and Communications may establish an Incomes Commission to determine appropriate levels of pay. For both the private and public sectors, the legal procedures for resolving labor disputes noted above are seldom used; instead, the two sides normally engage in nonconfrontational deliberations in the local multipurpose meeting hall.

Tuvalu is not a member of the International Labor Organization.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Article 74 of the Tuvalu Employment Ordinance (1978) prohibits forced or compulsory labor, and there have been no reports of either being practiced.

d. *Minimum Age for Employment of Children.*—Section 60 of the Employment Act prohibits children under the age of 14 from working. Education is compulsory for children from 6 through 13 years of age. The Employment Act also prohibits children under 15 years of age from industrial employment or work on any ship and stipulates that children under the age of 18 years are not allowed to enter into formal contracts including work contracts. Children are rarely employed outside the traditional economy.

e. *Acceptable Conditions of Work.*—The modest minimum wage, set administratively by the Government, is sufficient to allow a worker and family in the wage economy to maintain a decent standard of living. The present minimum wage in the public (government) sector is $0.40 per hour ($A0.55) per hour. This rate applies for men and women, for young and old. In most cases, the private sector adopts the same minimum wage rate.

The Labor Office may specify the days and hours of work for workers in various industries. The workday is legally set at 8 hours. The majority of workers are outside of the wage economy. Rudimentary health and safety standards are provided for by law. They require employers to provide an adequate portable water supply, basic sanitary arrangements, and medical care. Specific provisions of the law provide for the protection of female workers. The Ministry of Labor, Works and Communications is responsible for the enforcement of the rudimentary safety and health regulations. With the limited resources of its economy, Tuvalu can provide only a minimum of enforcement.

VANUATU

Vanuatu, a South Pacific island nation with a population of 170,000, became independent in 1980 after many years of joint British-French rule. It has a parliamentary system of government with a prime minister and a 46-member parliament. The President has largely ceremonial powers, except when acting on the advice of the Council of Ministers. Vanuatu's citizens are divided by a variety of languages, by the nation's separation into more than 80 islands, and by their colonial experience. Over time Vanuatu has largely overcome this difference to forge a strong sense of nationhood. Political legitimacy is based on majority rule, supported by both Melanesian and Western tradition.

The civilian authorities control the small police and paramilitary mobile forces.

Because the Vanuatu economy is dependent on international trade, it is vulnerable to shifts in world market prices. Growth in tourism and Vanuatu's offshore banking center were expected once again to lead other sectors of the economy in 1993.

Restrictions on freedom of speech and press, together with the treatment of women, remain the major human rights problems.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—No political or other extrajudicial killings by the Government or any organized group were reported.

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

c. *Torture and Cruel, Inhuman, or Degrading Treatment or Punishment.*—Constitutional provisions against torture and cruel, inhuman, or degrading treatment are observed in practice and enforced by the courts. While the law provides that prisoners shall have recourse to an ombudsman, that position has never been filled.

d. *Arbitrary Arrest, Detention, or Exile.*—There were no reports of arbitrary arrests. Arrest is by warrant. The constitutional provision that suspects must be informed of charges and given a speedy hearing before a judge is observed in practice. There is no exile.

e. *Denial of Fair Public Trial.*—The courts uphold constitutional provisions for a fair public trial, presumption of innocence until guilt is proven, prohibition against double jeopardy, the right of habeas corpus, and appeal to the Supreme Court. The courts are free of military or executive interference. There were no reports of arbitrary or unfair exercise of judicial authority in 1993.

There were no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—There was no arbitrary interference with privacy, family, home, or correspondence.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Vanuatu's record of respect for the independence of opinion and of the media is poor, and 1993 proved no exception. Although the Constitution provides for freedom of speech and press, the Government controls the national newspaper, radio stations, and television company.

An independent newspaper, Vanuascope, opened in 1992 and enjoyed relative freedom until August 1993, when the Government banned media coverage of any statements by Father Walter Lini's political faction, which was challenging the Government's control over Parliament. When Vanuascope defied the ban, the Government discussed revoking the editor's work permit and the newspaper's publishing license. With the collapse of Lini's challenge, the overt pressure on the newspaper relaxed but remained behind the scenes.

Although strict controls over the media remain in place, the Government has permitted more balanced coverage of significant issues than was the case previously. Even so, the Government continues to manipulate the media when it suits its political advantage and to react harshly to any criticism. The political opposition often encounters difficulty in getting its press statements broadcast and published in the state-controlled media, and coverage of opposition statements has sometimes been delayed until the Government has prepared its response.

b. *Freedom of Peaceful Assembly and Association.*—Permits must be obtained to hold public demonstrations and rallies. The Government reportedly denied the National Teachers Union permission to demonstrate during its June strike. Nevertheless, the teachers marched on Parliament. Several union leaders, including some who had not participated in the march, were arrested. They were released after 2 days in custody, and the court ultimately dismissed charges that they had created a public disturbance. Twenty striking members of the Vanuatu Public Service Asso-

ciation were arrested in early December for involvement in a protest outside Parliament. The public prosecutor released the group without charge after approximately 1 hour.

There were no restrictions on the forming of political parties or other groups.

c. *Freedom of Religion.*—Freedom of religion is protected by law and has been generally respected in practice. Missionaries of various Christian denominations work without restrictions.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—All citizens are free to travel internally and externally and to return from abroad without restrictions.

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

Citizens have the right freely to change the government through periodic multiparty elections. The Constitution provides for parliamentary elections every 4 years. The Government of Prime Minister Maxime Carlot Korman is comprised of the Prime Minister's Francophone Union of Moderate Parties and the Deputy Prime Minister's faction of the Anglophone National United Party. In opposition are the Vanua'aku Party and four others. Campaigns and voting are considered by outside observers to be fair although government restrictions and pressure on the media inhibit the ability of opposition parties to publicize their views (see Section 2.a.). Elections to provincial and local councils have also been freely contested and fair. There were reports of discrimination in hiring and provision of services against both persons and communities suspected of or known to be supporting opposition political candidates. The Government has also been charged with unfairly dismissing civil servants for political reasons (see Section 6.a.).

In Vanuatu's traditional society, males are dominant and women are frequently limited to customary family roles. This has hampered women from taking a more active role in economic and political life. There is only one female Member of Parliament. She served as Minister of Health for part of the year.

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

Although there are no restrictions on the formation of local nongovernmental human rights organizations, none has been founded to date. A nongovernmental organization to promote and protect the rights of women, the Committee on Violence against Women, was formed in 1993. There were no requests for investigation by outside human rights organizations.

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

Women.—While women have equal rights under the law, they are only slowly emerging from a traditional culture characterized by male dominance, a general reluctance to educate women, and a widespread belief that women should devote themselves primarily to childbearing. Members of the National Council of Women (NCW) view village chiefs as a primary obstacle to the attainment of social, political, and economic rights by women. There are no women serving as leaders in Vanuatu's municipal or village councils, churches, or chambers of commerce.

While no accurate data are available, violence against women, particularly wife beating, is reportedly common. However, very few cases of wife beating are brought to the attention of the authorities, and even fewer are prosecuted. Usually the cases are dropped by the women involved before going to court. The police are reluctant to intervene in what are considered purely domestic matters. Although there are no specific laws against spouse beating, the courts have at times dealt severely with such cases, using common law assault as a basis for imposing punishment. Several cases have been reported in which victims have died. In one case, the husband was tried and sentenced to 15 years in prison. In another, the family ultimately withdrew the charges and the husband remains at liberty.

The majority of women enter into marriage through "bride price payment". On those islands where the custom of paying "bride price" is observed, the woman is regarded as the property of the husband and may be dealt with as he chooses.

Children.—Children are loved and protected within the traditional extended-family system, in accordance with the family's financial resources and access to services. Members of the extended family, particularly paternal uncles, play an active role in a child's development. As a result, virtually no children are homeless or abandoned. Though cases of child abuse are sometimes reported, there is no pattern of societal abuse. Although the present Government has made education a priority, access is limited and school attendance is not compulsory. Within the limits of its re-

sources, the Government is committed to the welfare, and the protection of the rights, of children.

National/Racial/Ethnic Minorities.—Most of the population is comprised of Melanesians whose ancestors probably originated in New Guinea. Small minorities of Chinese, Fijians, Vietnamese, Tongans, and Europeans are generally concentrated in two towns and on a few plantations and experience some discrimination with regard to land ownership. Although there have been allegations of corrupt practices by members of the Government, there is no evidence to suggest a pattern of ethnic discrimination in the provision of basic services.

People with Disabilities.—There is no known governmental or national policy on the disabled. Their protection and care is left to the traditional extended family and voluntary nongovernmental organizations.

Section 6. Worker Rights

a. *The Right of Association.*—Vanuatu's workers have the right to organize unions. Unions may not affiliate with international labor federations without government permission. The fundamental legislation establishing the right to organize unions, setting out the scope of union activity, and providing for the arbitration and conciliation of labor disputes consists of the Trade Union Act of 1983 and the Trade Disputes Act of 1983. Complaints of antiunion discrimination are referred to the Commissioner of Labor.

There are 5 trade unions with over 4,000 members in the private and public sectors. The high percentage of the population still engaged in subsistence agriculture and fishing serves as a deterrent to extensive union activity. The unions are grouped under an umbrella organization, the Vanuatu National Committee of Unions, which is a member of the International Confederation of Free Trade Unions. The trade unions are independent of the Government.

Strikes seldom occurred in the past, due in part to high rates of unemployment. In 1993 an important strike took place when over three-quarters of Vanuatu's teachers walked off the job, demanding a 25 percent increase in their salaries. Although the 3-week strike was ultimately settled when the Government granted the teachers a 5 percent salary increase, the Government failed to handle the matter within the established framework of the country's labor laws. The strike was resolved after civil servants threatened to generalize the strike. In the wake of the teachers' strike, the Government refused to allow two officials of the South Pacific Council of Trade Unions to enter the country, resulting in the cancellation of the council's triennial conference, scheduled to be held in Port Vila. In late November, the Vanuatu public service union went on strike seeking a 16-percent pay raise to compensate for inflation. At year's end the strike continued. The courts declined the union's mid-December request that a conciliator be appointed and ordered the opposing parties to engage in face-to-face negotiation.

Unrelated to the strikes discussed above, and ignoring legal requirements for notification, the Government summarily dismissed a number of civil servants. Critics contend that the Government's motivations are political. Several of the people dismissed have successfully fought their dismissals through appeal to the Vanuatu national court system. Others are expected to appeal.

b. *The Right to Organize and Bargain Collectively.*—Unions exercise the right to organize and bargain collectively. Labor unions negotiate wages and conditions directly with management. If the two sides cannot agree, the matter is referred to a three-member Arbitration Board appointed by the Minister of Home Affairs. The board consists of one representative from organized labor, one from management, and the senior magistrate of the magistrate's court. While a dispute is before the board, labor may not strike and management may not dismiss union employees. Unions and management, however, generally reach agreement on wages without having to refer the matter to arbitration.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited by law, and there have been no reports that either is practiced.

d. *Minimum Age for Employment of Children.*—Children under 12 years of age are not permitted to work outside of family owned agriculture, where many children assist their parents. Employment of children from 12 to 18 years of age is restricted by occupational category and conditions of labor—for example, restrictions on employment in the shipping industry and nighttime employment. The laws are effectively enforced by the Labor Department. The high level of unemployment discourages the use of child labor.

e. *Acceptable Conditions of Work.*—Vanuatu has a legislated minimum wage, effectively enforced by the Labor Department. Minimum wage rates were last raised in November 1991 to $107 monthly for urban workers and $93 monthly for rural

workers (13,200 and 11,440 vatu, respectively). Agricultural workers' minimum wages are tied to the market prices for copra and cocoa. Most workers are not in the wage economy and are thus outside the scope of the minimum wage laws. For those covered by them, the wages provide an adequate standard of living within the local context.

Various laws regulate the rights to sick leave, annual vacations, and other conditions of employment, including a 44-hour maximum workweek. Vanuatu's Employment Act, enforced by the Labor Department, includes provisions for safety standards. However, the 1987 safety and health legislation is inadequate to protect workers engaged in logging, agriculture, construction, and manufacturing. It lacks provisions for sanitation and protection against substandard electrical wiring, machinery, and exposure to agricultural and industrial chemicals. Even so, the single inspector attached to the Labor Department is hard pressed to enforce the Act fully. After visits by International Labor Organization consultants, a new occupational health and safety act and an industrial relations act have been drafted. It is expected that they will be submitted to the Parliament in 1994.

VIETNAM

The Socialist Republic of Vietnam (SRV) is a one-party state ruled by the Vietnamese Communist Party (VCP). A 13-member Politburo and a Party Central Committee are nominally elected by a party congress held about every 5 years. The Politburo provides guidelines, often in the form of specific directives, that shape government policies. Despite the adoption of a new Constitution in 1992 that provides for the rule of law and respect for human rights, in practice the Government continued to restrict individual rights on national security and other grounds. In addition, the Constitution contains references to "democratic centralism" and "the leading role of the Communist Party" that have been used to justify limits on civil liberties.

In addition to the military and police force, Vietnamese security forces monitor internal movements and activities of the general population. The Ministry of Interior has units that monitor persons suspected of involvement in political or religious affairs. Also, government surveillance through informants, household registration, and party-appointed block wardens continued in 1993.

The Government continued the market-oriented economic reforms begun in 1986. These reforms have boosted Vietnam's predominantly agricultural economy and improved the lives of Vietnamese citizens. Goods and services are more widely available, and the general population is freer to engage in entrepreneurial activity.

Although some senior SRV officials have publicly asserted the profound commitment of the Vietnamese people and State to the cause of human rights, the Government continued to violate human rights in 1993. The authorities continued to limit severely freedom of speech, press, assembly, and association, as well as worker rights and the right of citizens to change their government. The Government continued its longstanding practice of not tolerating dissent and reacted sharply to efforts by Buddhist activists to assert their independence from the government-sponsored Buddhist church. However, restrictions on travel eased, and contact with foreigners is more widely accepted. There appears to be increasing separation between the party and the State.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—In 1993 there were no known executions of political prisoners or politically motivated extrajudicial killings. There were also no known cases of deaths of political prisoners while in detention in 1993.

b. *Disappearance.*—There were no documented incidents of political abductions by government security organizations or by antigovernment forces.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits physical abuse, and released reeducation camp detainees report that camp conditions have improved since 1989. Although there were no credible, consistent reports of police brutality during interrogation of suspects, reports of severe conditions for those confined in prisons continued. There have been reports of coercion to elicit confessions. After their release in 1993, American citizens held on political grounds reported that they were threatened with violence several times in attempts to coerce confessions, although they were not actually beaten.

d. *Arbitrary Arrest, Detention, or Exile.*—In 1993 Vietnam continued to arrest and imprison people arbitrarily. The 1989 Criminal Procedure Code and subsequent amendments provide for various rights for detainees, including time limits on pre-

trial detention, the right of the accused to be informed of the charges against him or her, a ban on coercion or corporal punishment, and the right to have a lawyer present during interrogation. In practice, however, the authorities frequently ignore these safeguards. Credible reports indicate that detainees continue to be held incommunicado for indefinite periods without formal charges, with authorities using old administrative procedures in contravention of the new legislation. The retention and continued use of these administrative procedures appear to be a deliberate government policy.

The Government continued its efforts to implement Party Directive 135, which calls for the arrest of those who incite opposition to the Government or advocate political pluralism. Some intellectuals, clergy, journalists, and foreigners have been arrested and detained. For example, Doan Viet Hoat, a scholar who before 1975 had been Vice President of the Van Hanh Buddhist University in Saigon and had been incarcerated in Chi Hoa prison from 1976 to 1988, was rearrested in 1990 and in March 1993 was sentenced to 20 years for counterrevolutionary activity, apparently related to the "Freedom Forum" case. Dr. Hoat is said to be in poor health. In July the local press reported that an Appeals Court had reduced his sentence to 15 years.

According to reputable international nongovernmental organizations (NGO's), Doan Thanh Liem is currently serving a 12-year labor camp sentence after being convicted of spreading anti-Socialist propaganda. Truong Hung Thai, arrested with Liem, continues to serve an 8-year sentence. Do Ngoc Long, also arrested in April 1990, was never tried and was released from prison in April 1993 after serving an 3-year administrative sentence. Nguyen Dan Que, sentenced to 20 years' imprisonment in 1991, was recently transferred to a labor camp in Dong Nai Province; he is reportedly in poor health.

Legislation designed ostensibly to prevent inordinate delays in charging suspects is often, if not routinely, ignored in political cases. In April and May 1992, two American citizens of Vietnamese origin were arrested along with numerous Vietnamese for attempting to organize two separate political movements. Both were held until 1993 without ever being formally charged with a crime.

No official statistics are available on the number of detainees held for alleged antigovernment activities, and an accurate account is impossible since arrests are not publicized and secret detentions, trials, and sentencing are common.

In June 1993, American citizen Nguyen Sy Binh, arrested in April 1992 for training members of the "Peoples' Action Party", a group he founded, was released from custody and deported. On November 11, four Catholic priests and brothers of the Coredemptrix order were released from prison in Vietnam. Reverend John Doan Phu Xuan, Reverend Hilary Do Tri Tam, Brother Luke Vu Son Ha, and Brother Mark Tran Khac Kinh were all freed before the expiration of their sentences.

Search and arrest warrants are provided for in law, but they can be issued by branches of the security apparatus without judicial review. Law enforcement and security personnel appear to be able to arrest and incarcerate people without presenting warrants for their arrest. Each province and city has a "security committee" under direct party control. This committee includes both central and local security officials and does not coordinate its activities with the judicial process.

Exile is not used as a means of political control.

e. *Denial of Fair Public Trial.*—The Vietnamese court system consists of local people's courts, military tribunals, and the Supreme Court. The last may review cases from either of the lower courts. Both the National Assembly and State Council have the authority to establish special tribunals which may be superior to the Supreme Court. In addition, local mass organizations are empowered to deal with minor breaches of law or disputes. Judges in all regular courts are appointed after the party organization selects all candidates. Article 130 of the Constitution provides for the "independence" of judges and jurors. However, this is negated at all levels by a political system that is closely controlled by the VCP and by a selection process that puts a premium on political reliability.

The Penal Code consists of the Criminal Code and a Criminal Procedures Code, which was amended in 1990. Vietnam has a long-established body of family law but lacks civil law codes. There is virtually no evidence that legislative improvements promulgated in 1990 have been implemented.

Prison sentences are frequently imposed by administrative procedure, without benefit of due process or judicial review. In addition, such sentences are imposed on persons for the peaceful expression of their views. The SRV criminalizes certain forms of peaceful expression, including, for example. "anti-Socialist propaganda." Over the years people have been sentenced to long prison or reeducation camp terms for such "crimes." For example, after a demonstration in May by approximately 300 Buddhists, including monks, several Buddhist monks were arrested for

inciting antigovernment unrest. The Government tried four of the monks in November, and the court announced sentences ranging from 6 months to 4 years in prison.

Accurate statistics on the total prison population, including pretrial detainees, political prisoners, and persons held arbitrarily are not available due to the secrecy surrounding these procedures.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—In 1993 the Government continued to operate a nationwide system of surveillance and control through household registration and party-appointed block wardens who use informants to keep track of individual activities. In general, reports suggest that the system is unevenly implemented throughout the country and that local caprice and corruption are significant factors in its application. Urban dwellers appear to be increasingly relaxed about sending mail overseas and meeting foreign visitors. It appears that the Government is combining stricter surveillance, designed in part to intimidate potential critics, with some relaxation vis-a-vis the general population. While the Government continued to censor mail and confiscate packages in 1993, it seems to have done so on a more selective basis than in the past.

The party expects people to belong to one or more mass organizations, which exist for villages, city districts, school, work (trade union), youth, and women. However, these organizations—which disseminate party propaganda, support party-sanctioned activities, and play a watchdog role—have become increasingly ineffectual.

While membership in the VCP remains an aid to advancement in the state sector, recruitment of new party members has become more difficult, and many older party members have ended their participation in party activities. Membership in the youth union—the normal path to VCP membership—has dropped sharply over the past few years.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and press, but in practice such freedoms are severely limited.

A pervasive network of informants chills free speech considerably, although the party continued to tolerate (and at times invite) criticism concerning its own performance and that of persons deemed to be corrupt or incompetent. Questioning the legitimacy of the VCP or its exclusive vanguard role is not tolerated.

The Communist Party line and policies are disseminated regularly from the Party Central Committee to provinces, cities, and districts through memorandums for internal distribution only. Only party members are privy to this information, which covers the issues of freedom of speech and press for the citizenry and economic policy, as well as party interpretations of changes to the status quo (i.e., dynamic interpretations to fit current conditions).

Short of clearly proscribed writing, such as advocacy of a multiparty system, the limits of criticism are not clear. Some ideas may be expressed in internal party meetings and in internally circulated documents but not publicly. The movements and activities of foreign journalists are monitored but seldom interfered with.

Criticism is occasionally expressed publicly within established forums, such as National Assembly proceedings broadcast over the national radio service. The Government does not use systematic prior censorship to control the media, but guidance from party watchdogs is pervasive, and national security legislation is sufficiently broad to ensure effective self-censorship.

The Government controls all broadcast media and does not normally permit the broadcast of opposing views, though it has broadcast reports of debates during National Assembly meetings. In addition to government controlled radio (both domestic and international), television stations, and the Vietnam news agency wire service, Vietnam has five mass daily newspapers and many smaller newspapers. Party organizations and the Ministries of Culture, Information, Sports, and Tourism control the newspapers as well as other publications and cultural exhibits. Western and other publications are widely available in stores frequented by Vietnamese, without obvious restriction on their sale or distribution.

b. *Freedom of Peaceful Assembly and Association.*—The right of assembly is restricted in law and practice. People wishing to gather in a group are required to apply for a permit, which local authorities can issue or deny arbitrarily. In practice, large informal gatherings in public, like market areas or parts, are commonplace especially in urban areas. There is little evidence to suggest that informal public gatherings are restricted. However, demonstrations or meetings that could be seen as having a political purpose are not permitted and are sometimes forcibly suppressed. For example, the Government refused to permit a conference on democracy that was to be held in Ho Chi Minh City in November. The existence of NGO's is permitted, but they may meet only for approved and narrowly defined objectives. Opposition political organizations and activities are not permitted.

c. *Freedom of Religion.*—Vietnam has no state religion, and adherence to a religion is not permitted for party members. According to some estimates, nearly three-fourths of the population of 70 million people are Buddhists, but the Government has claimed that only 6 million of these actually practice their religion. The Vatican believes that some 6 million Vietnamese are Catholic; a much smaller number are Protestant. Virtually all foreign clergy remaining in the south in 1975 were expelled at the end of that year. While the SRV has permitted visits by foreign clergy, it has not been willing to permit them to reside permanently for religious purposes in Vietnam.

Reports indicate that religious groups are allowed freedom in their activities to the degree that they cooperate with the Government. Buddhism was afforded increasing tolerance until the Unified Buddhists (An Quang sect) began to protest government control through 1992. The tension increased in early 1993 when the arrest and confinement of numbers of middle- and low-level leaders sent a clear signal to the Buddhist hierarchy that they cannot challenge the Government.

While restrictions on religious organizations are usually severe, they vary widely by locality. This is also true of church attendance. Many people report they have generally been free to attend worship services since 1975, and, during the past few years, visitors to Vietnam have reported that attendance at religious services is growing. Churches in and around Ho Chi Minh City and elsewhere have been observed overflowing during Sunday services. Buddhist temples and edifices of the Hoa Hao and Cao Dai sects in several towns of the south appear active and prosperous enough to be well maintained.

Freedom of worship is provided for in the Constitution, along with the proviso that no one may use religious adherence or belief to violate state laws and policies. The Government, concerned that religious groups might become competing centers of influence within the society, has consistently attempted to divide and control religious groups, in part by establishing government-controlled policymaking bodies such as the Catholic Patriotic Association to which clergy are obliged to belong.

The Government has also attempted to prevent the growth of religious groups by inhibiting the publication of religious materials and the training of new clergy. The Government exercises approval authority on the content of speeches and sermons by clergy, but reports continue to indicate that approval is generally granted as long as the content cannot be construed as a challenge to the legitimacy of Vietnam's one-party system. Also, Buddhist monks have reported that permission is usually given to young people wishing to study to become monks, if they register with the authorities. Several hundred are reported to be enrolled in Buddhist instruction in Ho Chi Minh City.

The Government has regularly detained, arrested, and restricted the activities of religious figures of all faiths on political grounds. Authorities leveled charges of "possessing and disseminating counterrevolutionary propaganda," "fomenting unrest," or "anti-Socialist propaganda" against Buddhist monks and nuns and Catholic, Protestant, and other religious leaders. A number of Catholic and Buddhist clergy remained in prison or confined to home villages. In September an American citizen reported that an informal prayer meeting involving approximately 30 Vietnamese and 3 foreigners was broken up by the police, who detained the Vietnamese and seized the foreigners' passports. There have been some releases this year (see Section 1.d.), and, with the exception of members of the An Quang sect, few new arrests.

The Buddhist Patriarch, Thich Huyen Quang of the Unified Buddhist Church, has been under house arrest in Quang Ngai province since 1982, reportedly because he refuses to submit to the government-dominated Vietnam Buddhist Church. In May, after a self-immolation at the Linh Mu Pagoda (supporters of Quang) in Hue and the police interrogation of the abbot, Thich Tri Tuu, there were large protest demonstrations by Buddhists (see Section 1.e.).

Thich Duc Nhuan, a former Secretary General of the Unified Buddhist Church, was released in January, after receiving a 1-year reduction in his sentence. Vietnam has in recent years expanded its dialog with the Vatican. In 1993, however, the Government continued to prevent the return from Rome to his archdiocese in Ho Chi Minh City of Archbishop Francis Xavier Nguyen Van Thuan (a nephew of Ngo Dinh Diem) to succeed the ageing Archbishop Nguyen Van Binh. In September the Government rejected the Vatican's appointment of Bishop Huynh Van Nghi to administer the Roman Catholic church in Ho Chi Minh City.

While the Government now permits Catholic seminarians to be admitted to seminaries every 3 years instead of 6, it still places sharp limits on the recruitment, training, ordination, and assignment of new seminarians, priests, monks, and nuns. The selection of both students and teachers is subject to government veto, and there

are continuing difficulties in obtaining teaching materials and in expanding religious training facilities.

Father Dominic Tran Dinh Thu, founder of the Mother Coredemptrix, was released in May. He had been sentenced to life imprisonment in 1987 for "propagandizing against the Socialist system." In November four more clergy affiliated with the Mother Coredemptrix order were freed (see Section 1.d.). In 1993 the first foreign religious community received government approval to work in Vietnam; Mother Theresa's Sisters of Charity began work in Hanoi at the end of the summer.

After a Vatican-based cardinal admonished Vietnamese Catholics not to join the government-sponsored union of Vietnamese Catholics, observers noted that fewer priests attended the annual meeting of this organization. At last report the only Protestant seminary had not been permitted to take in new students since 12 were admitted 6 years ago.

Some religious leaders believe that the Government's goal is to weaken the churches as a social force by limiting personnel and restricting their ability to move their clergy around the country. For example, only 15 priests in Haiphong serve over 150,000 Catholics there, and no religious women have been allowed to establish convents or novitiates there.

Most property of religious institutions remains under government control, including temples, churches, convents, seminaries, former religious schools, libraries, and orphanages. Sharp restrictions are exercised on the use, repair, or extension of those facilities that are returned to religious control.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—During 1993 the Government continued the trend of recent years of allowing freer movement within the country for most citizens. Vietnamese are required technically to obtain permission to change their residence, but it appears that obtaining permission has not been difficult during the past few years. Large numbers have changed residence without official permission, apparently without adverse consequences. Areas that have previously been off-limits to foreigners were reportedly opened. Since April 1, foreigners have been permitted to travel without permits to all areas except islands, border, or highland areas.

Private travel abroad is usually restricted to 3 months, except travel for education or medical treatment. Violators of this limitation may be barred from further travel for 3 to 5 years.

The Government continued its program of relocating people into sparsely populated New Economic Zones (NEZ's), but we have no reports that these relocations are forcible. There are reports of some people voluntarily moving to the NEZ's to gain access to land or remaining in the NEZ's to which they were sent earlier. The state-run radio has said that, of more than 2 million people who were moved from their homes in cities or crowded areas, only a quarter had substantially improved their living standards. The report admitted that many of the NEZ's were unfinished or short of basic facilities. The Government's rationale for relocating people to the NEZ's is to reduce urban crowding, exploit little-used land, and thereby help develop the economy. There have been no reports in recent years of banishment to the NEZ's as a form of punishment.

The Government continued to permit emigration for family reunification and for Amerasian Vietnamese and their close family members. The U.S. Orderly Departure Program, including Amerasians, former reeducation detainees, and family unification cases, continued to resettle beneficiaries at the rate of about 4,700 persons per month; a total of 57,000 immigrants and refugees in 1993. Other nations operate smaller resettlement programs for Vietnamese nationals. There are some concerns that members of minority ethnic groups, particularly highland peoples, might not have ready access to these programs. Vietnamese who emigrate are generally free to return. The Government regards overseas Vietnamese both as a valuable potential source of foreign exchange and expertise and as a potential security threat. Thus, the Government generally grants visas to overseas Vietnamese and encourages them to visit Vietnam, whether they emigrated legally or had been granted permanent resettlement after illegal departures from Vietnam. At the same time the public security police monitor them, especially those who come under suspicion as a result of their actions or associations. During 1993 some overseas Vietnamese were arrested, detained, and deported for activities deemed to be subversive, as described in Section 1.a.

In 1988 Vietnam signed a memorandum of understanding with the United Nations High Commissioner for Refugees (UNHCR) to increase acceptance of voluntary repatriates, provided there was financial assistance. This agreement included a commitment by Vietnam to waive prosecution and punitive measures for illegal departure from Vietnam of persons who return under the UNHCR voluntary repatriation program. Vietnam also agreed to permit the UNHCR to monitor the returnees

through direct visits. This agreement has resulted in a substantial flow of repatriates from several countries back to the SRV. Although there were suspicions that Vietnamese who decided to repatriate to Vietnam voluntarily would face discrimination, the evidence indicates they do not. More than 55,000 Vietnamese have returned voluntarily. The UNHCR, which monitors them extensively after they return, says they do not face retribution or discrimination.

Although the source of refugees itself, Vietnam has also been the country of first asylum for between 15,000 and 20,000 Cambodian refugees (mainly ethnic Chinese) who have fled to Vietnam since 1975. Repatriation of these refugees, who have been cared for by the UNHCR in well-organized camps, began in 1992. Atrocities committed against ethnic Vietnamese residents of Cambodia resulted in substantial refugee flows into Vietnam in 1993. The SRV has moved to absorb ethnic Vietnamese refugees from Cambodia, and there have been no reports of political problems. Some 30,000 are receiving international assistance.

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

Citizens are not free to change their government. All authority and political power is vested in the VCP; political opposition and other political parties are not tolerated.

The Central Committee of the VCP is the supreme decisionmaking body in the nation; its 13-member Politburo is the locus of policymaking. The Secretariat of the Central Committee oversees day-to-day implementation of leadership directives. Debate and criticism is limited to certain aspects of individual, state, or party performance determined by the party itself. No challenge to the legitimacy of the one-party state, or even debate on this subject, is permitted.

Citizens elect members of the National Assembly, ostensibly the chief legislative body, but it is still constrained by party guidance. The 395 delegates were elected in the summer of 1992. Candidates for the National Assembly election were carefully screened, and credible reports indicate that many people who wished to become candidates were not permitted to run because their views were not considered reliable. Although candidates are screened by party front groups, they are not required to be party members themselves, and multiple candidates contest each seat.

The law provides for equal participation in politics by women and minority groups, but in practice minority groups and women are underrepresented. The Government has claimed that women hold 46 percent of the senior posts in government and that 18 percent of the members of the Ninth National Assembly are women. A woman was elected Vice President of the country in 1992. The most senior leadership, however, is predominately male as can be seen, for example, in the all-male Politburo and Council of Ministers.

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

Vietnam does not permit private human rights organizations to form or operate. Moreover, it generally prohibits private citizens from contacting international human rights organizations. Since 1989, however, the Vietnamese Red Cross has been permitted expanded cooperation with the American Red Cross in assisting persons seeking missing relatives, including those in reeducation centers. The SRV has permitted international visitors to monitor implementation of its repatriation commitments under the Comprehensive Plan of Action and carried on a limited dialog with human rights organizations. The SRV has allowed some human rights organizations to visit. For example, it received a delegation from the U.S.-based human rights group Asia Watch. In addition, the SRV has shown some willingness to discuss human rights issues bilaterally with other governments if such discussions take place under the rubric of "exchanges of ideas" rather than "investigations." The SRV refused, however, to grant a U.S. Senator access to Nguyen Dan Que (see Section 1.d.).

The Government has on occasion granted consular access to third-country nationals imprisoned in Vietnam. In November SRV authorities for the first time allowed a U.S. consular official to visit an American citizen in a Vietnamese prison.

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

Varying levels of discrimination have been reported by people released from reeducation camps in the areas of housing or education. Those released from reeducation camps generally are not eligible to regain their citizenship rights until 1 year after their release date. They and their families are not allowed employment with the Government, which restricts their access to housing and other benefits given to state employees.

Priority in social services is given to families of party members and families of soldiers who fought for the Government. Testing standards of university entrance examinations are reportedly lower for children of party officials. Arbitrarily high standards are set to keep the children of suspect background out of a university. Study abroad is also restricted to politically acceptable persons.

Women.—In general women do not appear to face discrimination in employment and are treated equally under the law. However, they face problems competing with men for higher status positions owing to attitudes deeply ingrained in traditional Vietnamese society. Such problems persist in spite of government efforts to mold popular attitudes to conform with the Constitution, legislation, and regulations mandating equal treatment before the law in virtually all respects. Article 63 of the new Constitution provides that women and men receive equal pay for equal work, and a large body of legislation and regulations is devoted to the protection of women's rights in marriage as well as in the workplace. Government statistics indicate that approximately 50 percent of the primary school students are girls and that women represent about 39 percent of university students.

Although Vietnamese law does address the issue of domestic violence, there is no information readily available on how comprehensive the law is in this area. Limited anecdotal evidence indicates that violence occurs (although its extent is unclear) and that law enforcement is somewhat limited. There are no official or unofficial statistics on domestic abuse.

Children.—Reputable international NGO's reported that the Government's interest in children's issues and promoting child welfare was commendable. For example, the Government began a nationwide immunization campaign for children.

National/Racial/Ethnic Minorities.—Gradual assimilation appears to be the Government's long-term strategy for ethnic minorities. A member of a northern highland minority is currently serving as President of the National Assembly. The Government has created special schools in the Hanoi area for the education and indoctrination of members of minorities to be the "eyes and ears of the party" among their own people. Highland minorities in central Vietnam are subject to repression if suspected of ties with resistance groups. Officially programmed resettlement of ethnic Vietnamese into the highlands is designed in part to increase government control over minority groups. At the same time, the Government appears to be trying to narrow the gap in the standard of living between highlanders and lowland ethnic Vietnamese.

People with Disabilities.—There is little official protection or government support for the disabled, and, apparently, no laws mandating access for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—Vietnamese workers are not free to form or join unions of their own choosing. If working for the state sector, all workers automatically become members of the union in their workplace, and dues are deducted from their pay. These unions are organized by the Party and belong to the Party-controlled Confederation of Vietnamese Workers (CVW). Strikes are considered unpatriotic and are officially forbidden. Nonetheless, authorities have tolerated a few peaceful strikes at foreign-owned factories.

b. *The Right to Organize and Bargain Collectively.*—Vietnamese workers do not have the right to organize unions of their own choosing or to bargain collectively. However, the Chairman of the CVW is empowered by legislation to attend conferences of the Council of Ministers and raise issues on behalf of labor that cannot be resolved at lower levels. SRV officials have stated that wages are set by a bureaucratic system and that the wage scales provided for existing state corporations are also imposed on newly formed enterprises. With a growing private sector, local market forces played a greater role in wage determination. The question of antiunion discrimination on the part of employers against employees seeking to organize does not arise.

c. *Prohibition of Forced or Compulsory Labor.*—Compulsory labor is permitted by the Constitution, which states in Article 80 that "citizens must pay taxes and labor in the common interest as provided by law." Refugees report that every Vietnamese citizen is required by law to contribute 15 days of work per year to the State or pay a fee. A number of government projects have used forced labor provided by re-education camp prisoners.

d. *Minimum Age for Employment of Children.*—According to regulations inherited from the former French colonial administration, the minimum age for employment of workers is 17. There is no reliable information concerning the enforcement of these regulations, but refugees report that they are not enforced. There are no statistics available on the number of child workers in Vietnam. Refugees report that children under 15 are exempt from compulsory labor requirements. Compulsory ele-

mentary education laws exist but appear to be honored mostly in the breach for the children of the poor. Vietnamese culture holds education in high regard, however, and families send their children to school if they can afford to do so.

e. *Acceptable Conditions of Work.*—The Government adopted the former French colonial administration's system of regulations pertaining to working conditions, including a minimum wage; a maximum workday of 8 hours; a workweek of 6 days; and safety standards. Existing standards do not appear to be widely enforced. Wages are generally low in Vietnam, inadequate to provide the cast majority of workers and their families a decent living. The minimum wage for employees at joint venture (Vietnamese and foreign) companies is $35 per month (VN Dong 367,500), which is higher than the average wage paid by Vietnamese firms. In August workers at a foreign-owned factory staged a peaceful strike for improved labor conditions, which was tolerated by the authorities.

Vietnamese unions are not legally free to, and do not in practice, join, affiliate with, or participate in international labor bodies. However, in 1992, the SRV rejoined the International Labor Organization, from which it had withdrawn as a member state in 1985.

WESTERN SAMOA

Western Samoa is a small Pacific island country located 1,600 miles northeast of New Zealand with a population of approximately 160,000. It is a parliamentary democracy with certain concessions to Samoan cultural practices. The Constitution provides for a Samoan head of state, a unicameral legislature of matai (family heads) elected by universal suffrage, an independent judiciary, protection of Samoan land and traditional titles, and guarantees of fundamental rights and freedoms. Executive authority is vested in the Head of State, with the Government administered by the Cabinet, consisting of the Prime Minister and 12 ministers chosen by him. All laws passed by the Legislative Assembly need the approval of the Head of State. The present one, Malietoa Tanumafili II, holds the position for life. His successors will be elected by the Legislative Assembly for 5-year terms.

The culture of Western Samoa is essentially Polynesian but uniquely Samoan. Traditional authority is vested in the matai who are appointed by a consensus of the aiga (extended family) or by decision of the fono (council of matai). Ownership of land is legally vested in the matai who has the responsibility to direct the economic, social, and political affairs of the aiga. Western Samoa has 362 villages with over 25,000 matai. Each village is governed by a fono, which can fine or otherwise punish offenses against village rules.

Western Samoa does not have a defense force. The small national police force is firmly under the control of the Government but has little impact beyond the capital city.

The economy is primarily agricultural and is susceptible to shifts in world prices for its export commodities, such as coconut products. In recent years, tourism and light industry have become increasingly important foreign exchange earners. Western Samoa is heavily dependent on foreign aid and on remittances sent to family members by more than 100,000 Samoans living abroad in Australia, New Zealand, and the United States.

Western Samoan society is based on a collective value system in which obligations and responsibilities to the aiga are often given precedence over individual rights. Most disagreements are settled by decision of the fono. Judgments usually involve fines or, more rarely, banishment from the village.

Principal human rights problems arise out of discrimination and violence against women. Societal pressures may interfere with the ability to conduct fair trials. A government-established public defender's office and an ombudsman's office help Samoans in their dealings with the courts and the Government.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Such killings are not known to occur.

b. *Disappearance.*—There have been no reports of politically motivated disappearance.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture and other cruel, inhuman, or degrading treatment or punishment are prohibited by law, and there have been no reports of such practices by police or other government authorities. However, villages are controlled by customary law, and the

fonos may mete out banishment as punishment when deemed necessary. This is one of the harshest forms of punishment in this collective society.

d. *Arbitrary Arrest, Detention, or Exile.*—The law contains safeguards against arbitrary arrest and preventive detention, and these are widely observed.

e. *Denial of Fair Public Trial.*—Western Samoan law assures the right to a fair public trial, which is honored by the official court system, modeled on the British system. However, many civil and criminal matters are not handled by Western-style courts but by village fonos, which differ considerably both in their decisionmaking style and in the number of matai involved in the decisions. The Village Fono Law of 1990 gives legal recognition to the decisions of the fono and provides for limited recourse of appeal to the Lands and Titles Courts and to the Supreme Court. No appeals have yet been made to the Supreme Court.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Samoan law provides for protection from invasion of the home or seizure of property without substantive and procedural safeguards, including search warrants, which are issued by the judicial branch. Practically, however, there is little or no privacy in the village. Village officials by law must have permission to enter homes, but there can be substantial social pressure to grant such permission.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and of the press are fundamental parts of the Constitution. In 1993 the Government began printing a weekly paper of news and features which focuses largely on government activities. The Government also passed the Newspapers and Printers Act and the Defamation Act in 1993, which require journalists to reveal their sources in the event of a defamation suit against them. The two acts were strongly criticized by the local press. To date no court case has required that these acts be invoked. Two major newspapers, and many smaller ones, are printed regularly in the country. The Government operates a radio station and the country's sole television station, and there is also a private radio station. Television from neighboring American Samoa is readily available to viewers in Western Samoa.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly and the right to form associations. There are no significant restrictions.

c. *Freedom of Religion.*—Freedom of religion is provided for in the Constitution, along with freedom of thought and conscience. There is no government-favored religion. Nearly 100 percent of the population is Christian. While the Constitution grants each person the right to change religion or belief and to worship or teach religion alone or with others, in practice the matai often chooses the religious denomination of the aiga. There is strong societal pressure to support church leaders and projects financially. Such contributions often total more than 30 percent of personal income.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration and Repatriation.*—The Constitution provides for freedom of internal movement and resettlement in Western Samoa, but in practice some citizens have been banished either from village activities or completely from the village. Emigration is actively supported by the Government as a "safety valve" for pressures of a growing population, for potentially rebellious youths, and because it increases foreign income through remittances. Foreign travel is not arbitrarily restricted. The right of citizens to return to Western Samoa from abroad is guaranteed.

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

Samoan citizens have the right to change their government through direct, multiparty elections. All citizens above the age of 21 may vote. The right to run for 47 of the 49 seats in Legislative Assembly, however, remains the prerogative of the approximately 25,000 matai (virtually all of whom are men). The remaining two seats are reserved for citizens not of Samoan heritage. While all adult Samoans may vote for the Legislative Assembly, matai continue to control local government through the village fono, which is open to them alone. However, the system does permit change, and matai may be removed if they do not meet the responsibilities of their position.

The political process in Western Samoa is more a function of personality than of party. The first party, founded in 1982, was the Human Rights Protection Party (HRPP). Its leader, Tofilau Eti Alesana, is the Prime Minister. The HRPP holds the majority of seats in the Legislative Assembly. The opposition party, the Samoan National Development Party, was formed in 1988, replacing the previous Christian

Democratic Party founded in 1985. Unless the Government falls, the next general elections will not be held until 1996.

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

While there are no official restrictions against their formation, no official or private human rights organizations exist. There are no reports of any international or nongovernmental requests for investigations of alleged violations of human rights.

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

Western Samoa is a homogeneous society with no significant ethnic minorities. Samoan politics and culture are the product of a heritage of chiefly privilege and power, and members of certain families have some advantages. While there is discrimination against non-matai and women, women (and particularly women matai) play an important role in society and may occasionally reach high office. One of the 12 cabinet members is a woman, and there is one other female Member of Parliament. The passage of universal suffrage in 1990 and the establishment of a Women's Affairs Ministry in 1991 provided substantial new rights and opportunities for women, but their traditional subordinate role is changing slowly in the more conservative parts of society.

Women.—Abuse of women and children is prohibited by law. There is no history or evidence of abuse of women within the workplace, of any activity such as trafficking in women, or of any organized prostitution or related forms of exploitation. Traditionally, social custom tolerates physical abuse of women within the home. Most often this is limited to wife-beating. The role and rights of the village fonos and tradition would prevent police from interfering in instances of domestic violence, barring a complaint from the victim. While village custom discourages a victim of such abuse from seeking redress from the Government, the offender may be punished by the village council, if the abuse is considered extreme.

It is widely assumed that many cases of rape go unreported. However, when such cases are brought before the courts, they are treated seriously. Convicted offenders are often given relatively stiff sentences of several years' imprisonment.

Children.—Abuse of children is prohibited by law, and there is no pattern of child labor. Physical abuse of children is, however, traditionally tolerated within the home.

The Government's commitment to the welfare of children is reflected not only in legislation but in its continued efforts to strengthen the educational system. Approximately 10 percent of the Government's budget is devoted to education. In addition to funding its own school system, the Government also provides financial support to a large number of church-related educational institutions in Western Samoa. The Government does not provide special assistance for intellectually or physically handicapped children. Schooling for such children is provided by private organizations.

National/Ethnic/Racial Minorities.—The Constitution makes special provision to preserve the political rights of non-Samoans. Persons of mixed ancestry who are culturally Samoan are fully accepted and may attain positions of considerable wealth and influence. Several have held or hold cabinet positions and a number serve in the Parliament.

People with Disabilities.—There is no legislation pertaining to the status of handicapped or disabled persons in Western Samoa. There are also no laws regarding accessibility for the disabled. Both custom and practice permit such persons to play a role in society commensurate with their abilities. Samoan tradition dictates that handicapped persons be cared for by their family, and this custom is widely observed in practice.

Section 6. Worker Rights

a. *The Right of Association.*—Western Samoan workers have legally unrestricted rights to establish and join organizations of their own choosing. To date, only one trade union has been organized in the small private sector, with members coming from the sole large factory in the country. A labor dispute and strike broke out in early 1993, when management in the same factory challenged the legality of an unrecognized, breakaway labor group. Government leaders publicly criticized the strike as counter to Samoan tradition. The dispute was settled with the assistance of the Labor Commissioner. The Public Service Association, representing government workers, an increasingly important sector of the work force, functions as a union. The Supreme Court has upheld the right of government workers to strike, subject to certain restrictions imposed principally for reasons of public safety. Workers in the private sector have the right to strike. The Public Service Association freely

maintains relations with international bodies and participates in bilateral exchanges.

b. *The Right to Organize and Bargain Collectively.*—While workers have the legal right to engage in collective bargaining, this right seldom has been practiced due to the fact that unions have only recently appeared in the private sector. However, the Public Service Association engages in collective bargaining on behalf of government workers, including bargaining on wages. Arbitration and mediation procedures are in place to resolve labor disputes, although these rarely arise. Labor law and practice in the one export processing zone are the same as in the rest of the country.

c. *Prohibition of Forced or Compulsory Labor.*—While the Government does not demand compulsory labor and it is prohibited by law, in this collective society people are frequently called upon to work for their villages. Most people do so willingly, but, if not, the matai can compel them to do so.

d. *Minimum Age for Employment of Children.*—Under the terms of the Labor and Employment Act of 1972 and Regulations of 1973, it is illegal to employ children under 15 years of age except in "safe and light work." The Commissioner of Labor refers complaints about illegal child labor to the Attorney General for enforcement. The Attorney General has received no complaints about violation of the child labor laws, which probably seldom occur. The law does not apply to service rendered to the matai, some of whom require children to work, primarily on village farms.

e. *Acceptable Conditions of Work.*—The Labor and Employment Act of 1972 and Regulations of 1973 established for the private sector a 40-hour workweek and a small minimum wage. The hourly minimum wage is $0.40 (one Tala). This minimum wage suffices for a basic standard of living when supplemented by the subsistence farming and fishing in which most families engage.

The law also establishes certain rudimentary safety and health standards, which the Attorney General is responsible for enforcing. Independent observers report, however, that the safety laws are not strictly enforced except when accidents highlight noncompliance. In addition, many agricultural workers, among others, are inadequately protected from pesticides and other dangers to health. Government education programs are addressing these concerns. The law does not apply to service rendered to the matai. Government employees are covered under different and more stringent regulations, which are adequately enforced by the Public Service Commission.

EUROPE AND CANADA

ALBANIA

Albania continued to make progress toward establishing a multiparty democracy with legal guarantees of human rights. It installed its first non-Communist Government in free and fair elections in 1992 after 47 years of Communist rule. Parliament in 1992 elected Sali Berisha as President for a 5-year term, and Prime Minister Aleksander Meksi heads a coalition Government dominated by members of the Democratic Party. Pending the adoption of a new constitution, the Law on Major Constitutional Provisions continued to serve as a substitute.

Local police detachments are under the direction of the Ministry of Public Order. Instances of police abuse occurred, including the deaths of four persons while in police custody. The Rapid Deployment Force (RDF), created in 1992 and also under the Ministry of Public Order, has the authority to use force against public disorder, terrorist activities, and vandalism, to search homes, businesses, and vehicles, and to arrest suspects under certain circumstances. The National Intelligence Service (ShIK) is the successor to the Sigurimi secret police.

The Government made substantial progress in moving from a centrally planned economy to a market-oriented system. With 97 percent of the land restored to private ownership, crop yields increased by more than 20 percent. The privatization of services and trade expanded greatly, and a liberal investment law was passed to encourage foreign investment. Inflation was reduced from 200 percent in 1992 to about 40 percent in 1993. Although 100,000 new jobs were created, unemployment still ranged near 35 percent. Industrial production, declining at the beginning of the year, began to increase by year's end.

Parliament in March passed a human rights law which incorporates the basic provisions of the first articles of the draft constitution, providing for the freedom of speech, press, assembly, association, and religion. Nonetheless, significant human rights problems remained. Incidents of police violence occurred, involving use of excessive force (including shootings and beatings) against peaceful protestors and detainees, and resulting in four deaths. The Government appears not to have prosecuted those responsible in all cases. The Government restricted freedom of speech and press, trying Albanian journalists for defaming public officials and harassing foreign journalists for allegedly criticizing Albanian authorities. Freedom of assembly and association remained significantly restricted. Ethnic tensions increased when Albanian authorities expelled a Greek Orthodox priest accused of publicly endorsing the union of southern Albania with Greece, and Greek authorities retaliated by expelling over 25,000 Albanians working legally and illegally in Greece. The ethnic Greek community has complained of discrimination in education and religious matters in particular.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of targeted political killings in 1993, but in several instances police used excessive force, causing death. On May 15, police in Korca shot Romeo Gace while he was attempting to evade arrest for suspected theft. He later died. The responsible police officer was arrested, charged with willful murder, convicted, and sentenced to 8 years in prison.

On June 21, police in Fier beat to death a suspect attempting to elude arrest. Local and national police authorities released no details of the death and made no explanations. On August 15, police in Lushnje reportedly shot and killed a suspect while in the process of apprehending him. Authorities have not indicated whether investigations or prosecutions of those responsible have been initiated in these cases.

On August 14, 31-year-old David Leka died in Lac after police arrested him and beat him fatally for allegedly having injured a police officer with a knife by first cutting his nose and then stabbing him in the back. Three police officers were arrested in connection with his death, although two have since been released. The investigation was continuing at year's end. The Albanian Helsinki Committee protested these examples of the use of excessive force by police and criticized the Government for perpetrating an atmosphere that condones the abuse of force. President Berisha vowed that police who exceed their authority or violate citizens' rights would be held responsible before the law.

b. *Disappearance.*—There were no reported disappearances in 1993.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Penal Code prohibits the use of physical or psychological force during criminal proceedings and provides penalties for those found guilty of abuse. Nonetheless, there were several credible reports that police beat suspects while in official custody. In a series of incidents, police used excessive force in controlling or detaining demonstrators. On June 12, police in Tirana and Shkoder entered buildings where members of the Society of Former Owners were engaging in a hunger strike. When the strikers refused to leave or accept medical attention, police reportedly beat many of them, including elderly persons, while evicting them. The Helsinki Committee protested this use of force.

On July 30, the Socialist Party held a rally in Tirana which turned into a march (not authorized by the original permit) to the main square where they were met by regular police units, riot police, and plainclothes officers. While the regular police in general acted professionally, some riot police and plainclothes officers allegedly mistreated demonstrators after taking them into custody. The Minister of Public Order vowed to investigate these charges and take action against those responsible.

Serious concerns remain about Albanian prisons which became more crowded in 1993. Of particular concern was the incarceration of minor suspects and convicts (under the age of 18) with older inmates and allegations of sexual abuse of minors by older prisoners. There are no statutes which define the rights or obligations of prisoners or the rules governing prisoners' behavior. Prisoners have the right to appeal disciplinary decisions made by the guards to the prison director. The Helsinki Committee, which monitors prison conditions and reports on them to its parent organization, believes these conditions were not life threatening.

d. *Arbitrary Arrest, Detention, or Exile.*—During the July 30 demonstration in Tirana (see Section 1.c.), police made a number of arrests, allegedly singling out those shouting antigovernment slogans and not arresting the (equally unauthorized) progovernment counterdemonstrators.

According to the Penal Code, a prosecutor or police officer may order a suspect into "custody." Those "in custody" may only leave their residences with the approval of the prosecutor. The accused must be informed of the charges against them at the time of detention and have the right to legal counsel, which will be appointed free of charge if they are unable to afford a private attorney.

Bail, in the form of money or property, may be required if it is believed the accused may not appear for the court hearing. If the prosecutor fears that the accused may leave Albania prior to trial or is a danger to society, an arrest is ordered. Many suspects remain in jail until their trial date, which, due to the backlog of cases and shortage of attorneys, may be up to 3 months.

Within 24 hours of the arrest, the police must send a report to the prosecutor on the evidence linking the suspect to the crime. The prosecuting attorney has 48 hours within which to decide to go to trial or to order the person's release.

Either the defendant or counsel has the right to appeal the arrest ordered by the prosecutor in the court of first instance. The hearing must be held within 7 days of the arrest in the presence of the prosecutor, the defendant, and the defense counsel. There is no appeal of the decision of the court on this matter. The court system attempts to follow these procedures as closely as possible, but a severe shortage of trained, experienced legal professionals slows down the process considerably.

e. *Denial of Fair Public Trial.*—The judicial system comprises the courts of first instance (also known as district courts), the court of appeals, and the Court of Cassation. Each of these courts is divided into three jurisdictions: criminal, civil and military. A separate Constitutional Court (also known as the High Court or Supreme Court) can take jurisdiction of any case giving rise to a question of constitutional interpretation. The Court of Cassation hears appeals from the court of appeals, while the Constitutional Court reviews only those cases which require interpretation of the Constitution.

Parliament has the authority to appoint and dismiss judges on the Constitutional Court (nine members) and the Court of Cassation (seven members). The Supreme Judicial Council appoints and dismisses all other judges. Judges have a lifetime ap-

pointment and may only be relieved of their duties by Parliament (in the case of the Constitutional Court and the Court of Cassation) or the Supreme Judicial Council (in the case of other courts) on conviction for a serious crime.

In 1993 the Supreme Judicial Council continued the process begun in 1992 of removing Communist-era judges from the bench. For example, in the Tirana court system, only 2 of 23 sitting justices remain from the former Communist regime. Nationwide, some 70 percent of judges have been replaced since 1991.

Prosecutors also serve at the pleasure of the Supreme Judicial Council. Many who held ranking positions under the previous regime were removed during 1993. Because of the rapid turnover of prosecutors and judges and their insufficient experience and training, the rule of law and the principle of an independent judiciary are not yet firmly established.

Examinations have been instituted for admission to the faculty of law which previously had been based on political influence. However, a legal training course for the children of former political prisoners has aroused the concern of the Helsinki Committee, which argued that the program would not adequately prepare persons to work in the judicial system.

In January a Fier judge was reportedly reprimanded because President Berisha disagreed with the judge's decision to dismiss charges of labor agitation against two Socialist Party activists. In June Parliament passed a law that would have disbarred 92 lawyers who practiced under the Communist regime. The Constitutional Court declared it unconstitutional, and the lawyers were reinstated.

In September the General Prosecutor's office replaced 14 attorneys. Some reports claimed they had been fired for political reasons, but most appear to have resigned to make more money in lucrative private practice.

The Law on Major Constitutional Provisions provides that a trial must be held in public, unless it might divulge national security information. If convicted, the accused has the right to appeal the decision within 5 days to the court of appeals, and again to the Court of Cassation which renders the final verdict.

The Association of Former Political Prisoners, formed in 1991, seeks redress from the Government in the form of assistance with housing and schooling for prisoners' children or grandchildren. In January the Parliament pardoned all former political prisoners who were not covered under the October 1991 parliamentary decrees overturning the convictions of most political prisoners. In June Parliament approved measures designed to move former political prisoners and their families to the top of waiting lists for housing and admission to institutions of higher education in Albania. Former political prisoners will also be eligible for pensions to compensate them for the time they spent in prison. According the Helsinki Committee, those convicted and still serving sentences under pre-March 1992 penal procedures still do not yet have the right to appeal their convictions, even though they were convicted without the right to a defense lawyer or the right of subsequent appeal.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Law on Major Constitutional Provisions does not address these issues, although it states that Albania guarantees "the human rights and fundamental freedoms as accepted in international documents." The draft constitution states that searches may only be conducted with court-ordered warrants, and that correspondence may not be interfered with, except on grounds of national security. However, a law allowing police to enter homes without a warrant in search of illegal weapons remains in effect, which the Helsinki Committee has protested. There is no evidence of abuse of this law.

The Communist-dominated parliament, in office prior to March 1992, approved the establishment of the Rapid Deployment Force (RDF), which is authorized to use force against a breakdown in order, terrorist activities, vandalism, and arson. Attached to the Ministry of Public Order and also at the disposition of the Council of Ministers, the RDF in times of emergency comes under the command of the local chief of police and the local executive committee chairman (mayor). It has the right, among other things, to search residences and businesses, to set up roadblocks, and to search vehicles. It is not known to have abused its authority in 1993.

Plans to open and examine the files of the Sigurimi (the former secret police of the Communist regime) were still being considered at year's end. In the meantime, these documents remain under the control of the National Intelligence Service (ShIK). However, senior government officials have indicated that not all files are intact and some may have been tampered with in the final days of the Communist regime. The draft constitution states that "no information may be collected on citizens without their knowledge except on grounds of national security. All citizens have the right to examine government files pertaining to them and their activities."

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The law on basic human rights, approved by a two-thirds majority of Parliament in March, provides for the freedom of speech and press, although other laws are used to restrict criticism of the Government. The draft constitution prohibits any restrictions on the freedom of speech and press.

In October Parliament passed a press law which, in its attempt to legislate greater press responsibility, could severely restrict press freedom. The law sets out large fines for publishing material considered secret or sensitive by the Government, permits confiscation of printed matter or property by judicial order, and allows for criminal punishment under certain circumstances. These circumstances will be defined in future modifications of the Penal Code. The media and the Albanian Helsinki Committee denounced the law. Electronic media are to be dealt with in a separate law.

Opposition parties (with the exception of the Communist party which is banned and prohibited from publishing), independent trade unions, and various societies and groups publish their own newspapers. Approximately 250 newspapers and magazines appear on a regular basis. Liko Vima and Zeri i Omonias, two newspapers in the Greek language, are published in southern Albania.

In practice, freedom of speech, including freedom to criticize the Government and government officials, was sometimes restricted. The Government took legal action against three Albanian journalists in 1993. Nikola Lesi, editor of the opposition newspaper Koha Jone, was tried on charges that he libeled the Chairman of the State Control Commission, was found guilty, and fined. Aleksander Frangaj, also at the time with Koha Jone, was charged with endangering national security for his report on alleged military maneuvers. After a court battle, the Government withdrew its allegations. Koha Jone frequently criticized the Government and claimed that as a result it was a target of official persecution.

Idajet Beqiri, Chairman of the National Unity Party and editor of its newspaper Kombi, was charged under a 1990 law with "defamation of the office of the President" for having authored an article calling President Berisha "the killer of Albania." On July 12, Beqiri was found guilty and sentenced to 6 months in prison but is appealing. Journalists were also allegedly arrested in the course of covering demonstrations and charged with participating in illegal demonstrations. At least one journalist was reportedly beaten while in custody. The Government has also reportedly increased the number of financial inspections of opposition newspapers.

Foreign journalists also encountered difficulties in Albania in 1993. Police detained an Italian journalist with the newspaper Corriere de la Serra in August, without filing charges. He had written articles for his newspaper critical of President Berisha. Only after agreeing to leave the country was he released. The Italian Government protested this as improper interference with journalistic freedom. A reporter for Agence France Presse and a Greek journalist and film maker were also reportedly harassed by police for "anti-Albanian" or "antigovernment" activities.

Radio and television remained state monopolies. Albania has one television station, while each major city has its own radio station. Since November 1991, Parliament has exercised direct control over television, delegating some oversight duties to an Executive Committee of Radio and Television, which it appoints. The Executive Committee, comprised of 11 members from outside Parliament, meets occasionally to review programming and the content of news broadcasts. Opposition critics of the Government alleged that television serves the interests of the ruling Democratic Party. Some controversial interviews and programs were said not to have been aired, reportedly at the request of political and governmental leaders. Local radio in southern Albania broadcasts Greek-language programming.

The Ministry of Education sets a standard course outline for all levels of education. Professors may substitute texts and teach their courses in whatever manner they see fit, within the general guidelines set in Tirana. A Greek studies program at the University of Gjirokaster, long a demand of the ethnic Greek cultural organization Omonia, began functioning for the 1993–94 academic year.

b. *Freedom of Peaceful Assembly and Association.*—There are significant restrictions on the freedom of peaceful assembly and association. Both the Law on Major Constitutional Provisions and the draft constitution state that political parties must be fully independent from state institutions, including military and security forces, but they may not be formed on an ethnic or religious basis. Parties with representatives in Parliament are eligible for modest government funding.

In order to hold a public rally, an organization must apply for a permit from local authorities and provide copies of all speeches to be delivered and slogans to be used in the course of the meeting. Requests for meetings were usually granted, although police sometimes required a change of date or venue. When such meetings expanded into marches to other (unauthorized) locations, however, they were then deemed ille-

gal. Some public meetings of the opposition Socialist Party were not permitted for the sites or times requested. At least 14 men were imprisoned on charges of having taken part in unauthorized demonstrations in July and August.

In July 1992, Parliament passed a law banning all "Fascist, racist, antinational, Marxist-Leninist, Enverist (followers of former dictator Enver Hoxha), and Stalinist" parties, including the Communist party. The Constitutional Court upheld the prohibition of the Communist party, and the draft constitution continues this ban.

An organization, including a political party, must apply to the Ministry of Justice to be officially certified. It must declare an aim or purpose that is not anticonstitutional or contrary to law. It must describe its organizational structure and account for all public and private funds it receives. The Constitutional Court has upheld prohibitions on organizations which failed to get the necessary government authorization. An anti-Communist group called Vendetta was denied registration, allegedly because it favors a violent approach towards retribution against former Communists who are now Socialists.

c. *Freedom of Religion.*—Freedom of religion has been established both in theory and practice. The Government legalized the private and public practice of religion in 1990. The Law on Major Constitutional Provisions declares Albania to be "a secular state" which "respects the freedom of religious faith and creates conditions to exercise it." The human rights law passed by Parliament in March also guarantees full religious freedom.

Controversy over a proposed law on religion erupted in early 1993. The law, which went through several revisions before being dropped entirely, would have required the leaders of the four main religious communities—Muslim, Bektashi, Roman Catholic, and Albanian Autocephalous Orthodox—to be Albanian citizens from birth, thus necessitating the removal of, inter alia, the Albanian Autocephalous Orthodox Archbishop, Anastas Janullatos, a Greek citizen.

Foreign clergy, including Muslim clerics and Christian missionaries, freely carry out religious activities. Albanian Muslim clerics are being training in Egypt. A seminary training priests for the Albanian Autocephalous Church will graduate its first class in 1994. Orthodox priests from Greece serve Greek-speaking congregations, primarily in southern Albania.

In June a Greek priest, Archimandrite Chrystostomos, who had been working in ethnic Greek areas of southern Albania for almost a year, was expelled from Albania for allegedly engaging in anti-Albanian activities, including publicly calling for the union of parts of southern Albania with Greece. In retaliation, the Greek Government expelled over 25,000 documented and undocumented Albanian workers.

A secretariat of religions within the Ministry of Culture oversees the activities of the religious communities. Some questions concerning property confiscated by the Communist regime from religious organizations have yet to be resolved. In some instances, the restitution of property would displace thousands of residents from their present-day homes located on the religious communities' lands.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no longer any restrictions on freedom of movement within the country, and regulations on foreign travel and emigration have been revised. Passports are available to all citizens, and the practice of limiting them to specific countries of destination was abandoned in 1991. Albanian-born citizens of all foreign countries are eligible to apply for dual citizenship.

As in 1992, thousands of economic emigrants fled Albania, principally overland to Greece but also by sea to Italy. The Tirana office of the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM) jointly run a program to inform the public of opportunities for legal migration to other countries. Responsibility for emigration was assigned in 1993 to a committee which works with foreign governments to establish agreements for the legal employment of Albanians abroad.

Although until now there has been no significant influx of refugees into Albania, some government officials are concerned about the potential flood of ethnic Albanian refugees from Kosovo in Serbia if widespread violence were to break out there. Some ethnic Albanians, most of whom fled Kosovo to avoid the draft, came to Albania, though exact numbers are not known. Albania also agreed to shelter up to 5,000 Bosnian Muslims who are in Croatian refugee camps. Some Bosnians did come in 1993 but then relocated to Turkey.

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

The Law on Major Constitutional Provisions and the draft constitution provide citizens with the right to change their government "by free, general, equal, direct, and secret ballot." International observers judged the national elections in March

1992 to have been free and fair. The Democratic Party holds 86 of 140 parliamentary seats to 38 for the Socialist (former Communist) Party, 7 for the Social Democratic Party, 6 for the Democratic Alliance Party, 2 for the Unity for Human Rights (ethnic Greek) Party, and 1 for the Republican Party. The next elections are not required before 1996. Opposition parties had good access to radio and television and were unhindered in publishing their newspapers.

The law on political parties, passed in early 1992, and the draft constitution bar the formation of parties on an ethnic basis. During the campaign for parliamentary elections in 1991, Omonia, the national political and cultural organization of the ethnic Greek minority, constituting approximately 3 percent of the population, was permitted to field candidates. Since that time Omonia leaders have founded the Unity for Human Rights Party, which has run candidates in both national and local elections. Ethnic Greek candidates in southern Albania won a majority of elected positions in parts of three districts (Gjirokaster, Delvine, and Saranda) and manage many ethnic Greek communities. There are six ethnic Greek Members of Parliament, two of whom represent the Unity for Human Rights Party.

There are no legal impediments to the participation of women in politics or government, although to date few women have competed for elected office, and only eight women serve in Parliament, a reflection of the male-dominated society.

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

The Albanian Helsinki Committee, the major human rights watchdog organization, took a very active and public role in defending human rights and remained independent of the Democratic Party-led Government. During 1993 it initiated and carried out investigations and issued statements and reports which were critical of the Government. The main areas of its focus are the rehabilitation of former political prisoners and the independence of the judiciary and the mass media. The independent Albanian group, the Society for Free Elections and Democratic Culture, founded in 1992, shifted its interest from elections to democratic institution-building and civic education.

Delegations from the International Helsinki Commission, the Council of Europe, and the Office of the High Commissioner for National Minorities of the Conference on Security and Cooperation in Europe (CSCE) made several visits to Albania in 1993, during which they conferred with political officials and representatives of the ethnic Greek minority and visited prisons, hospitals, and other state facilities. Albanian government cooperation with the U.N. Human Rights Center continued during 1993. There were no allegations that the Government penalized or repressed any human rights observers or their contacts for their work in Albania.

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

Women.—The Law on Major Constitutional Provisions does not address women's rights. The draft constitution, however, prohibits any discrimination on the basis of sex. Women are not restricted, either in law or in practice, from any occupations, although they do not typically rise to the top of their professions. No data are available on whether women receive equal pay for equal work. Although women have equal access to higher education, they are not accorded full, equal opportunity and treatment with men in their careers, due to the persistence of traditional (male-dominated) values. Domestic violence undoubtedly exists, but no statistics are kept. Police are seldom called to intervene in cases of family abuse, and women almost never bring charges against spouses. "Refleksione," Albania's first nonpolitical women's group founded in 1993, worked to raise funds and planned for Albania's first shelter and counseling service for abused and battered women. It is also dedicated to the strengthening of women's participation in society and to the expansion of their legal rights.

Children.—The Government's commitment to children's rights and welfare is based on domestic law and international agreement. The Government makes education mandatory through age 14. Employment of children under this age is legally prohibited, although it is clear that, in many rural areas, children under 14 are actively involved in agriculture. Special programs of the Ministry of Labor and Social Welfare are planned but not yet implemented for disabled children.

National/Racial/Ethnic Minorities.—While no recent official statistics exist regarding the size of various ethnic communities in Albania, ethnic Greeks are the most organized and receive the most attention and assistance from abroad. Albania has a population of approximately 3.3 million. Ethnic Greek leaders believe there are about 70,000–80,000 ethnic Greeks in Albania. Vlach (Romanian speaking) lead-

ers claim their community numbers close to 300,000, although this is unlikely. Small ethnic Macedonian villages exist in the northeast part of the country.

Two distinct groups of Roma (Gypsies), the Jevg and the Arrixhi (Gabel), reside in Albania. The Jevg are more likely to be settled in urban areas and are more integrated into the Albanian economy than the Arrixhi. The two groups seldom intermarry or have any significant contact. Both groups encounter societal discrimination, but no specific violence is known to have been directed against them during 1993.

CSCE High Commissioner for Minorities Max Van der Stoel visited Albania twice in 1993 to investigate the situation of the ethnic Greek minority. In his trip report Van der Stoel called Albania's commitment to provide full CSCE rights to ethnic Greeks "real" and stated that the minority does in reality enjoy those rights. However, he recommended the creation in the Government of a special office for minority questions.

Greek-language education was the single most important concern of the ethnic Greek community in southern Albania. In 1993 the Government met the community's longstanding demands for state-funded, Greek-language education. Seventy-three elementary schools (grades one through eight) are open in the areas where most ethnic Greeks reside (three southern districts of Gjirokaster, Delvine, and Saranda) which now serve more than 4,500 students. A Greek-language high school was opened in Gjirokaster, and the "Eqerem Cabej" University of Gjirokaster now has a department of Greek studies which opened for the 1993–94 academic year. The curriculum in these schools is the Albanian state program translated into Greek and taught by ethnic Greek Albanian instructors. Ethnic Greeks complained, however, that there is no legislation permitting the establishment of private schools.

Although they have no legal basis, the Government continued to use the term "minority zones" to describe the three southern districts in which villages have majorities of ethnic Greeks. It has had practical application in the area of education. Given the Government's severe budgetary problems and the overcrowded and poor conditions of most Albanian schools, the State has funded Greek-language education only in "minority zones".

After Albania expelled a Greek priest in June for alleged anti-Albanian activities and the Greek Government retaliated by deporting over 25,000 documented and undocumented Albanian workers, tensions between ethnic Greeks and Albanians rose in southern Albania. The Government ordered the deployment of extra RDF police in ethnic Greek areas to prevent any anti-Greek violence. Occasional reports of beatings of illegal Albanian workers by Greek military personnel also fueled emotions from time to time throughout 1993. In one incident, an ethnic Greek policeman was wounded by other policemen. Some ethnic Greeks alleged that ethnic Greek army officers were forced to resign under pressure of transfers to the northern part of the country, but there was no evidence to support allegations of discriminatory transfers.

Vlachs continued to demand government-funded education in their language, although they were less vocal about their demands than in 1992. They also continued to seek funds to restore several early 18th-century churches and monasteries that have deteriorated over the years. In accordance with an agreement signed in 1992, the Macedonian Government funds Macedonian-language education in several villages on the Albanian side of the Albanian/Macedonian border.

People with Disabilities.—In 1993 Parliament approved a law to assist disabled World War II veterans. Due to the paucity and poor quality of medical care under the Communist regime, there is a disproportionately high number of disabled persons in Albania. Disabled persons are eligible for various forms of public assistance, but the level of that assistance is meager. The public care section of the Ministry of Labor and Social Welfare is to establish local offices for the treatment and rehabilitation of the disabled. The Government has not yet legislated or otherwise mandated accessibility for the disabled due to the relative poverty of the State and the population in general.

Section 6. Worker Rights

a. *The Right of Association.*—Workers obtained the right to create independent trade unions in 1991. The Independent Confederation of Trade Unions of Albania (BSPSH) was formed as the umbrella organization for a number of smaller unions. A separate, rival federation continued to operate in close cooperation with the Socialist Party. The latter federation—the Confederation of Unions—is a continuation of the "official" federation of the Communist period. In 1993 municipal employees and workers in such fields as communications and bakeries founded their own independent associations.

More than 100,000 Albanians are now employed in the private sector, mostly in small shops, enterprises, and restaurants, but they have formed no unions to represent them. Some unions have organized to represent workers in Greek- and Italian-owned shoe and textile factories.

According to the Law on Major Constitutional Provisions, all workers, with the exception of employees of military enterprises, have the right to strike. The draft constitution also fully guarantees the right to strike for economic, safety, or health reasons. Strikes that are either openly declared to be political or so judged by the courts are forbidden.

In the depressed economic climate of 1993, labor disputes flared. Early in January, chromium miners in Bulqize ended a bitter strike demanding that their wages be raised to the level of West European miners. After the strike ended, the Government reportedly did not allow 27 miners, including 8 members of the strike committee, to return to work. The Albanian Helsinki Committee protested this decision.

On May 20, the BSPSH staged a 1-hour general strike, which was observed, though not uniformly, throughout the country. In response, the Government agreed to increase unemployment compensation and wages for some workers. A court declared a strike planned by oil workers for August 3 illegal because they failed to adhere to the legally required 2-week "cooling off period" between calling their strike and subsequently walking out. Teachers, who are at the bottom of the "wage pyramid" and earn approximately $1 per day, staged a 1-day strike on September 15, the first day of the new school year. In response, the Government agreed to an immediate increase of 10 percent in their wages.

The BSPSH has observers with the International Confederation of Free Trade Unions in Brussels and working ties with the American Federation of Labor-Congress of Industrial Organizations. Its closest ties at present are with the Italian labor unions. Individual Albanian trade unions have ties with their corresponding trade secretariats in Brussels and elsewhere.

b. *The Right to Organize and Bargain Collectively.*—All citizens in all fields of employment have the right to organize and bargain collectively, except members of the armed forces, civilian personnel employed by the armed forces, and employees of certain state administrative organs. In practice unions negotiate directly with the Government, since very little privatization has occurred outside of the retail and agricultural sectors.

Wages for all state employees are defined by the wage pyramid, legislated in 1992, which comprises 22 wage levels organized by trade.

Most large enterprises remain state owned. BSPSH leaders were disappointed with the 1993 law on collective agreements and bargaining. They had hoped that it would declare their union the lead union at enterprises where more than one union is active. President Berisha has called for some revisions to the law to effect "improvements pursuant to international acts."

Export processing zones do not exist in Albania.

c. *Prohibition of Forced or Compulsory Labor.*—The Law on Major Constitutional Provisions prohibits forced labor, as does the draft constitution. There were no cases of forced labor reported in 1993.

d. *Minimum Age for Employment of Children.*—The Law on Major Constitutional Provisions sets the minimum age for employment at 14 years. Persons between the ages of 14 and 16 may work only 5 hours per day. Working conditions for those over 16 are not legislated. Although the law mandates education through the eighth grade and prohibits work by those younger that 14, there are no enforcement mechanisms to curb either truancy or child labor. In rural areas, children are often called on to assist families with farm work.

e. *Acceptable Conditions of Work.*—There is no minimum wage in the private sector. Current law and the draft constitution guarantee social assistance (income support) and unemployment compensation. The average monthly wage for all Albanian workers is approximately $30.

In June Parliament approved shortening the workweek in state-owned enterprises to 40 hours. The workweek includes a 24-hour rest period, usually Sunday. The Ministry of Labor enforces this law.

The Government sets occupational health and safety standards but has no funds to make improvements in state-owned industry. In a February report, the Albanian Helsinki Committee criticized working conditions in the chromium mines at Bulqize. The Government called the Bulqize miners' strike "politically motivated" but acknowledged the need to improve their poor health conditions. In those enterprises which are functioning, health and safety conditions are generally very poor.

ANDORRA

The Principality of Andorra became a parliamentary democracy in March 1993 when its Constitution was approved by popular referendum. Andorra had been governed by two co-princes representing secular and religious authority since 1278. Under the new Constitution, the two Co-Princes, the President of France and the Spanish Bishop of Seu d'Urgell, serve coequally as Heads of State. Elections were held in December to choose members of the Consell General, the Parliament, which selects the Head of Government. Members of the judiciary are appointed for 6-year terms. Andorra has no defense forces and only a small internal police force.

For centuries Andorra's economy was based on agriculture, mainly sheep raising and tobacco growing. In recent years Andorra thrived on its duty-free status within the European Community (EC). Tourism boomed and dozens of luxury stores, hotels, and restaurants were built. With creation of the EC Unified Market, however, Andorra lost its privileged status and suffers from economic recession. Tourism is still an important source of income, especially during the skiing season, but has fallen dramatically. Due to banking secrecy laws, the financial service sector is growing in importance. Many immigrant workers live in poor conditions.

In 1989 the European Parliament (EP) concluded that human rights, as they are defined in the European Convention on Human Rights, were generally respected in Andorra. However, the EP expressed uncertainty regarding the exercise of the right of association, noting that although not strictly forbidden, there were no political parties. It expressed concern also about the lack of labor unions and the absence of many social benefits common to other countries in the European Community. With the approval of a new Constitution in 1993, a process of potentially significant political change commenced. The Constitution proclaims as basic principles respect for the promotion of liberty, equality, justice, tolerance, defense of human rights, and dignity of the person. The rights of free association and assembly are guaranteed, but the Constitution is unclear regarding the right to strike.

Only Andorran citizens, who represent 18 percent of the total population, are eligible to vote. Until 1992 only those born in Andorra of at least one Andorran parent could become citizens. That was broadened in October 1992 to include long-term residents and spouses of Andorran citizens.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There was no evidence of any form of political or other extrajudicial killing. There have been no reports of deaths due to excessive police brutality.

b. *Disappearance.*—There are no known instances of politically motivated disappearances.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution guarantees all persons the "right to physical and moral integrity" and states that no one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment. These rights are honored in practice. There have been no cases of torture, cruel and inhuman punishment, or grievous injury by police or prison personnel. Penal conditions are exemplary.

d. *Arbitrary Arrest, Detention, or Exile.*—There are constitutional guarantees against arbitrary arrest or detention. Charges must be brought within 48 hours of arrest. The Constitution protects citizens' rights to due process of law. It provides for the accused's right to legal counsel, and free legal counsel is provided to indigents. It also provides for the presumption of innocence, the right to trial within a reasonable time (prisoners awaiting trial may be held only up to 3 months), to be informed of charges and not to testify against oneself, and the right to appeal.

e. *Denial of Fair Public Trial.*—The Constitution calls for an independent judiciary, and in practice it is free of executive branch interference. Justice is organized and administered by the five-member Superior Council of Justice. One member each is appointed by the two Co-Princes, the Head of Government, the President of the Parliament (known as the Syndic) and collectively by members of the lower courts (magistrates and bailiffs). Constitutional issues and appeals are decided by a separate Supreme Court. A public prosecution system enforces the law and supervises the police.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution protects Andorrans from unlawful interference with their "privacy, honor, and reputation." Private dwellings are considered inviolable. No searches of any private premises may be conducted without a juridically issued warrant. Private communications also are protected by law.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of expression, of communication, and of information is constitutionally protected and respected in practice. Preliminary censorship or any other means of ideological control on the part of the public authorities is prohibited. One radio station operates in Andorra, and two newspapers and three weekly magazines are published there.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution respects the right to meet and assemble for any lawful purpose. Under the new Constitution adopted in March, political parties are permitted for the first time. Political parties and workers' organizations tend to be centered on political personalities rather than formal party groupings.

c. *Freedom of Religion.*—The Constitution guarantees freedom of religion, and it is respected in practice. The Constitution also acknowledges a special relationship between the Roman Catholic Church and the State "in accordance with Andorran tradition." The Catholic Church receives no subsidies from the Government.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no restrictions on domestic or foreign travel or on emigration or repatriation. Andorra has no formal asylum policy, and at year's end had no political refugees in residence. However, Andorra has a long tradition of providing asylum to refugees. Asylum requests are evaluated on a case-by-case basis.

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

Andorra has made sweeping political changes in the last decade or so, progressing from a basically feudal system to a parliamentary democracy. It had been governed by two Co-Princes since 1278 when the Principality was formed by agreement between the Spanish Bishop of Seu d'Urgell and the French Count de Foix. The French title passed to the kings of Navarre and then to the kings of France (1607). Andorra's feudal status caused the French to break their ties following the French Revolution, but in 1806 Napoleon reestablished the link at Andorra's request. The title of co-prince devolved onto the President of France. The Co-Princes are represented in Andorra by delegates (delegados); in addition, the French and Spanish Governments now have ambassadors in Andorra's capital, Andorra la Vella.

Andorra's Parliament dates from 1419. The Consell de la Terra was created to deal with abuses by the Co-Princes. The Consell General, which replaced it in 1868, broadened the participation of Andorrans in their own affairs. Elections have been held every 4 years to select four representatives from each of Andorra's seven parishes. The Consell is presided over by the Syndic and, since 1981, elects the head of government.

The establishment of the Executive Council in 1981 was a major step toward democracy. The Council, composed of the Head of Government and four counselors, took over the day-to-day governing of the country. However, the Co-Princes, Consell General, and Head of Government deadlocked more than once over proposed changes. A draft Constitution clearly separating executive, legislative, and judicial powers was finally completed 12 years later. More than 70 percent of eligible voters participated in the referendum which approved the new Constitution in March. Elections were held in December for new members of the Consell General. The Consell General selected a new Head of Government, Oscar Ribas, in January 1994.

Women have played a relatively minor role in Andorran politics. They have enjoyed full suffrage only since 1970. Few women have run for office in the years since, and only two have held cabinet-level posts in the Government. Only 1 of the 28 Deputies in the new Consell General is a woman. There are no formal barriers to the participation of women in Andorran politics; however, it is a conservative society, resistant to social change, and access to its closed world of politics is very difficult.

A most important change brought about by the new Constitution was the partial democratization of the Consell General. Previously, representatives were elected by parish, which gave more weight to the less populous parishes. In some cases the differences were quite substantial. Under the new arrangement half will be elected by parish and half according to population.

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

While there are no government restrictions to prevent it, no group to monitor human rights in the country has been formed.

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

The Constitution declares that "all persons are considered equal before the law and prohibits discrimination on grounds of birth, race, sex, origin, religion, opinions, or any other personal or social condition," although Andorran law grants many rights and privileges exclusively to citizens.

Until 1992 only those born in Andorran territory to at least one Andorran parent were considered citizens. Under new legislation, citizenship may be granted to those born to foreign parents and living in Andorra since 1975, to those living continuously in Andorra since prior to January 1960, and to those married to Andorrans, provided they have lived in Andorra continuously for 3 years. The law does not permit dual nationality. The new Constitution grants noncitizens the right to own businesses, previously not allowed.

The largest group of foreign residents are Spanish nationals, who make up 47 percent of the population. Other considerable foreign groups are the French, Portuguese, British, and Italian. A relatively small number of North African and African immigrant workers are employed mostly in agriculture and construction.

Immigrant workers do not enjoy equal rights with Andorran citizens. They lack many social benefits paid to residents and in many cases live in deplorable conditions. The cost of living in Andorra is quite high, and workers employed in low-wage industries often cannot afford the normal housing costs. Many of them live in trailers or crowded apartments, with as many as 8 or 10 people sharing quarters designed for 4. Many such workers are in Andorra on temporary work permits. These permits are valid only as long as the job exists for which the permit was obtained. A worker hired on a temporary contract loses his work permit when the contract expires; if unable to find new employment, the worker quickly becomes an undocumented alien with no visible means of support and is therefore deportable.

Women.—There is no legal discrimination against women, either privately or professionally. There are no available data on the incidence and handling of domestic violence cases. (See also Section 3.)

Children.—There is no evidence of any special commitment to children's rights and welfare, although there is no indication of any problems in this area.

People with Disabilities.—Some, but not all, public buildings and public places provide facilities for handicapped access. Government spokesmen affirm that there is no discrimination against people with disabilities.

Section 6. Worker Rights

a. *The Right of Association.*—Article 18 of the Constitution recognizes the right of all persons "to form and maintain managerial, professional, and trade union associations without prejudice." The Constitution provides that a Registry of Associations is to be established (through future legislation) and maintained. At year's end, there were no labor unions in Andorra. Though government officials said this was because no organizations had applied for recognition, the nonofficial Sindicato Andorrano de Trabajadores (Andorran Workers' Union - SAT) reported that it did apply for official recognition last spring, but there was no response to the application. The SAT plans to reapply after the new government is in place. Strikes were illegal under the old system, and the new Constitution does not state explicitly that strikes are permitted. This issue is to be addressed by a law on worker rights which was under preparation at year's end.

b. *The Right to Organize and Bargain Collectively.*—Article 19 of the Constitution states both "workers and employers have the right to defend their own economic and social interests." There is an official minimum wage, set by government regulations. Other, higher wages are established by contract. The Parliament is charged with adopting legislation to regulate conditions governing the exercise of this right so as to guarantee the functioning of essential services to the community. Unbiased observers note that the threat of immediate dismissal is a powerful deterrent to any complaints from workers, especially as there is no unemployment insurance. This strongly inhibits workers from organizing effectively to press their case. Antiunion discrimination is not prohibited under current law; this issue, too, is to be addressed in the draft legislation on workers' rights.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is not specifically prohibited by law, but it has never been an issue. There is no forced labor in Andorra.

d. *Minimum Age for Employment of Children.*—Children under the age of 18 are normally prohibited from working although in exceptional circumstances children who are only 16 may be allowed to work. Child labor regulations are enforced by the Labor Inspection Office within the Ministry of Social Welfare, Public Health,

and Labor. That office does not routinely inspect workplaces but responds to complaints.

e. *Acceptable Conditions of Work.*—The workweek is limited to 40 hours, although longer hours may be required. The legal maximums for overtime hours are 66 hours per month and 426 hours per year. The minimum wage is approximately $4.50 per hour, which is nationally mandated. In principle, it is enforced by the Labor Inspection Office, but self-enforcement by custom is the norm. The current minimum wage is inadequate for a worker and family in Andorra, where living costs are quite high.

Complaints center on the lack of job security—workers may be dismissed without notice and receive social security and health benefits for only 25 days; thereafter, there is no unemployment insurance. Foreign workers who contribute to the social security system are ineligible to receive retirement benefits if they do not remain in Andorra after retirement; however, they may apply for a lump-sum reimbursement of social security contributions when they leave the country. Retirement benefits are controlled by a board composed of Andorran nationals, although they represent only a small portion of the work force. There is no special court or board to hear labor complaints.

The Government sets occupational health and safety standards, but enforcement is very loose, as there are no routine inspections. There is no legislation giving workers the right to remove themselves from dangerous work situations without jeopardy to their continued employment.

ARMENIA

Since achieving independence from the Soviet Union in 1991, Armenia has been striving to create a democratic, multiparty republic with a parliamentary system of government. Legislative power is vested in the Parliament whose members were chosen in 1990 elections, which, in spite of being conducted under Soviet procedures, proved relatively free. However, Parliament's continued inability to adopt a new constitution has inhibited political and economic reform. Levon Ter-Petrosyan was elected President in free and fair, multicandidate elections in 1991. The President appoints the Prime Minister, who presides over the Government. Armenia's judiciary is not fully independent of the other branches of government.

The police are responsible for maintaining order throughout the country and are generally subordinate to governmental authority. Like its predecessor, the Committee for State Security or KGB, the State Directorate for National Security of the Republic of Armenia is responsible for combating both external and internal threats.

The ongoing conflict in Nagorno-Karabakh, an overwhelmingly ethnic Armenian enclave within Azerbaijan, has been the most serious territorial dispute in the former Soviet Union in terms of casualties and suffering. Since 1988 when the enclave voted to secede from Azerbaijan and join Armenia, thousands have died, thousands more have been injured, and hundreds of thousands made refugees. Armenian support for the separatists has led to a crippling Azerbaijani economic embargo which strangles landlocked Armenia.

The conflict itself, the attendant Azerbaijani and Turkish embargoes, and chaos in Georgia have exacerbated the Armenian economic crisis produced by the breakup of the Soviet Union. Industrial production continued to decline from its already minimal 1992 level, although at a slower rate during 1993. Unemployment and inflation rates remained very high. Electricity and fuels continued to be in critically short supply, and the health of large segments of the population, particularly the very old and the very young, was significantly affected by the difficult living conditions. The Government has privatized agricultural holdings and is moving to privatize the distribution sector, but most other segments of the economy remain under state ownership.

In the absence of a new constitution and the full panoply of laws protecting human rights, the International Covenant on Civil and Political Rights, adopted by Parliament's 1991 resolution as the supreme law of the land, aims to ensure the protection of human rights. Armenia also relies on parts of the Soviet Constitution. Within this framework, Armenia generally respects human rights, although there were several reports of police brutality during the year. The press is free, and a wide spectrum of viewpoints is represented. Citizens are free to conduct public meetings and demonstrations. The Soviet-era criminal code, however, is still in force and allows suspects to be detained for up to 72 hours without charge; and judges do not appear to be sufficiently insulated from political pressure. The law on religion forbids proselytizing and appears to place restrictions on the kinds of religious organizations that may be officially registered. Although citizens are free to emigrate,

Armenians must still have official invitations if they wish to obtain a passport for travel abroad. After the flight of almost all Azeri inhabitants of Armenia to Azerbaijan, Armenia's remaining national minorities do not appear to suffer discrimination. Deeply ingrained attitudes ensure that women are frequently the objects of discrimination. Appreciation of the rights of the handicapped remains very rudimentary.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—No political or other extrajudicial killings are known to have occurred in 1993. However, at least one person died while in official custody during the year. The trial of the policemen involved was under way at year's end.

b. *Disappearance.*—No abductions by government or other forces are known to have been committed. Hostage-taking by both parties to the Nagorno-Karabakh conflict continues (see the Azerbaijan country report).

c. *Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment.*—In 1993 seven members of Armenia's police forces were officially charged with brutality. The number of actual beatings or instances of mistreatment may be higher. Allegations of police brutality are investigated by the procurator's (attorney general's) office. If investigation reveals evidence to support the allegations, and if there is a serious violation of the law, criminal charges are filed. Less serious cases are referred to the Ministry of Internal Affairs for administrative action. Information on prison conditions was not available, but they are believed to be harsh.

d. *Arbitrary Arrest, Detention, or Exile.*—Parliament has yet to pass a law on judicial reform, although a proposal is under consideration. According to the Armenian Criminal Code, much of which dates from the Soviet era, suspects may be held without charge for up to 72 hours. A suspect has the right to be represented by a lawyer, and the police must notify the suspect's relatives if requested. After arrest, the suspect may be jailed for up to 3 months until completion of the investigation, or up to 9 months by special order of the procurator. If no charges have been filed after 9 months, the suspect must be released. There is no provision for bail or for trial by jury in Armenian law. Once criminal or civil charges have been filed, the case should by law go to trial within 1 month. In practice, due to current difficult conditions in Armenia, the deadline is often not met.

In July the former Minister of Civil Aviation and his deputies, who in 1992 had allegedly been arbitrarily detained, were released on their own recognizance pending trial.

Although the Soviet-era Criminal Code, which allows for the exile of citizens under certain circumstances, remains in effect, no one has been exiled since Armenia became independent.

e. *Denial of Fair Public Trial.*—The court system in Armenia comprises a number of district courts, a Supreme Court, and a military tribunal. District courts try the overwhelming majority of cases. The Ministry of Internal Affairs continues to conduct preliminary investigationsof criminal cases. The Soviet-era Criminal Code and procedures still obtain in Armenia.

The Supreme Court is divided into three separate sections. The first tries especially serious cases (murder, rape, and all crimes committed by high-level officials). The Presidium of the Supreme Court reviews all cases tried by the first section and provides final rulings on any contested verdicts. The second, civil law section hears lawsuits, civil appeals, and commercial suits. The third, appellate section of the Supreme Court reviews district court verdicts. The Ministry of Justice nominates Supreme Court judges, whose candidacies are vetted by a panel of their peers before being forwarded to Parliament for approval. Presiding district court judges were elected to a 5-year term in 1986. Their tenures have been extended pending the adoption of a new constitution. Neither group as yet functions fully independently from the other branches of government.

The military tribunal operates essentially as it did in the Soviet era. A military procurator performs the same functions as his civilian counterpart, operating in accordance with the Soviet-era legal code.

Trials are public except when government secrets are at issue. Defendants are required to attend their trials unless they have been accused of a minor crime not punishable by imprisonment. They may confront witnesses and present evidence. The court appoints an attorney for any defendant who needs one. Defendants have the right of appeal.

There are no known political prisoners in Armenia.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Apart from the provisions of the International Covenant, there is no legal protection for the privacy of citizens, their communications, and their correspondence. Procedurally, the Directorate of National Security must petition the procurator's office for permission to tap a phone or intercept correspondence. The procurator's office purportedly must find a compelling need for the wiretap before it will grant the agency permission to proceed.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The law on information provides for freedom of speech and press. These freedoms were widely exercised.

The press is generally free and contains a wide variety of political opinion and criticism of the Government. All publications must register with the Ministry of Justice and state their general subject matter. The Ministry of Justice is required to act on a publication's application for registration within 1 month of its receipt.

There is no prepublication censorship. However, the Government reportedly supplies all mass media editors with a list of forbidden subjects. It comprises sensitive military information in categories such as the draft and army recruitment, information on military structure, civil defense arrangements, finance, communications, transport, and science and technology. There were no known prosecutions in 1993 for violations of this injunction. In an unsettling development, the Ministry of Foreign Affairs in November banned correspondents from three opposition media organs from attending any briefings and meetings sponsored by the Ministry.

Shortages of paper, fuel, electricity, and other supplies sometimes delayed or prevented the publication or distribution of the print media. There is no indication that the Government uses such problems to control or influence the media.

Broadcasting is entirely controlled by the Government. There are no independent radio or television stations, although there are several small independent cable television companies. Several independent radio stations were allotted frequencies and are awaiting equipment and final approval from the Ministry of Communications before they begin broadcasting.

Each week, the government broadcaster provided a total of 15 minutes of television air time for all opposition political parties. The state radio company established a similar system. Representatives of opposition parties also appeared regularly on political discussion programs. A shortage of electricity limited broadcast time for Armenian television to about 5 hours per day.

b. *Freedom of Peaceful Assembly and Association.*—In the absence of an Armenian law, freedom of peaceful assembly and association is provided for by the International Covenant. Public demonstrations, meetings, and marches occurred frequently in 1993, without any apparent interference by the authorities. The Soviet-era law on meetings remains valid and requires those wishing to stage marches or demonstrations to obtain a permit from the regional executive committee. The procedure for obtaining a permit is not onerous, and there were no instances of its arbitrary use.

The Ministry of Justice registers social and political organizations, but the Government does not attempt to control the opposition through the registration process. Many political parties have been registered, and in 1993 the Ministry of Justice registered the three organizations that applied.

c. *Freedom of Religion.*—The 1991 law on religious organizations provides for freedom of conscience and the right to profess one's faith, but there are some restrictions on religious freedom. The law forbids proselytizing and refuses registration to organizations whose doctrine is not based on "historically recognized holy scriptures." It also requires that petitioning organizations "be free from materialism and of a purely spiritual nature" before they may be registered. It establishes the separation of church and state but recognizes the Armenian Apostolic Church, to which over 80 percent of the population at least nominally belongs, as the dominant denomination. A religious organization refused registration cannot publish a newspaper or magazine, rent a hall or other meetingplace, have its own program on television or radio, or officially sponsor the visas of visitors to Armenia.

The 1991 law was supplemented on December 22 with a presidential decree on religious activities which appears to further strengthen the position of the Armenian Apostolic Church. The decree enjoins the Council on Religious Affairs to investigate the activities of the representatives of registered religious organizations and to ban missionaries who engage in activities contrary to their status. It is not yet possible to gauge what effect the enforcement of the decree may have on the exercise of freedom of religion in Armenia.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government does not restrict internal or international travel for

political reasons. Travel passports are still withheld, however, from Armenians lacking invitations from the country that they wish to visit, from those possessing state secrets, and from those whose relatives have made financial claims against them. The Soviet-era Office of Visas and Registrations (OVIR) continues to impede travel and emigration through delays and the creation of various bureaucratic obstacles.

Some 200,000 people, virtually the entire ethnic Azeri population of Armenia prior to independence, remain refugees in Azerbaijan. After the 1988–89 anti-Armenian pogroms in Azerbaijan connected with the conflict over control of Nagorno-Karabakh, these people were subjected to discrimination and intimidation, often accompanied by violence intended to drive them from the country. Many were forcibly deported, and the rest fled. It is unclear but increasingly unlikely that these people will be able to return, as is also the case for the nearly 400,000 Armenian refugees who fled Azerbaijan after the pogroms.

The Government does not in any way actively hinder emigration. Members of Armenia's small Jewish and Greek communities continued during 1993 to emigrate at a rapid rate.

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

Although democracy is not yet firmly established in Armenia, citizens have exercised their right to change their government peacefully. The 1990 parliamentary elections were relatively free in spite of being conducted according to Soviet election procedures. The Armenian National Movement (ANM) defeated the Communist Party. As Parliament began to function, its members affiliated themselves with new parties being formed. At present, 12 parties and associations are represented in Parliament, and many others dot the political landscape. The ANM, which supports the President, does not have a majority of deputies in Parliament. Because of frequent defections and splits, the relative strength of the other parties in the legislature varies.

In 1991 the Armenian electorate chose Levon Ter-Petrosyan as its President in a multicandidate election. By law, members of the executive branch, including the President himself, may not belong to any political party. The next parliamentary and presidential elections are now scheduled for 1995. They may be called earlier if a new constitution is ratified.

In the absence of a new constitution, the Government's legitimacy rests on the 1990 law on the Presidency and the 1991 law on Parliament. The law on Parliament established a multiparty system. The large number of seats won by those occupying full-time jobs in local government offices around the country and Armenia's economic problems have frequently made it difficult to muster a quorum and have correspondingly limited the effectiveness of Parliament. In an effort to enhance interparty comity and increase efficiency, the President has frequently induced members of other parties to serve in his Government.

Largely due to traditional social attitudes, women play a very limited role in government and politics. The Minister of the Environment is the highest ranking woman in government, and there are several women serving as mayors and Members of Parliament.

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

There are several fledgling human rights organizations in Armenia. The Government does not impede investigations, by either domestic or international human rights organizations, into alleged charges of human rights abuse.

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

Discrimination is prohibited by the International Covenant. Since independence, laws have been passed to protect against discrimination based on religion or language. Armenia signed the Convention on the Protection of Women from All Kinds of Discrimination on June 9, 1993.

Women.—Armenia remains a male-dominated society. Women are typically expected to do the housework and raise the family even if they have a full-time job. In the workplace, they are generally not afforded the opportunities for training and advancement given to men. The 1992 law on employment does, however, prohibit discrimination in employment. The extremely high unemployment rate makes it difficult to gauge how effectively the law has been implemented to prevent discrimination.

In the first quarter of 1993, only six rape cases were tried by Armenian courts. It is virtually certain that many more incidents go unreported. In 1993 not one charge of spouse abuse was filed or tried by a court in Armenia.

Children.—Armenia signed the Convention on Children's Rights on June 1, 1992. The Government has taken steps to insulate large families (four children or more) from Armenia's current difficult economic circumstances, and foreign humanitarian aid programs have been similarly targeted at large families. Armenia does not have the means, in the current straitened economic environment, to provide fully for the welfare of children.

National/Racial/Ethnic Minorities.—No laws have been passed since independence to protect against discrimination based on race or social status. The small communities of Russians, Jews, Kurds, Yezids, Georgians, Greeks, and Assyrians still resident in Armenia do not suffer discrimination. The 1992 law on language guarantees linguistic minorities the right to publish and study in their native language. There are publications in minority languages. In theory, minorities may use their native languages in court cases. In practice, virtually everyone presently in Armenia, including members of its Yezid, Greek, and Jewish communities, speaks Armenian.

People with Disabilities.—The Parliament in 1993 passed a law on invalids that in principle guarantees the social, political, and individual rights of the handicapped. The law does not mandate the provision of accessibility for the disabled, however. Appreciation of the rights of the handicapped remains very rudimentary.

Section 6. Worker Rights

a. *The Right of Association.*—The 1992 law on employment guarantees employees the right to strike and to form or join unions of their own choosing without previous authorization. The vast majority of existing trade unions are holdovers from the Soviet period and were not freely chosen by workers. About 80 percent of Armenia's work force are formally members of unions. A presidential decree of January 1993 prohibits the Government and other employers from retaliating against strikers and labor leaders. It appears to be enforced. In the summer and fall of 1993, teachers from some of the country's schools formed a union and struck to press their demands for improved working conditions and a wage increase. Yerevan subway workers conducted a 2-hour warning strike in November. The activities of both groups did not seem to be hindered in any way by the Government. Unions are free to affiliate with international bodies and to form federations.

b. *The Right to Organize and Bargain Collectively.*—The 1992 Law on Employment guarantees the right to organize and bargain collectively. Nearly all enterprises, factories, and organizations remain under state control. Therefore, voluntary,direct negotiations cannot take place between unions and employers without the participation of the Government. Collective bargaining is not practiced in Armenia. Wages in industries, which are overwhelmingly owned and controlled by the state, are set by the government with reference to the prevailing minimum wage. The Government encourages profitable factories to establish their own pay scales. They are generally set by the factory's directorate, without consultation with employees. Export processing zones do not exist. Wage and other labor disputes are adjudicated through the Arbitration Court. The Court has acted in the past to force the reinstatement of employees fired because of their labor activism.

c. *Prohibition of Forced or Compulsory Labor.*—The 1992 Law on Employment prohibits forced labor, which is not practiced. This provision is enforced by the local councils of deputies, unemployment offices, and, as a final board of appeal, the Arbitration Commission.

d. *Minimum Age for Employment of Children.*—According to the 1992 Law on Employment, 16 is the minimum age for employment. Children may work from age 14 with the permission of a medical commission and the relevant labor union board. Child labor is not practiced. The Law on Employment is enforced by the local councils of deputies, unemployment offices, and, as a final board of appeal, the Arbitration Commission.

e. *Acceptable Conditions of Work.*—The minimum wage is set by governmental decree and was increased periodically during 1993. The minimum wage in December 1993 was about $0.50 per month. Employees paid the minimum wage cannot support either themselves or their families on this pay. The vast majority of enterprises are either idle or operating at only a fraction of their capacity. Those still on the payrolls of idle enterprises continue to receive two-thirds of their base salary. As a result of the economic dislocations caused by the breakup of the Soviet Union, the 1988 earthquake, the conflict in Nagorno-Karabakh, and the resultant disruption in Armenia's trade, the overwhelming majority of Armenians are thought to live below the officially recognized poverty level. The standard legal workweek is 41 hours.

Soviet-era occupational and safety standards remain in force. Labor legislation from 1988 places responsibility on the employer and the management of each firm to ensure "healthy and normal" labor conditions for employees, but it provides no

definition of "healthy and normal." A law that would improve safety conditions at the workplace has been drafted and has been discussed in committee.

AUSTRIA

Austria is a constitutional parliamentary democracy. A coalition government of the Social Democratic Party and People's Party, originally formed after the 1986 national election, continued in office after the October 1990 election. The Freedom Party, the Green Party, and the Liberal Forum, which split from the Freedom Party in February 1993, form the opposition.

The police and security organs are subordinated to the executive and judicial authorities. However, there continued to be reports of police abuse.

Austria affords its citizens a high standard of living.

Human rights are highly respected in Austria; individual rights and political freedoms are provided for in the Constitution and generally protected.

RESPECT FOR HUMAN RIGHTS

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

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

b. *Disappearance.*—There were no political abductions.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture is banned by the European Convention for the Protection of Human Rights and Fundamental Freedoms, which is incorporated into the Constitution.

As a result of continued allegations of police brutality over the past few years, regulations which stipulate more clearly the limits of police conduct during investigations took effect in May. According to the Interior Ministry and human rights groups, complaints of police brutality decreased significantly.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary detention or exile.

In criminal cases the law provides for investigative or pretrial detention for up to 48 hours, except in cases of charges of "aggressive behavior", by which time an investigative judge must decide on the legality of continuing the detention. Provided the prosecutor requests detention and the investigative judge agrees, the accused may be held for a maximum of 2 years pending completion of an investigation. Grounds for investigative detention are specified in the law, as are conditions for release on bail. A reform of Austrian law regarding investigative and pretrial detention has been adopted and is scheduled to go into effect in January 1994. The new law requires mandatory reevaluation of a detention by the investigative judge at 2 weeks, 1 month, and every 2 months after the arrest.

e. *Denial of Fair Public Trial.*—The judiciary is independent of the executive and legislative branches of government. Judges are appointed for life and may not, in principle, be removed from office. Jury trials are prescribed for major offenses, and those convicted have the right of appeal. Written charges must be presented to the accused who has the right to be represented by a lawyer. The accused are presumed innocent, and trials are public.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law provides for the protection of personal data collected, processed, or transmitted by government agencies, public institutions, and private entities. Constitutional provisions also protect the secrecy of the mail and telephone. Following the restructuring of the state police after a 1990 scandal involving the monitoring of private citizens without sufficient grounds, a 1991 federal police law introduced parliamentary control over the state police and the military secret service on a permanent basis. Parliamentary subcommittees to oversee these organs were formally established in September 1993.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—These freedoms are provided by the Constitution and generally respected in practice, although stringent slander laws discourage reports of police brutality. Austria has a free, independent, and multifaceted press, ranging from conservative to Communist. Publications may be removed from circulation if they violate legal provisions concerning morality or public security. As a matter of practice, such cases are extremely rare. Opposition viewpoints are given wide attention in Austrian publications. A 1992 law lowered the minimum sentences for public denial, belittlement, approval, or justification of Nazi crimes. The lowering

of minimum sentences has had the desired effect of increasing the conviction rate of those accused of neo-Nazi activities.

Austrian radio and television have been government monopolies but present diverse points of view. There have been no complaints of either subtle or direct censorship. A law passed in July allows for establishment of private radio and television stations. Cable television is widely available, allowing Austrians access to international broadcasts. They also listen to radio broadcasts from other European countries.

Freedom of academic expression is respected.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association. Public demonstrations require a permit from the police authorities, who are limited to considering only the public safety aspect of the proposed demonstration, not its political purpose. Permits are routinely issued. The Constitutional Law of 1945, as amended in 1947, prohibits Nazi organizations and activities. The Austrian State Treaty of 1955 also made an exception to freedom of association in the case of Nazi organizations and activities. The Law on the Formation of Associations stipulates that permission to form an association may be denied if it is apparent that the organization will pursue the illegal activities of a prohibited organization.

c. *Freedom of Religion.*—This right is provided by the Constitution, although the Treaty of St. Germain, which is also incorporated into the Constitution, restricts this freedom to the practice of religions that are compatible with public safety and morality. There are no known instances of a religion being banned under the Treaty. In order to qualify as a recognized religious organization under Austrian law, religious groups register with the Government. Although 78 percent of the population is Roman Catholic, most of the world's major religions are represented and practice their faiths freely.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government does not restrict freedom of movement within the country or the right to change residence or workplace. Austrian residents are free to travel abroad and to emigrate. Citizens who leave the country have the right to return.

Over the past few years the Government tightened its asylum regulations. Asylum seekers must apply for asylum in the first country in which they are able to make application (all surrounding countries are considered by Austria to be "safe" for asylum seekers) and are not allowed to stay in Austria while appealing their rejected asylum requests. As a result, asylum applications dropped from 11,875 in the first half of 1992 to 2,490 in the first half of 1993. Authorities approved 9.1 percent of asylum applications in the first half of 1993. Opposition groups, including political parties and human rights organizations, maintain that Austria's strict new asylum laws violate the right to apply for asylum and the right of asylum seekers to reside in Austria while their rejected asylum requests are appealed.

A new residence law went into effect in July. The law is broad in scope and does not distinguish between immigrants and nonimmigrants; several of its provisions generated vociferous public debate. An implementing regulation which required that each foreign resident have a minimum of 10 square meters of living space to be eligible for a residence permit (including renewal of a previous permit) was withdrawn. A provision that a foreign resident could be deported if the authorities did not process a properly filed application for a residence permit within 6 weeks was retained and justified as intended to force the bureaucracy to process applications expeditiously. Human rights organizations and the Catholic Caritas organization strongly criticized the residence law. The debate about whether to amend the controversial residence law continued at year's end.

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

Austria is governed through a democratic parliamentary system. The Constitution stipulates that national elections must be held at least every 4 years. Elections are free and regularly draw high levels of participation. Ballots are secret. There is universal suffrage for those over 19 years of age.

The 1990 election continued a coalition government composed of the two largest political parties, the Social Democratic Party, which won 80 seats in Parliament, and the People's Party, which won 60 seats. Three other parties are represented in Parliament—the Freedom Party, the Greens, and the newly formed Liberal Forum. Although there are no legal impediments, women are significantly underrepresented in government and politics. According to a Parliamentary spokesperson, 41 of 183 parliamentarians are women (22.4 percent). Although the political culture in Austria has been and is dominated by men, women are making inroads. The Social

Democrats, at their summer congress, established a 40 percent quota for female parliamentarians, to be fully implemented in 10 years.

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

Allegations of improper activities on the part of the authorities are discussed and investigated by the press, public groups, and private individuals without government hindrance. Both international and local human rights groups operate freely. Austria recognizes the competence of the European Human Rights Commission in Strasbourg to implement the European Convention on Human Rights.

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

Austria has a comprehensive public welfare system, the benefits of which are available to all citizens on a nondiscriminatory basis. In employment and in other areas, comprehensive legal protection is provided against discrimination because of race, sex, religion, language, disability, or social status. In December, a letter bomb campaign targeted public persons known for their sympathy and support of immigrants and refugees in Austria. Among those seriously injured was the Mayor of Vienna. The ongoing police investigation has led to the arrest of six men associated with rightwing, neo-Nazi organizations.

Women.—Most legal restrictions on women's rights have been abolished. Women are still prohibited by law from night work in most occupations, however, and this ban is sometimes used as a pretext for not hiring women. Nurses, taxi drivers, and a few other occupations are exempted. The Women's Ministry defends the night-work ban on the basis that women are also the primary care providers for children during the day.

Women are entering the work force in increasing numbers and have made substantial progress toward economic equality. Nevertheless, in practice, they are generally underrepresented in the professions and business. Women are not allowed in the Austrian military. There is no conscription of women as there is for men. Recent suggestions by various politicians that women do mandatory civilian service have been rejected by the Women's Ministry and women's organizations.

Although labor laws providing for equal treatment extend to women in the civil service, women are nonetheless underrepresented in government service also. To remedy past practice, women of equivalent qualifications are to be placed in jobs ahead of men in civil service areas in which less than 40 percent of the employees are women. The 40-percent hiring quota was part of the Women's Omnibus Law which went into effect in January 1993. According to the Women's Ministry, although the quota was contained in the law, there are no penalties for not meeting it. Women may be awarded compensation of up to 4 months' salary if discriminated against in promotions because of their gender. Compensation may also be awarded to victims of sexual harassment.

Laws are in place to combat the problem of violence against women, but enforcement is often difficult, according to a Women's Ministry spokesperson. When police arrive on the scene of a domestic dispute where a woman has been physically abused, they can do nothing to the man if he is peaceful or the woman does not file a complaint. A court order forcing a man to stay away from his wife or girlfriend generally takes 3 to 6 weeks to obtain.

Children.—The Government is seriously committed to protecting children's rights and welfare. The law provides for 2 years of paid maternity leave for mother or father. Parents receive a government payment of about $1,200 for the birth of each child and between $100 and $140 per month for the maintenance of each child. Child care is often provided or subsidized by federal, state, and local governments. Because of a severe shortage of government child care centers, private centers are increasingly in demand. No pattern of societal abuse of children exists.

National/Racial/Ethnic Minorities.—The rights of members of all minorities are fully respected. In addition, the Government recognizes Croat, Slovene, Hungarian, Czech, and Slovak minority groups, and is discussing recognition of the Roma and Sinti (Gypsy) minorities. The Ethnic Minorities Law allows a recognized minority to establish an ethnic group council to advise the Government on issues regarding that minority. It also provides for the establishment of minority language schools in some communities. All of the five recognized minorities have established minority councils.

People with Disabilities.—Disabled individuals are protected by law from discrimination in housing, education, and employment. Austrian law requires businesses and state and federal government offices to employ 1 disabled person for every 25 to 45 employees, depending on the type of work, or to pay a fee to the Government.

The Government uses collected fees to pay for programs for the disabled—such as training programs and grants to firms to help pay the wages of disabled workers. Some businesses and offices opt to pay the fee rather than employ people with disabilities. No federal law mandating access for the disabled has been enacted. Some public buildings are virtually inaccessible for those unable to climb stairs.

Section 6. Worker Rights

a. *The Right of Association.*—Workers have the right to form and join unions without prior authorization. This right is protected under general constitutional guarantees of freedom of association. In practice, Austrian trade unions have an important and independent voice in the political, social, and economic life of the country. In 1993, 53 percent of the work force was organized in 14 national unions, all of which are members of the Austrian Trade Union Federation (ATUF). This organization has a strong, centralized leadership structure. Individual unions and the Federation are independent of government or political party control, although formal factions within these organizations are closely allied with political parties.

Although the right to strike is not explicitly provided by the Constitution or by national legislation, it is universally recognized. Strikes have been comparatively few and usually of short duration. A major reason for Austria's record of labor peace is the system of "social partnership", an unofficial forum for cooperation among labor, management, and government. At the center of the system is the Joint Parity Commission for Wages and Prices, which has an important voice on major economic questions.

The ATUF, its political wings, and its member unions have affiliations with all three world labor federations.

b. *The Right to Organize and Bargain Collectively.*—Unions have the right to organize and bargain collectively. The labor movement enjoys widespread acceptance, and almost all large companies, private and state-owned, are organized. Worker councils operate at the enterprise level, and workers are entitled by law to elect one-third of the members of the supervisory boards of major companies. Collective agreements covering wages, benefits, and working conditions are negotiated by the ATUF with the National Chamber of Commerce and its associations, which represent the employers. Wage-price policy guidelines are set by the Joint Parity Commission. A 1973 law obliges employers in enterprises with more than five employees to prove that job dismissals are not motivated by antiunion discrimination. Employers found guilty of antiunion discrimination are required to reinstate workers fired for union activities. Austrian labor and business representatives remained in disagreement over how to comply with the obligation under ILO Convention 98 to provide legal protection against arbitrary dismissals to employees in firms with five employees or less.

Workers are further protected by mandatory membership in the Austrian Chambers of Labor, to which all employees except civil servants belong. These Chambers carry out studies and prepare legislative proposals. They are obliged to provide free legal assistance, including a lawyer, to any employee requesting it. Typically, legal disputes between employer and employees regarding job-related matters are handled by a special arbitration court for social affairs. The ATUF is exclusively responsible for collective bargaining. The leaderships of the Chambers and the ATUF are elected democratically.

Austria has no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is prohibited by law and is not practiced.

d. *Minimum Age for Employment of Children.*—The minimum legal working age is 15. The law is effectively enforced by the Labor Inspectorate of the Ministry of Social Affairs.

e. *Acceptable Conditions of Work.*—There is no legislated national minimum wage. Instead, nationwide collective bargaining agreements set minimum wage rates by job classification for each industry. A worker whose annual income falls below a poverty line (approximately $850 per family member per month) is eligible for social service benefits. The average Austrian has a high standard of living, and even workers at the low end of the wage scale have a relatively adequate minimum standard. Although the legal workweek has been established at 40 hours since 1975, more than 50 percent of the labor force enjoys collective bargaining agreements setting the standard workweek at 38 or 38.5 hours.

Austria has enacted extensive legislation setting occupational health and safety standards, under which the Labor Inspectorate of the Ministry of Social Affairs conducts inspections and ensures the effective protection of workers. Inspectors have the authority to "tag" an observed safety or health risk without a court order, an action that effectively shuts down the affected machinery or process until it con-

forms with mandatory safety standards. Workers may file complaints anonymously with the Labor Inspectorate, which may bring suit against the employer on behalf of the employee. In practice, this option is rarely exercised; workers normally rely instead on the Chambers of Labor, which file suits on their behalf.

AZERBAIJAN

Azerbaijan declared its independence on August 30, 1991. Progress toward a democratic society suffered a severe setback following the June 1993 downfall of the democratically elected President, Abulfez Elcibey.

Heydar Aliyev, a former Communist Party First Secretary of Azerbaijan and Soviet Politburo member, assumed presidential powers following a period of intense strife brought on by the loss of large portions of the country to Armenian rebels in Nagorno-Karabakh, a predominantly Armenian enclave within Azerbaijan. The events in June were facilitated by the failure of the Azerbaijan Popular Front (APF) government to hold parliamentary elections. A referendum on August 29 confirmed the lack of public confidence in Elcibey, and Aliyev won presidential elections held on October 3.

Under President Elcibey and the APF, the Ministry of National Security appeared to have been relatively inactive; under the Aliyev regime, it has arrested APF leaders without bringing charges and is believed to have resumed surveillance activities.

Azerbaijan continued to maintain the structure of a centralized command economy. Disintegration of the economy continued as a result of war, social instability, and the general collapse of the currency and industry. The manat, the local currency introduced in August 1992, remained tied to the Russian ruble. Reviving ruble-denominated (soft currency) trade links with Russia was one reason cited by Aliyev for his decision to take Azerbaijan into the Commonwealth of Independent States (CIS) in September. Badly needed economic reforms remain to be implemented. Oil is the key foreign exchange earner.

The war in and around Nagorno-Karabakh continued to be the most significant factor in the human rights situation. Both sides engaged in frequent human rights abuses and violations of humanitarian law, including the killing of civilians, hostage-taking, and ransoming the remains of the dead.

Armenian forces in Nagorno-Karabakh launched offensives outside the boundaries of the Nagorno-Karabakh autonomous region, seizing Kalbacar in March; Agdam in July; and Fuzuli, Cabrayil, Qubadli, Zangilan, and other towns to the south during the August-October period. The attacking forces looted and burned all villages in the areas they overran, forcing some 500,000 people, as well as earlier displaced persons who had settled in areas subsequently overrun, to flee their homes. The total refugee population rose to over 1 million out of a total population of 7.5 million.

The war and attendant social instability gave rise to many human rights abuses even before the fall of Elcibey, although the situation worsened thereafter. The state of emergency, which the APF government enacted in April, permitted police to enter homes without warrants, introduced press censorship, banned demonstrations, and restricted travel, among other measures. Even after Acting President Aliyev ended the state of emergency in September, the Government continued to impose prepublication censorship. Elements within Azerbaijani society hostile to the presence of Armenians kidnaped Armenian and part-Armenian residents of Baku to be exchanged for Azeri hostages in Nagorno-Karabakh. As Acting President Aliyev concentrated power into his own hands, he took steps to suppress political opposition.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Extrajudicial Killing.*—According to supporters of rebel leader Surat Huseynov, APF government troops which attacked his forces in Gance in July were responsible for the deaths of some civilians among the 70 persons killed. APF supporters charge that Huseynov's forces took captive the commander of the Presidential Guard during the engagement and butchered him in his hospital bed. In addition, Huseynov's forces killed several local administrators during their march on Baku in June.

b. *Disappearance.*—Hostage-taking by both sides in the Nagorno-Karabakh conflict remained endemic. Armenian forces from Nagorno-Karabakh took hostage hundreds of civilians, including 100 in hte Kalbacar region alone, during their offensives against Azeri-inhabited regions. Five Azeri civilians, along with a number of soldiers, were traded back to Azerbaijan on September 22 in exchange for six Russian mercenaries sentenced to death in 1992 for fighting alongside Nagorno-Karabakh's

Armenians. Azerbaijani hostage-taking, which had been on the decline, increased after the fall of Elcibey, as ethnic Armenian civilians, mostly residents of Azerbaijan, were kidnaped from their own homes and from public transport. Many of these were "arrested" and taken to the police by Azeris who wanted the Armenians' apartments.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—APF supporters alleged that the perpetrators of the events in June tortured ex-Parliament Speaker Isa Qambar and other APF figures after their arrests. However, Qambar denied these charges upon his release in August.

d. *Arbitrary Arrest, Detention, or Exile.*—On June 4, APF government forces attempted to suppress an armed mutiny in Gance by a regiment led by Surat Huseynov, who was demanding the overthrow of the Government and attempting to achieve this by suborning the loyalty of the rest of the military. Huseynov's troops defeated progovernment forces and arrested the Attorney General, the Deputy Minister of National Security, and the Deputy Minister of Internal Affairs (the first two had parliamentary immunity from arrest). These arrests were sanctioned only on July 16, after Huseynov had marched on Baku, forced President Elcibey to flee, toppled the Government (with Heydar Aliyev assuming presidential powers), and been named Prime Minister. On the same day, Parliament allowed the arrest of its former speaker, Isa Qambar, and former Minister of National Security Fakhrettin Takhmazov without formal charges. Qambar was arrested inside the Parliament building—even before Parliament voted to strip him of his parliamentary immunity—and taken away to Gance as the personal captive of Surat Huseynov. He was released on August 17 after strong protests by the United States, Turkey, and the United Nations; Takhmazov was released a month later.

Between September 12 and 22, when the state of emergency was lifted, an unknown number of APF leaders and some of their family members were detained, released, rearrested, and released again in harassing actions aimed especially at stifling protest against Aliyev's decision to bring Azerbaijan into the CIS. Reportedly, 34 APF leaders and activists remained in prison at year's end. Members of the security forces who remained loyal to the Elcibey government, including Arif Pasayev, Popular Front military commander of Lacin, and Isakhan Ashurov, the police chief of Qazax who helped enforce a cease-fire on the border with Armenia in 1992, also were arrested.

In the month leading up to the June 4 action, the APF government used state of emergency legislation to arrest supporters of the National Independence Party and other opposition forces.

e. *Denial of Fair Public Trial.*—The legal system of Azerbaijan remains largely unchanged from Soviet rule. There are district and municipal courts and a Supreme Court, which serves as a court of appeals. Growing judicial independence came to a halt in July when the Government fired Supreme Court Chief Justice Tahir Kerimli, an APF appointee, for his loyalty to ousted President Elcibey.

Defendants have the right to be present at their trials, confront witnesses, and present evidence, and trials are generally public. Exceptions to public trials are cases involving state military secrets and those in which the judge determines that a closed trial would be more appropriate in dealing with sexual offenses, as for instance during the testimony of a rape victim. Defendants may choose their own attorney, and the court appoints an attorney for those without one. Defendants have the right to appeal, as does the prosecutor. The presumption of innocence has not been incorporated into the criminal code.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Police had the authority to enter homes under the state of emergency in effect from April until September. The Soviet surveillance apparatus, reorganized as the Ministry of National Security, continued to operate under the APF government. Under the Aliyev Government, the Ministry became more active. It is widely believed that telephones, especially those of foreigners and prominent political and business figures, were tapped.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—The conflict in and around Nagorno-Karabakh has steadily increased in severity since violence began in 1988. All parties to the conflict engaged in indiscriminate shelling and rocket fire against civilian targets, including in both directions along the Armenia-Azerbaijan border. The Azerbaijanis also engaged in fixed-wing air attacks against civilian targets in both Nagorno-Karabakh and Armenia. All parties to the conflict have cut normal trade and transportation links to the other sides, causing severe hardship to civilians in Nagorno-Karabakh, Armenia, and the Azerbaijani exclave of Naxcivan.

In 1993 ethnic Armenians began to attack ethnic Azeri and Kurdish areas outside the bounds of Nagorno-Karabakh. In March, as peace talks were under way in Ge-

neva, the Nagorno-Karabakh Armenians captured the province of Kalbacar between Nagorno-Karabakh and Armenia. According to reliable eyewitnesses, the entire population fled, and ethnic Armenians looted and destroyed all villages and towns to discourage the return of those displaced.

During the political upheaval inside Azerbaijan that these events caused, the Nagorno-Karabakh Armenians took advantage of the collapse of the Azerbaijani army to capture Agdam to the east in July and large parts of the Fuzuli, Cabrayil, Qubadli, and Zangilan regions to the south and southwest in September. As before, they drove out the population and looted and burned the provincial capitals and most of the villages in an apparent effort to create an uninhabitable zone around Nagorno-Karabakh proper. The United Nations Security Council condemned these actions.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—There were some restrictions on freedom of speech and press under the APF government. That government's Minister of Internal Affairs, Iskandar Hamidov, continued to harass and beat journalists whose articles he disliked. After the events in June, however, restrictions became more severe.

After the ouster of the APF government (including Hamidov), the new regime used censorship in a more methodical and intensive manner. The censor banned articles and entire editions and, on September 13, even confiscated an entire press run of the newspaper Azadlyq and had it burned.

The situation improved somewhat after the lifting of the state of emergency on September 22, although official censorship continued. In response to an open letter from the editors of several newspapers, protesting that censorship should have ended with the lifting of the state of emergency, the Cabinet's Office for the Protection of State Secrets decreed on September 30 that only military, not political, censorship would remain in effect. Censorship in fact decreased after the state of emergency was lifted, and even further after this announcement.

The number of newspapers available, both in Azeri and Russian, did not diminish—one paper called itself Newspaper Number 525 because it was the 525th paper to register. Several opposition papers, including at least five major newspapers sympathetic to or officially published by the Azerbaijan Popular Front, the Musavat Party, and the Azerbaijan National Independence Party, the main political opposition, continued to publish. Small sensationalist papers continued to publish investigative interviews and news items.

At year's end, a media campaign was under way against the opposition press. After an effort to impose political censorship failed in Parliament on November 26, most papers—including opposition papers—were told that beginning on December 3 they would receive no offset masters with which to publish. After strong protests by the international community, some newspapers, including the principal opposition papers, were given permission to use offset masters they had in stock. On December 6, Parliament institutionalized military censorship and authorized the Attorney General to close newspapers for 1 month for publishing information "contrary to the interests of Azerbaijan" or libelous of individuals. The military censor is known to have excised articles containing purely political criticism of government figures unrelated to the war effort.

In September a number of women were arrested for passing out leaflets protesting against Azerbaijan's joining the CIS. They were charged under the state of emergency regulations banning demonstrations.

Radio and television were entirely controlled by the Government, and after the downfall of the Elcibey government they broadcast frequent programs exoressing adulation for government figures, especially President Aliyev. The opposition had little or no access to the mass media.

A number of prominent academics lost their jobs after the events in June, reportedly for their connections with the APF government. They were replaced by figures from the Soviet era.

b. *Freedom of Peaceful Assembly and Association.*—The state of emergency in effect from April until September formally banned demonstrations. In fact, however, demonstrations occurred regularly before the overthrow of President Elcibey. After that, the new Government broke up demonstrations, mostly organized by Elcibey's APF supporters, using force if necessary. On one occasion in July, gunfire was used to break up a demonstration outside the APF's headquarters. Some APF demonstrations were later allowed to take place when it became apparent that the party had few supporters still willing to come to rallies.

Political parties and associations were in general allowed to function freely, and a number of parties originally affiliated with the Popular Front united to form a "Democratic Congress." The APF, however, was harassed by the authorities, and a

number of its activists around the country were arrested. In some cases they were released quickly, rearrested, and released again in a clear attempt at intimidation.

c. *Freedom of Religion.*—There is no state religion.

Most Azerbaijanis are Muslims, predominantly of the Shi'a sect, but there are significant Russian Orthodox and Jewish communities. All three are represented in a "Caucasus House," chaired by the Muslim Shaykh Al-Islam, which represents the interfaith religious establishment of Azerbaijan. All faiths practiced their religions without restrictions, with one important exception: Armenian churches, many vandalized in past years, remained closed, and few of the Armenians left in Azerbaijan would have felt secure enough to attend them had they been open. New mosques continued to open during 1993. There is one Muslim seminary; Christians and Jews must go elsewhere for clerical training. Muslim clerics from Turkey and Iran, Jewish clerics from Israel and the United States, and Christian clerics from Russia, the United States, and elsewhere were given full access to the country.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—State of emergency regulations in force after April severely limited travel to areas near the front. The Ministry of National Security also used the state of emergency to create—under the APF government—an Iranian border zone in the south from which all nonresidents were excluded. The APF government restricted travel to the exclave of Naxcivan in the spring as tensions mounted between the Baku leadership and Heydar Aliyev, then chairman of Naxcivan's Supreme Soviet. After Aliyev's return to Baku and President Elcibey's June 17 flight to Naxcivan, these restrictions were intensified. The Government released former Parliament Speaker Isa Qambar, the former Minister of National Security, and others from prison on condition that they not leave Baku; it filed no charges against them. In December the Government denied Qambar and some members of his political party—including at least one who was never investigated for criminal activity—passports to travel to Turkey.

The Government officially recognized freedom of emigration. Jewish emigration to Israel continued, with over 23,000 leaving since 1990, although only 749 emigrated in the first 6 months of 1993. Some 18,000 Armenians and part-Armenians, mostly in mixed marriages, remained in the country. Some of these were deprived of all documents for both internal and external travel. In general, members of minorities wishing to emigrate are harassed by low-level officials seeking bribes; this is especially the case of draft-age men, who are required to obtain documentation from several levels of military authorities before they may leave for any international travel.

All citizens of Azerbaijan wishing to travel abroad must first obtain exit visas or official passports from the Government. In at least one case, the authorities denied an exit visa to a person wishing to attend a conference on the Azeri-Armenian conflict.

By autumn the number of refugees and displaced persons in Azerbaijan was 891,000, according to figures accepted by the International Committee of the Red Cross (ICRC). By year's end the tally used by the United Nations High Commissioner for Refugees was just under 1 million. Close to 500,000 fled the Nagorno-Karabakh Armenian offensives into Azeri-inhabited areas between March and September alone, joining the 150,000 who fled in 1992. The refugee population also consisted of 48,000 Akhiskha (Meskhetian) Turks who fled pogroms in Uzbekistan in 1990, and 200,000 Azeris and Kurds expelled from Armenia in 1988 in retaliation for anti-Armenian pogroms in Azerbaijan. These pogroms, which recurred until 1990, drove about 350,000 Armenians to flee Azerbaijan for Armenia, Russia, and other states. Another 50,000 Armenians have fled the fighting in Nagorno-Karabakh.

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

Citizens of Azerbaijan do not have the right to change their government by peaceful means. In June the democratically elected president, Abulfez Elcibey, was overthrown, and Heydar Aliyev assumed presidential powers. He tried to legitimize the transfer of power by holding a referendum on August 29, which confirmed the lack of public confidence in Elcibey, and presidential elections on October 3, which he won.

In theory, the President shares power with a 50-member National Council (Milli Majlis), which was formed in 1991 under the Communist regime, with half of its members drawn from the opposition and half from the Communists. In 1992 the APF regime dissolved the Supreme Soviet, which had been Azerbaijan's parliament, and transferred its functions to the National Council. There has been no indication whether early parliamentary elections will be held.

There were no restrictions on women or minorities participating in politics. Minorities such as Lezghis and Talysh formed regional groupings in Parliament and published newspapers in their own languages. There are two Islamic religious parties.

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

Local human rights observers were not active in 1993. Those presenting themselves as human rights groups were generally linked with one political party or another. Some of the most active figures accepted academic grants in the United States and Europe, and were not present in Azerbaijan for much of 1993.

The Government expressed willingness to receive delegations from international human rights organizations and actively solicited observers for the August 29 referendum and October 3 presidential election. Heydar Aliyev met with the visiting president of the U.S. Helsinki Watch and expressed his willingness to abide by the norms of the Conference on Security and Cooperation in Europe and other international agreements. Meanwhile, however, human rights violations continued.

ICRC access to prisoners of war and others was sporadic.

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

Women.—Women nominally enjoyed the same legal rights as men, including the right to participate in all aspects of political, economic, and social life. Heydar Aliyev appointed several women to senior government positions, including that of state secretary (head of the presidential apparatus). The most active supporters of the APF after the overthrow of Elcibey were the party's women's groups.

In general, women are given extensive opportunities for education, work, and political activity. In practice, social norms of the Caucasus tend to keep women in subordinate positions.

Violence against women is a taboo subject in Azerbaijan's patriarchal society. In rural areas, wives have no real recourse against violence by their husbands, regardless of the law. Rape is severely punishable but, especially in rural areas, only a small fraction of offenses are prosecuted.

Children.—Although the Government is committed to the welfare of children, it had no resources in 1993 to devote to them.

National/Racial/Ethnic Minorities.—Previous declarations on minority rights remained in effect in 1993, and, with the exception of ethnic Armenians, minorities enjoyed full rights. The position of Russian speakers actually improved after the events in June, as several APF policies to deemphasize Russian in the schools were dropped. The APF policies had mandated that more academic subjects (not including Russian language and literature) be taught in Azeri, not Russian.

The 18,000 ethnic Armenians and part-Armenians, most of them members of mixed families, continued to live in an atmosphere of fear and uncertainty. Kidnapings of ethnic Armenians from Baku continued, as did other forms of harassment and persecution. A Baku newspaper began in September to publish, district by district, the names of Armenians in Baku receiving pensions through the mail, including some with purely Azeri surnames. The newspaper used highly emotional language in introducing these lists, in an apparent attempt to incite an anti-Armenian pogrom. The Government stopped publication of these lists, and the editor of the paper was fired.

There are credible reports of the denial of medical treatment to ethnic Armenians and confiscation of their travel and residence documents. Most of the Armenians who lost jobs in previous years remained unemployed. Many were too frightened to appear in public.

People with Disabilities.—No legislation or otherwise mandated provision of accessibility for the disabled has been enacted.

Section 6. Worker Rights

a. *The Right of Association.*—Azerbaijani labor unions continued to operate as they did under the Soviet system. However, the Azerbaijani Labor Federation is no longer linked to Moscow. Unions continued to be highly dependent upon the Government but were free to form federations and participate in international bodies. There is a right to strike. A number of strikes were reported in the press in 1993; the Confederation reported no retribution against strikers.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining remained at a rudimentary level. Wages were decreed by relevant government ministries for enterprises and organizations within their budgets. Both managers and employees at state enterprises are considered to be union members under the Soviet holdover system. On December 13, 200 policemen invaded a military factory and ar-

rested the manager, who was protected by workers. The work force then went out on strike.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited by law and is not known to be practiced. There is no government office that enforces this prohibition.

d. *Minimum Age for Employment of Children.*—The minimum employment age is 16. Children aged 14 are allowed to work during vacations with the consent of their parents and the certification of a physician. Children aged 15 may work if the workplace's labor union does not object. Eight years of education are compulsory. This minimum is enforced by employers under the control of trade union organizations.

e. *Acceptable Conditions of Work.*—A nationwide administrative minimum wage, set by decree, was raised numerous times in 1993 to offset inflation. The minimum wage as of December 17 amounted to $3.60 (900 manats) per month. It is not known how effectively the payment of the minimum wage was enforced. The extended family's "safety net" and reliance on outside sources of income generally assured a decent living.

The legal workweek is 41 hours. There is at least one 24-hour rest period, in some cases two, during the workweek. Health and safety standards exist but are by and large ignored in the workplace.

BELARUS

Belarus, which declared independence from the Soviet Union in 1991, has yet to hold elections or to approve a new constitution. Belarus' form of government continues to parallel closely that of the former Soviet Union. The Supreme Soviet, the legislative branch, is technically the highest ruling body of the country; its chairman, Stanislav Shushkevich, is considered Head of State. Most power, however, continues to remain in the hands of the Council of Ministers, headed by Prime Minister Vyacheslav Kebich. The Council is the executive branch of government, and its decrees have the force of law. It is still dominated by ex-Communist party members, as is the Supreme Soviet. The nationalist Belarusian Popular Front (BNF), the principal opposition group, holds less than 10 percent of the seats in Parliament. Political parties as such have yet to develop as a political force in Belarus. Shushkevich is supported by the democratic opposition, including the opposition Popular Front, in addition to many deputies in the mainstream. Shushkevich's major source of support is his personal popularity among the Belarusian people. Kebich has the support of the "Belarus" faction in Parliament.

The Belarusian Committee for State Security (KGB), while legally under parliamentary supervision, in practice reports to the Council of Ministers as well as to the Supreme Soviet. Attempts in Parliament in 1993 to restore exclusive Council of Ministers' control over the KGB were not successful. Opponents of the Government reported no overt harassment from security services in 1993. Electronic monitoring of residences and telephones, however, reportedly continued. There were no reported human rights violations on the part of the military with the exception of hazing, which reportedly continues much the way it was practiced in the former Soviet Union.

Belarus' economy is in decline. Many factories cut workweeks back to 4 days or less and continued the policy of giving workers mandatory unpaid vacations. The Government continued to pursue cautious reform of the state-owned sector with the stated aim of developing a "socially oriented market economy." Parliament passed additional privatization laws, but the executive branch was slow to implement privatization plans.

Respect for human rights was mixed. Progress continued in some areas but flagged in others. Although little progress was made on political reform, the Government did not attempt to suppress political activity. Freedom of the press was restricted through the Government's virtual monopoly over forms of mass communication and its desire to limit media criticism of its actions. It controlled the editorial content and policy of the largest circulation daily newspapers and of radio and television broadcasts. The Government did honor a longstanding request from the opposition for television air time. In a marked contrast to the Soviet era, freedom of religion is generally observed, although bureaucratic impediments remain. A government dispute with the Roman Catholic Church over its status in Belarus (and the status of Polish priests) eased somewhat. The Government, however, still has not recognized Archbishop Svyontek, a Belarusian of Polish origin, as the head of the Catholic Church in Belarus. Svyontek had been charged in the past by the Govern-

ment as being an agent of Polish agitation, particularly in Western Belarus where Polish influence is strong.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajuridical Killing.*—Such killings are not known to have occurred.

b. *Disappearance.*—There were no reports of abductions, disappearances, or secret arrests.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The current Soviet-era Constitution provides for the inviolability of the person but contains no explicit ban on torture and other degrading forms of punishment. Police beatings were reported in detention centers and prisons. Credible sources report that the police severely beat up Gennadiy Shpak on March 19, 1993, when they detained him. The use of force is officially sanctioned in some instances. For example, it may be employed on prisoners found harming or threatening to harm other prisoners or prison personnel. The Government claims to monitor and keep statistics on the use of force by prison guards. Prison authorities are required to report each such use of force by prison guards to the Prosecutor General's office. A medical evaluation of the prisoner is also required when force has been used.

There were continued reports that prison conditions were substandard and treatment degrading. Inhumane prison conditions were reported in Grodno, Minsk, and Orsha. Amnesty International observers were officially denied access to the Grodno prison in March. The Government's justification was that the visit would provoke chaos and riots in the prison. A vice minister of internal affairs stated publicly that a radio broadcast about the prison had at the time created "a very complicated situation" in the prison. He suggested that the delegation visit "any other prison but Grodno."

Government officials claim that lack of space remains the chief obstacle to improving prison conditions: the rising crime rate means more prisoners, and this fact, coupled with a decaying physical plant and local neighborhood movements opposed to the construction of new prisons, results in overcrowded prisons.

d. *Arbitrary Arrest, Detention, or Exile.*—Criminal procedures remain essentially unchanged from those in the former Soviet Union. Persons may be detained arbitrarily and without an arrest warrant. The Criminal Code requires that detainees be charged or arrested within 72 hours. Once arrested and charged, defendants often spend many months awaiting trial. At the request of the state prosecutor, a detainee may be kept in pretrial detention for up to 3 months. This period may be extended at the request of either the regional or the state prosecutor for up to a maximum period of 1½ years. Detainees may be allowed unlimited visits from their legal counsel. However, there were reports that some detainees had difficulty in gaining access to a lawyer. There is no provision for bail, and detainees may not correspond or receive family visitors without the express permission of the state prosecutor.

Ministry of Internal Affairs' special forces staged a large-scale raid on February 5 on the hotel Agat on the outskirts of Minsk, allegedly looking for persons involved in narcotics dealing and other illicit activity. Witnesses indicated that occupants (including some foreigners) were arbitrarily beaten and detained.

Exile is not practiced.

e. *Denial of Fair Public Trial.*—The court system, retaining much of the Soviet structure, has three tiers: district, city or oblast (province), and republic. Higher courts serve as appellate courts, but many also hear trials in the first instance.

Trials are generally public, although they may be closed on grounds of national security. In practice, however, attendance at open trials may be arbitrarily restricted. Defendants have the right to attend proceedings, confront witnesses, and present evidence on their behalf. The court appoints an attorney for defendants who do not have one. Some defendants reportedly had difficulty in gaining access to lawyers and court materials. Sergey Golubev, arrested for stealing, was denied access to an attorney by an investigator in the Pervomaiskiy region of Minsk. Although technically the burden of proof is on the prosecutor, as a practical matter the presumption of innocence is not always strictly observed.

There were no reports of political prisoners in 1993.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Electronic monitoring of residences and telephones continues. A law, revised in 1992, gives the KGB, the Ministry of Internal Affairs, and certain border guard detachments the right to request permission to install wiretaps. Permission of a prosecutor is legally required before a wiretap may be installed. Except in cases of pursuit, a

search warrant, issued by the prosecutor, is needed in order to enter a private home.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of the press is provided for by existing legislation but is not yet fully observed in practice.

The executive branch of the Government continued to use laws on slander to clamp down on criticism of government officials. According to the Belarusian League of Human Rights, government officials sued Supreme Soviet deputies Evgeniy Novikov, Pavel Kholod, and Alexandr Shut for their public criticism of the Government.

The chairman of the regional council of the Logoisk region, Aleksander Kresik, sued Kholod and Shut for a newspaper article they published in Narodnaya Gazeta in March 1992 criticizing Kresik for corruption in his dealings with local government property. Kholod and Shut claimed that Kresik sold school buildings to his friends at prices well below market value. The suit was brought in December 1992 and, despite numerous hearings in 1993, remained unresolved at year's end. Both opposition party members, Kholod and Shut stated that they feel there has been a concentrated effort on the part of the Government to single out opposition deputies for such suits. They assert only opposition deputies have been objects of such legal action.

Novikov was sued by a state enterprise (Belgosstrakh) for his disclosures of corruption at this company. Novikov was fined in 1992. He was subsequently sued in 1993 by the same Judge Gorodnicheva who presided over his trial in a personal suit for a political statement he made that called into question the court's decision in the earlier case. This case was also unresolved at year's end.

A deputy of the Borisov city soviet, Sergey Kolesnik, was reportedly fined by the courts for criticism of local executive branch officials. He was sued by deputy Borisov city administrator Galina Kuchuk in 1993 for his appeal alleging irregularities in the privatization process in Borisov. The suit was eventually dropped. Subsequently Kolesnik and a group of other city-level deputies were sued for a public appeal they made in September to Supreme Soviet Chairman Shushkevich about corruption in housing in the Borisov city region. The Chairman of the City Executive Council, Stanislav Shidlovskiy, filed suit in March, demanding a public apology and 10 million rubles. The court ruled that the deputies must apologize but dropped the monetary part of the suit.

The law on the status of people's deputies grants them immunity from criminal prosecution but does not protect them from prosecution under the Civil Code, of which the slander laws, particularly the "Law on Honor and Dignity," are a part. The writer Svetlana Aleksievich was sued under these statutes (with reported backing from high-ranking military officials) by a group of mothers who lost sons in Afghanistan for her book on the Soviet-Afghan war. Aleksievich wrote about atrocities committed by Soviet soldiers during the war. There were actually two suits which were tried concurrently—one brought by the mothers and one brought by an Afghan war veteran. The court dismissed the first suit in December. In the second suit, the court ruled that Aleksievich must publish an apology in the newspaper (Komsomolskaya Pravda) which originally published excerpts of her book.

High-ranking officials also sued the Belarusian correspondent of the Russian newspaper Kommersant, Alexandr Starikevich. A court sentenced him in absentia to 15 days in prison for failing to appear in court in March. The court apparently ignored Starikevich's written appeal, reportedly submitted according to proper procedures, to postpone proceedings by 4 days. As a consequence, Starikevich spent much of the year in Russia and was forced to hide from Belarusian authorities while in Minsk. Police reportedly made repeated and harassing visits to his home in Minsk.

The Government retains a near monopoly on the forms of mass communication. It remained the owner and chief financial backer of nine major publications. There are approximately 30 newspapers in Belarus completely independent of government control. Most, however, are small and poorly funded. Of the six major daily newspapers, all are at least partially government controlled. The Council of Ministers' information division continued to exercise direct control over them, for example, by discussing editorial content and policy in meetings with government-sponsored newspaper editors. In one instance, the Parliament-sponsored newspaper Narodnaya Gazeta was reportedly threatened with loss of its lease in a government building for refusing orders to print an interview given by Prime Minister Kebich. All national and most local papers were told to publish the article. Draft legislation to reduce the degree of government control over the press failed to win the approval of the Supreme Soviet. A group of independent journalists, in an open letter to Prime

Minister Kebich, claimed they were often not informed of Council of Ministers press conferences, while journalists more sympathetic to the Government were always invited and given information not provided to independent journalists. The Belarusian legislature has given preliminary attention to a draft law on the press, which incorporates to a significant degree parts of the opposition's original draft law. The draft law has been passed in the first reading, but it still requires a second reading before it becomes law.

The State owns all radio and television stations, with the exception of a few cable stations that generally do not air news programs and are dependent on government-owned facilities. Radio and television generally avoid criticism of the Government and its leadership. The "Nika" news program, which sometimes aired the views of government critics, had its management changed in 1992; the program took a considerably softer line toward the Government in 1993. Minsk's most popular nonstate cable television station, Channel 8, was closed by the Government over a registration dispute in January. The Government delayed the reopening of the station for most of 1993. On December 20, the Ministry of Communications allowed the station to begin rebroadcasting "on a trial basis." Broadcasts were scheduled to last until mid-January 1994 when a reevaluation of the station was scheduled to occur. Other local radio and television stations also were closed. Belarusians continued to receive television and radio broadcasts from the Russian Federation, including the television station Ostankino from Moscow, and can receive British Broadcasting Corporation news once a day over state facilities. In September the State Television-Radio Company of Belarus granted the opposition BNF a longstanding request for air time. The BNF received about an hour of television air time with no conditions attached. BNF leaders regularly are interviewed on Belarusian radio and somewhat more sporadically on Belarusian television. A partially American-owned religious radio station began FM broadcasts in cooperation with a Belarusian partner in 1993.

b. *Freedom of Peaceful Assembly and Association.*—Demonstrations are still governed by the Soviet law on demonstrations. Application to local officials is required 10 days in advance. Public demonstrations occurred frequently. Both the BNF and the pro-Communist opposition often use Minsk's independence square to demonstrate their disagreements with the Government, despite a city government ban on demonstrations in that square due, allegedly, to the completion of a renewal project. Political parties—including the Communist Party—are allowed to function freely in Belarus, as are ethnic and professional organizations. The ban on the Communist Party was lifted in February. In May the Communist Party of Belarus (KPB) merged with the Party of Communists of Belarus (PKB) and adopted the latter name.

The Supreme Soviet instituted a ban on political activity in the military, including membership by military personnel in political parties. The chairman of the Belarusian Military Association (BZV), Nikolay Statkevich, was dishonorably discharged from the armed forces for failing to resign from the organization he helped found. The BZV is a "nonpolitical patriotic military organization" which attempts to instill Belarusian soldiers and officers with a sense of pride in Belarusian history, language, and culture. Statkevich's supporters said that he was dismissed for his nationalist political views. Statkevich argued that his organization is not a political but a social and professional one.

c. *Freedom of Religion.*—Freedom of religion is generally respected. A 1992 law on freedom of religious beliefs and organizations provides broad guarantees for freedom of religion. Religious organizations are allowed to engage in cultural, educational, and charitable activities. However, there is still some bureaucratic resistance to religion in general and toward the major churches and the Jewish community in particular.

The majority of Belarusians are Eastern Orthodox Christians. The Orthodox Church remains formally linked to the Russian Orthodox Church and recognizes the primacy of the Moscow Patriarch. Some Belarusian nationalists have criticized the Church for being too closely tied to Moscow and not doing enough to serve the national interests of Belarus.

The Roman Catholic Church in Belarus claims some 1.5 million members, roughly 15 percent of the population. Relations between the Catholic Church and the Government remain strained because of the historical association of the Church with Poland, which ruled the western part of Belarus as recently as 1939. The Government still has not officially recognized Archbishop Kazimir Svyontek, a Belarusian of Polish origin, as the head of the Catholic Church in Belarus. In May, however, the Government received the first Papal Nuncio to Belarus. Belarus' one Catholic seminary, in Grodno, has not been able to meet the increasing demand for priests.

As a consequence, over 90 Polish priests were brought in and are working in Belarus.

The Government continues to return churches previously confiscated by the Soviet government to the Orthodox and Roman Catholic Churches. This slow process, marked by numerous property disputes between the Churches and the State and between the two Churches, continues. Organizations that occupy what once was church property are also involved. A sit-in by congregation members in a Minsk Catholic church that had become a chamber music concert hall failed to resolve the ownership dispute.

In addition to the Catholic and Orthodox Churches, 16 other religious organizations and sects freely function in Belarus. Visits of missionaries from many countries are frequent, and religious work is generally unimpeded. During 1993, however, several government officials expressed their concern at the growing number of foreign Christian missionaries in Belarus. Some Belarusians interpreted frequent Protestant proselytizing as harmful to Belarusian national interests. The Government began to require all persons wishing to engage in religious work in Belarus to present a formal invitation from a Belarusian religious organization in order to receive visas. Subsequently, two American Baptist missionaries waited for 3 months to receive extensions of their visas until they found a registered Minsk church willing to sponsor their visit.

Despite occasional bureaucratic difficulties, religious rallies were held without interference in conference halls and in stadiums, and proselytizing also occurred. Bibles and other religious materials are available for sale in the Belarusian, Russian, and Polish languages.

The Jewish community retains concerns over several main issues. The Jewish community is concerned, as are Christian churches, with the return of previously confiscated buildings and synagogues which have been turned into theaters, warehouses, and meeting halls. Minsk continues to lack an adequate building for a synagogue. Authorities promised to return a former synagogue to the Jewish community in Mogilev by the end of 1993. Another concern is the construction of a group of apartment buildings on the old Jewish cemetery in Pinsk. Following international protest, government authorities ordered local officials to cease construction at the site. Major construction was reportedly terminated, although certain underground construction for plumbing, electricity, and other facilities continued on the buildings already erected.

Government officials, national and local, held a commemoration on October 20 of the 50th anniversary of the destruction of the Minsk Jewish ghetto.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Soviet procedures remained in effect, at least on paper, for many aspects of freedom of movement.

Belarusian citizens were generally free to travel within the country. However, all adults are still issued internal passports, which serve as primary identity documents and are required for travel, permanent housing, and hotel registration.

The right to choose one's place of residence, although guaranteed by law, remains restricted in practice. Despite its formal abolition by the Soviet government in October 1991, the "propiska" (pass) system survives in Belarus. All Belarusians are officially required to register their places of residence and may not change them without official permission. The authorities limit the number of residence permits in Minsk and the five regional centers of Brest, Grodno, Mogilev, Vitebsk, and Gomel. However, according to government officials and other reliable sources, official permission was increasingly granted or denied to persons seeking to change their place of residence according to the availability of housing, with fewer denials than previously.

The Supreme Soviet approved the Interior Ministry's law on entry and exit in June. The law was to come into effect on January 1, 1994, and supersedes the 1991 Soviet law on entry and exit in force in Belarus during 1993. The new law abolishes the former Soviet requirement of mandatory official permission for each trip abroad by authorizing Belarusians to receive "global" exit visas good for from 1 to 5 years and valid for travel to all countries. Limited issuance of the "global" exit visas began in August but is currently hampered by a 1- to 2-month processing period. Belarusian passports are being readied for printing. Some official passport holders, i.e., government officials, are already using the new passport. There are reports that the application process is long, with delays of several months reported. There were no reports of unjust or arbitrary refusals.

Emigration from Belarus continued to decline, with fewer people applying to emigrate in 1993 than in 1992. Soviet legislation restricting emigration by those with access to "state secrets" remained in force. However, only one would-be emigrant was refused an exit visa on grounds of possessing "state secrets," as compared to

six in 1992, and this person was eventually permitted to emigrate to Israel at the end of 1993. Belarusian draft-age men who had not previously received permission to travel abroad from the Belarusian military were also officially restricted from traveling abroad. However, there were no cases of would-be emigrants refused due to incomplete military service in 1993.

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

Political reform in Belarus stagnated in 1993, and the right of citizens to change their government, although guaranteed by law, remains to be tested in free elections. The current Parliament was chosen for a 5-year term under Soviet election rules in 1990. In theory, voting is secret, and suffrage is universal for citizens 18 years of age and older. In 1992 the BNF spearheaded a massive signature-gathering campaign in an effort to force a referendum on holding new parliamentary elections. The Supreme Soviet rejected the referendum, alleging that both the initiating group and the election commission had violated the referendum law. The opposition continued to call for a referendum during 1993, arguing that rejection of the referendum undermined the Government's claim to legitimacy.

At the same time it rejected the proposed referendum, the Supreme Soviet passed a nonbinding resolution calling for the passage of a new constitution and the holding of new elections in March 1994. The resolution, however, lacked the force of law, and it is unclear whether elections will be held in 1994. A draft of the new constitution is under review in the Supreme Soviet. Foreign legal experts, reviewing the document, found it significantly inadequate in numerous areas, most notably that of citizens' civil and political rights.

There are no legal restrictions on the participation of women in politics and government. Social barriers to women in politics, however, remain fairly strong, and most top leadership positions are held by men. There is one woman in a ministerial-level position, and women hold less than 5 percent of the seats in the Supreme Soviet. A number of women do, however, hold posts at the vice ministerial level.

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

Human rights monitors reported bureaucratic obstacles and posturing on the part of the Government when investigating alleged human rights violations. The Belarusian League of Human Rights, founded in 1992, reported that the courts refused to review appeals from the League on the pretext of procedural grounds. The League has close contacts with a variety of international organizations involved in human rights.

Amnesty International visited Belarus in February. Except for the denial of permission to visit Grodno prison (see Section 1.c.), international organizations were not hindered in making visits to Belarus.

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

The law on citizenship, passed by the Supreme Soviet, grants citizenship to any person living permanently on the territory of Belarus as of October 19, 1991. Those coming to Belarus after this date and wishing to become a citizen must submit an application, know the Belarusian language ("enough for communication"), agree to support the Constitution and laws, have a legal source of income, and have lived in the country for 7 years. (The 7-year residence requirement is waived for those who were previously citizens of the Byelorussian Soviet Socialist Republic and for those who are currently in the armed forces, who wish to become citizens, and who are prepared to take the oath of allegiance to Belarus.)

Women.—Statistics are not available on the incidence of violence against women. Some fledgling women's rights organizations are attempting to increase awareness of women's issues in the country. Domestic violence against women, often alcohol related, continues to be a significant problem in Belarus. Knowledgeable sources indicate that police generally are not hesitant to enforce laws against violence. Likewise, the courts are not against imposing sentences. The problem, according to women's groups, is a reluctance to report incidents of domestic violence. In addition to the regular court system, there are "communal courts" in which women can use pressure from friends, neighbors, and coworkers to help rectify such situations. Certain women activists have pointed to the existence of discrimination in Belarusian legislation. One government decree on the privatization of housing, for example, is disadvantageous to women in terms of the amount of square footage available to them.

Children.—Belarus ratified the international Convention on the Rights of the Child in 1993. Special benefits to families with children are considered substantial

by local standards. Children's health—particularly as related to the consequences of the nuclear accident at Chernobyl—has been a concern of the Government which, with the help of foreign donors, has received significant funding.

National/Racial/Ethnic Minorities.—Belarusians account for about 78 percent of the population of over 10 million; 13 percent are Russians, 4 percent Poles, 3 percent Ukrainians, and there are Lithuanians and Jews among the remaining 2 percent. The Belarusian language was made the official language, but Russian remains the predominant working language, with most of the population speaking Russian at home. The introduction of Belarusian as the mandatory language of instruction in schools is being phased in gradually. A movement is under way to make Russian the second official language. The Supreme Soviet adopted a law on national minorities in late 1992 which, in addition to forbidding discrimination, expressly prohibits officially asking, in written or oral form, about a person's nationality.

People with Disabilities.—Facilities in Belarus, including transport and office buildings, often are not accessible to the disabled. A law mandating accessibility to transport, residences, businesses, and offices for the disabled came into force in late 1992. A multiagency government council is to oversee the implementation of these provisions. The Committee was only recently established and has only started its activities. In addition, the law provides various social and material benefits for the handicapped. One advocacy group claimed that the law is not being enforced, although other groups say it is still too soon to tell how effective the law will be.

Section 6. Worker Rights

a. *The Right of Association.*—The independent trade union movement is still in its infancy. Although several independent trade unions exist, the former Belarusian branch of the U.S.S.R's All-Union Central Council of Trade Unions—currently the Federation of Trade Unions of Belarus (FTUB)—is by far the largest trade union organization. This so-called trade union of 5 million members is not considered independent in practice since it often follows government orders.

The 1992 law on trade unions provides that workers have the right to form and join independent unions on a voluntary basis and to carry out actions in defense of workers' rights, including the right to strike. In practice, workers are often automatically inducted into the government-affiliated FTUB. Independent labor leaders believe that the official trade unions' control over social functions (such as pension funds), usually performed by the State, is an obstacle to the growth of true, independent trade unions. The independent trade unions include the Free Trade Union of Belarus (with about 10,000 members), the Independent Miners' Union (about 6,000 members), the Confederation of Labor (3,000), and the Union of Air Traffic Controllers. In September the Free Trade Union of Belarus and the Independent Miners' Union created the Congress of Free Trade Unions of Belarus, an organization that intends to coordinate the actions of the two largest independent trade unions.

No major strikes occurred during 1993. A threatened walk-out in June by the FTUB at a factory that produces specialized automated production equipment (assembly lines) by special order was averted when the Government acceded to the union's demands.

b. *The Right to Organize and Bargain Collectively.*—Legislation dating from the Soviet period provides for the right to organize and bargain collectively. Since the economy is still largely in the hands of the State, unions usually seek redress at the political level.

The right to organize and bargain collectively was reportedly violated when Evgeniy Vozhik, a worker at the Minsk enterprise Elektronika and a FTUB council member, was fired under the guise of enterprise layoffs. According to union activists, Vladimir Oichlik of the Ordzhenikidze factory was also dismissed for union-related activity under a similar pretext. Mikhail Ustinovich was reportedly badly beaten on the shop floor of the Bobruysk tire factory for trade union-related activism. The Belarusian law on trade unions (1992) prohibits discrimination for trade union activity. The Labor Code includes provisions for reinstatement of an employee (through arbitration and then court action) should it be determined that the firing was for union-related activity.

c. *Prohibition of Forced or Compulsory Labor.*—While there is no explicit prohibition of forced or compulsory labor, it is not known to occur.

d. *Minimum Age for Employment of Children.*—Current labor law establishes 16 years of age as the statutory minimum age for employment of children. In certain cases, such as the death of a family's chief wage earner, a 15-year-old may seek special permission to assume full-time employment. Reportedly, the Procurator General's office enforces this law effectively.

e. *Acceptable Conditions of Work.*—The Supreme Soviet sets a minimum wage, periodically raised in response to inflation, which is effectively enforced. The minimum monthly wage is approximately $6 (30,000 Belarusian rubles). With inflation rising rapidly, the minimum wage is considered too low to provide a decent standard of living.

The Labor Code sets a limit of 41 hours per week and provides for at least one 24-hour rest period per week. Because of the difficult economic situation, an increasing number of workers find themselves working considerably less than 40 hours per week. Often factories require workers to take unpaid "vacations" due to shortages of raw materials and energy and lack of demand for factory output.

The law establishes minimum conditions of workplace safety and worker health; however, these standards are often ignored. No central, effective enforcement mechanism exists. Factory safety brigades report directly to plant management and are thus widely considered ineffective.

BELGIUM

Belgium is a longstanding parliamentary democracy under a constitutional monarch whose role is largely ceremonial. King Albert II acceded to the throne in August, following the death of his brother, King Baudouin I. The Council of Ministers (Cabinet), led by the Prime Minister, is responsible for government decisions. The Cabinet holds office as long as it retains the confidence of the bicameral Parliament.

Constitutional reforms passed by Parliament in July transformed Belgium into a federal state. Directly elected legislatures will replace regional councils in Dutch-speaking Flanders, French-speaking Wallonia, and the Brussels capital region. In addition to further decentralizing government authority, the July reforms will reduce the size of the national Parliament.

National, municipal, and judicial police forces bear the primary responsibility for domestic security. The armed forces play no role in domestic law enforcement.

Belgium is a highly industrialized state with a vigorous private sector and government participation in certain industries. An extensive social welfare system supports a high standard of living for most Belgians.

The Constitution and laws contain provisions for respect for human rights, which are observed in practice. The Government is sensitive to allegations of domestic human rights violations.

Controversy over immigration continued as the backlog of asylum requests nearly doubled in the first half of 1993. In response, several local governments announced that they would refuse legal residence and usual social services to asylum seekers. The Government termed such actions illegal. At the end of the year, a number of municipalities and communes, including Liege, continued to refuse to register asylum seekers, thereby denying them federally mandated social benefits. Many local governments reportedly did not follow a consistent policy, registering some, but not all, asylum seekers.

RESPECT FOR HUMAN RIGHTS

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

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

b. *Disappearance.*—Abductions, secret arrests, and clandestine detentions are not known to occur.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There were no reports of such treatment or punishment being employed in Belgium. See Somalia report for allegations of human rights abuses by Belgian forces serving with the United Nations Operations in Somalia. A Belgian Ministry of Defense inquiry was launched in August and, separately, the Military Prosecutor's Office continued to examine certain allegations of mistreatment by Belgian military personnel.

d. *Arbitrary Arrest, Detention, or Exile.*—Freedom from arbitrary arrest and imprisonment is provided for by law and respected in practice. Arrested persons must be brought before a judge within 24 hours. Pretrial confinement is allowed only under certain legally specified circumstances. The premise for such confinement is subject to monthly review by a panel of judges, who may extend pretrial detention based on carefully circumscribed criteria (e.g., whether, in the court's view, the arrested person would be likely to commit further crimes or attempt to flee the jurisdiction if released). Arrested persons are allowed prompt access to a lawyer of their choosing or, if they cannot afford one, an attorney appointed by the State. Bail ex-

ists in principle under Belgian law but is rarely granted. Exile is not permitted by law and does not occur.

e. *Denial of Fair Public Trial.*—A fair public trial is assured by law and honored in practice. A suspect is formally charged, if the evidence so warrants, once a preliminary judicial investigatory phase is completed. Charges are clearly and formally stated, and there is a presumption of innocence.

Defendants have the right to be present, the right to counsel (provided at public expense if needed), the right to confront witnesses and present evidence, and the right of appeal. The judiciary's independence is provided for by the Constitution and observed in practice. Belgium has a system of military tribunals, before which military personnel are tried for both military and common law crimes. All Belgian military tribunals, including those at the appellate level, are composed of four officers and one civilian judge. The superior officer presides at the level of first instance; the civilian judge presides at the appeals tribunal. The accused has the right of appeal to a higher military court. The military tribunal system continued to be under review in 1993; the Government is considering the abolishment of tribunal authority over all but strictly military offenses.

Beginning in October, all new judges were required to demonstrate legal knowledge and their qualifications for the position through an examination process directed by eminent jurists and legal scholars. The first competency examinations were given to judges in 1992. In October 1993, the Government began dismissing those judges who fared poorly on the tests.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Freedom from arbitrary state interference with privacy is guaranteed by law and respected in practice. Search warrants issued by a judge are required unless the inhabitants of a domicile agree to a search. Access to information from wiretaps is restricted under law, but their use remained illegal pending parliamentary action.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—These freedoms are assured by law and respected in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and press. Academic freedom is respected.

The Government operates several radio and television networks but does not control program content. Programs are supervised by boards of directors which represent the main political, linguistic, and opinion groups. A government representative sits on each board but has no veto power. Private radio and television stations operate with government licenses. Almost all homes have access by cable to television from other Western European countries.

b. *Freedom of Peaceful Assembly and Association.*—Public assembly is subject to regulations concerning public order but is otherwise unrestricted. Groups protesting government policies or actions are free from harassment and persecution. Permits are required for open-air assemblies but are granted routinely; there are restrictions on blocking major arteries to and from downtown Brussels and on entering a small zone near the Royal Palace and Parliament. Belgians are free to form organizations and establish ties to international bodies.

c. *Freedom of Religion.*—Belgium has a long tradition of religious tolerance. The Roman Catholic, Protestant, Anglican, Jewish, and Muslim religions are accorded a "recognized" status in law and granted a government subsidy. Government subsidies to recognized religions are drawn from general government revenues. Objecting taxpayers have no recourse against contributing to religious subsidies. Minority "unrecognized" religions enjoy full freedom to practice and are not subject to harassment or persecution. Organized religions may establish places of worship and train numbers of clergy adequate to serve believers. Links may be maintained with coreligionists in other countries or a supranational hierarchy, and foreign missionaries may proselytize. By law, all officially "recognized" religions have the right to provide teachers to give religious instruction in the schools, but not all avail themselves of this right.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Belgians are free to travel both within the country and abroad and may return to Belgium at any time. Emigration is not restricted, nor is citizenship revoked for political reasons. Citizens are free to choose their places of work and residence. The Government does not force asylum seekers to return to countries where they face persecution.

Increasing applications for political asylum had created a large backlog by August. In response, the Parliament authorized the hiring of 100 additional government lawyers to adjudicate asylum cases. Six Brussels-area municipalities with large foreign-born populations have permission from the Government to refuse until 1995 legal

residence to any foreigners from outside the European Community. The city of Liege, which has Belgium's largest refugee population, and certain other municipalities announced that they would deny legal residence and nationally mandated social services to asylum seekers. Other communes reportedly registered some but not all asylum seekers who applied. If refused in one locale, asylum seekers have the option of seeking registration as legal residents in another, thus gaining entitlement to social services.

Calling the actions of recalcitrant local governments illegal, the national Government has favored a political rather than a legal or administrative approach to resolving the problem. In Belgian law, only the individual applicant has legal standing to litigate against an authority refusing to register him or her. Administrative procedures to compel local government compliance with national law are cumbersome. At year's end, the Interior Ministry was seeking to establish a centralized national asylum seekers' register by which it hoped to receive better cooperation from local governments by ensuringa more equitable distribution of the human and financial burden of hosting asylum seekers.

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

Participation in the democratic political system is open to all citizens 18 years of age and over. Direct popular elections for parliamentary seats (excluding some senators elected by provincial councils and others elected by senate members) are held at least every 4 years under a system of universal, secret, and compulsory (under penalty of fine) suffrage for all adults.

In law and practice, opposition parties are free to operate without constraints or repression. Of the 24 parties competing in the last national elections in November 1991, 14 gained seats in Parliament. A 4-party coalition Government, the members of which secured 52 percent of the popular vote, has been in power since March 1992. There are no restrictions, in law or in practice, on the participation of women or minorities in government or politics. Two of 16 federal ministers, 2 of 8 Flemish regional ministers, and 1 of 4 Francophone community ministers are women. There are no women ministers in the Walloon or Brussels regional, or Germanophone community, governments. In the federal Parliament, 19 of 212 house members (9 percent) and 20 of 184 senators (11 percent) are women. About 12 percent of provincial council members are women, as are about 14 percent of municipal council members.

The Government sent to Parliament at the end of 1993 a draft law that would require at least 33 percent representation of each sex on electoral tickets beginning in 1999. Until then, the law would require, beginning in 1994, a 25 percent gender minimum for communal and municipal elections only.

The presidents of Belgium's main political parties are males. The two Green parties (Flemish Agalev and Francophone Ecolo) do not have party presidents. Some of Agalev's most prominent members are women.

The existence of communities speaking Dutch, French, and German engenders significant complexities for the State. All major institutions, including political parties, are divided along linguistic lines. There are specific provisions for Dutch-, French-, and German-speaking councils at the regional level. Regional and linguistic needs are taken into account in national political and economic decisions.

A package of constitutional reforms passed in July will transform the regional councils into directly elected assemblies. These in turn will elect from among their members the regional governments. The reforms further decentralized authority by adding trade and agriculture to the responsibilities of the regional governments. Under the new laws, the next federal Parliament will have the reduced membership stipulated by the constitutional reforms. It will be formed at the next parliamentary elections, to take place at the latest by December 1995. The federal House of Representatives will be reduced from 212 to 150 directly elected members. The new Senate will shrink from 183 to 71 members, 40 of whom will be directly elected, 21 designated by regional assemblies, and 10 selected by the Senate.

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

Several active independent human rights groups operate freely without government interference. No requests have been made for outside investigation of the human rights situation in Belgium.

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

Women.—The Government actively promotes women's rights. The 1994 budget stipulates that a director, to be hired in mid–1994, will begin work on a national women's center; this work is expected to be completed by the end of 1994. A number

of commissions have been established to ensure that women's rights are protected and to oversee women's education and working conditions. A 1992 royal decree prohibited sexual harassment in the workplace in both the public and private sectors, where sexual harassment ombudsmen must be designated in all workplaces with at least 50 employees.

Credible reports of organized rings smuggling foreign women into Belgium for the purpose of prostitution received wide publicity. A parliamentary commission was created in December, 1992 to investigate. In 1993 it released three public statements but not its final conclusions. Belgian law prohibits organizing prostitution, assisting illegal immigration into Belgium, and providing illegal employment. No leaders of rings trafficking in women had been arrested by the end of 1993, although disciplinary action had been taken against police officers in Ghent for assisting the rings.

Physical abuse of women is punishable by law, and the law is enforced. In reaction to a 1988 government study that concluded that 25 percent of Belgian women had encountered some form of physical abuse, legislation on sexual abuse was enacted in 1989, broadening the scope of the previous legislation to allow for prosecution of conjugal sexual abuse and rendering penalties more severe. Certain sexual abuse cases may be tried before a court of assizes, a higher instance than the usual district court.

Children.—Belgium has comprehensive child protection laws. Administration of youth welfare programs is handled at the linguistic community level. Human rights groups have criticized the law that allows the imprisonment of children for up to 15 days when there is no space in juvenile detention centers. There are occasional reports of judges sending juvenile offenders to prison in Wallonia.

National/Racial/Ethnic Minorities.—Belgium is a pluralistic society in which individual differences in general are respected and linguistic rights in particular are protected. Some 60 percent of Belgians are native Dutch speakers living primarily in the northern provinces that constitute Flanders. The approximately 40 percent of the population who are French speakers live mostly in Brussels and the southern provinces of Wallonia. A small minority of German speakers lives along the eastern border. The 1993 laws that federalized Belgium were the latest of hundreds passed over the past century to protect each language group from cultural, economic, or political dominance by the others.

Food, shelter, health care, and education are supposed to be available to all residents regardless of race, sex, religion, language, social status, or ethnic background. Some communes, however, contined to refuse to register new asylum seekers, thereby denying then mandated social services in those specific localities. (See Section 2.d. regarding an effort to ease this problem by the establishment of a national asylum seekers' register.) Some 27 percent of the residents of Brussels, the largest city, are foreigners. Many of these are North African and Turkish immigrants. Encouraging the further integration of the immigrant population and coping with the rising number of asylum seekers and Eastern European immigrants continues to be a focus of strong public debate. The national Center for Equal Opportunity and Against Racism, charged by Parliament with promoting integration and interethnic dialog, began work in 1993. Its director, as chairman of the Interministerial Council on Minority Affairs, reports directly to the Prime Minister. The Center spent much of its first year organizing and hiring. Priority projects include helping to establish a representative council for the Muslim community of Belgium (through which the Government could distribute funds for the Muslim clergy). By year's end, the Center had opened a mediation center to handle complaints about racism and xenophobia, and its legal section was studying ways to propose strengthening Belgium's 1981 law against racist and xenophobic acts.

According to polls, support for the extreme rightist, openly anti-immigrant Flemish party, Vlaams Blok, increased slightly since it won 12 parliamentary seats in the 1991 elections. Mainstream parties generally treat the Vlaams Blok as a pariah or ignore it. The party continues to call for repatriation of immigrants to their native lands. Belgium has not experienced concerted, overt campaigns of violence directed at immigrants, asylum centers, or hostels. The one series of incidents of violence against foreigners in 1993 occurred in the town of Sint-Truiden, where Sikh migrant agricultural workers were repeatedly harassed and intimidated by some of the local residents. In early August a Sikh was shot in the arm and the following week a firebomb slightly damaged a house where 10 Sikhs lived but caused no injuries. Two men were arrested shortly after the attack and were awaiting trial at year's end. The size and scope of future immigration continues to be a sensitive political topic, and many underlying issues regarding integration of existing immigrant groups have yet to be addressed.

People with Disabilities.—Each of the three linguistic community councils administers a fund for the social integration of the disabled. The funds support placement of the disabled in jobs and schools, and include payment for necessary accommodations. Dedicated public housing for the disabled is available and government facilities built since 1970 must be accessible to the handicapped. There are, however, no laws prohibiting discrimination against the disabled in semipublic accommodations such as restaurants or private schools.

Section 6. Worker Rights

a. *The Right of Association.*—With an estimated 76 percent of its labor force organized, Belgium is one of the most unionized countries in the world. It has a long tradition of democratic trade union elections. Workers have the right to associate freely and to strike. Unions striking or protesting government policies or actions are free from harrassment and persecution. Significant strikes occurred in 1993 in the education, shipbuilding, and social welfare sectors. In certain narrowly defined circumstances, however, such as in the provision of essential public services, public employees' right to strike is not explicitly recognized. Public employees may and often do strike (e.g., education personnel in 1993). Laws and regulations prohibit retribution against strikers and union leaders. The Government effectively enforces these laws and regulations.

Labor unions are independent of the Government but have important informal links with and influence on several of the major political parties. Belgian unions are affiliated with the major international bodies representing labor, such as the International Confederation of Free Trade Unions and the World Confederation of Labor.

b. *The Right to Organize and Bargain Collectively.*—The right to organize and bargain collectively is recognized and exercised freely. Management and unions negotiate every other year a nationwide collective bargaining agreement covering the 2.4 million private sector workers, which establishes the framework for negotiations at plant and branch level.

The right to due process and judicial review are guaranteed for all protected activity. The law prohibits antiunion discrimination against union members and organizers and provides special protection against termination of contracts of shop stewards and members of workers' councils and of health and safety committees. Employers found guilty of antiunion discrimination are forced to reinstate workers fired for union activities. Effective mechanisms exist for adjudicating disputes between labor and management. Belgium maintains a system of labor tribunals and regular courts which hear disputes arising from labor contracts, collective bargaining agreements, and other matters.

Belgium has no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is illegal and does not occur.

d. *Minimum Age for Employment of Children.*—The minimum age for employment of children is 15, but schooling is compulsory until the age of 18. Some categories of youth between the ages of 15 and 18 are on a part-time work/part-time study program. Students can also sign summer labor contracts limited to 30 days. The labor courts effectively monitor compliance with national laws and standards. Legislation tightening conditions of child labor in entertainment and related occupations was adopted in 1992.

e. *Acceptable Conditions of Work.*—A maximum 40-hour workweek is mandated by law, although many collective bargaining agreements call for workweeks between 36 and 39 hours.

The minimum wage rates in the private sector are set in biennial nationwide negotiations between the leading trade unions and the Belgian Business Federation. After agreement is reached, a formal collective bargaining agreement is signed by the National Labor Council and is made mandatory for the entire private sector by royal decree. In the public sector, the minimum wage is determined in negotiations between the Government and the public service unions.

Comprehensive health and safety legislation is supplemented by collective bargaining agreements on safety issues. The Labor Ministry implements this legislation through a team of inspectors and determines whether workers qualify for disability and medical benefits. Health and safety committees are mandated by law in companies with more than 50 employees and by works councils in companies with more than 100 employees. Labor courts effectively monitor compliance with national laws and standards.

BOSNIA AND HERZEGOVINA

Bosnia and Herzegovina, one of six constituent republics of the former Yugoslavia, became a sovereign state in April 1992 when 63 percent of its voters endorsed independence in a free and fair referendum. Pan-Serbian nationalists loyal to Serbian Democratic Party (SDS) leader Radovan Karadzic boycotted the referendum, and former Yugoslav National Army units which had organized themselves into a Bosnian Serb armed militia (BSA) declared their support for Karadzic. Backed by the Serbian authorities in Belgrade, the BSA began a brutal campaign of terror—in which acts of genocide took place—to establish an ethnically pure state linking Serb-occupied territory in Croatia with Serbia/Montenegro to form "greater Serbia." Human rights abuses in Bosnia occurred in an environment of war, occupation, a struggle for territory and power, the breakdown of a multiethnic system, and efforts to force the duly elected Bosnian Government to accept an ethnic division of the State. The Bosnian Government is Muslim-dominated but continues to support a multiethnic society, and elected officials are drawn proportionally from all national groups.

Bosnia's population consisted of 4.4 million people before the war, 44 percent of whom were Muslim, 31 percent Serb, 17 percent Croat, and 8 percent other nationalities. By October 1993, some 200,000 Bosnians were said to have died as a result of the conflict; over 800,000 became refugees outside Bosnia; and another 1.2 million were displaced within the nation.

As BSA units swept through northern and eastern Bosnia in 1992, Karadzic declared the establishment of the "Republika Srpska" or "Serb Republic." Techniques employed by the BSA, which Serbs themselves referred to as "ethnic cleansing," included: laying siege to cities and indiscriminately shelling civilian inhabitants; "strangling" cities (i.e., withholding food deliveries and utilities so as to starve and freeze residents); executing noncombatants; establishing concentration camps where thousands of prisoners were summarily executed and tens of thousands subjected to torture and inhumane treatment; using prisoners as human shields; employing rape as a tool of war to terrorize and uproot populations; forcing large numbers of civilians to flee to other regions; razing villages to prevent the return of displaced persons; and interfering with international relief efforts, including attacks on relief personnel.

In early 1993, the BSA, supported by paramilitary forces from Serbia and Montenegro, moved to complete ethnic cleansing campaigns in eastern Bosnia. The BSA virtually destroyed the hamlet of Cerska, chasing its residents into forests and minefields, and subjected Srebrenica, Gorazde, and Zepa to strangulation and intense shelling. International protective forces which reached the enclaves in March described conditions as the worst they had ever seen and noted that there were virtually no residents left to help.

By late spring, the BSA had consolidated most of its military and territorial gains in the east. Facing international pressure and tightened economic sanctions against Serbia/Montenegro, it scaled back assaults on the enclaves. But at midyear, the BSA renewed attacks on Sarajevo and tightened its grip on vital humanitarian supply lines, prompting a North Atlantic Treaty Organization (NATO) threat of air strikes. This led to a reduction in shelling until December, when attacks again approached July levels. Ethnic cleansing campaigns in 1993 also took place in Banja Luka and Bijeljina, and the BSA waged sporadic attacks on Tuzla, Doboj, Brcko, Olovo, Teocak, and Maglaj (this last town in conjunction with the Bosnian Croats) through December.

In April periodic skirmishing between the Bosnian government army and the militia of Mate Boban's Croatian Defense Council (HVO), the main representative of the Bosnian Croat minority, escalated into outright war. Regular Croatian army units, originally in Bosnia under a bilateral military cooperation pact, fought on the side of Boban's forces; Croatian authorities also offered materiel to the HVO but significantly less than that which Serbian authorities provided to the BSA.

The trigger for the surge in government-HVO fighting was Boban's insistence on the creation of a separate Bosnian Croat "Republic of Herceg-Bosna" within Bosnia and Herzegovina. Mostar was to be its capital, and government troops in the region were told to submit to HVO command. When the Government refused, the HVO blockaded Mostar, attacked it, and brutalized, confined, and raped its Muslim residents in an assault containing some of the most extreme human rights abuses in Bosnia and Herzegovina in 1993.

The HVO also engaged in vicious acts in central Bosnia. In April the HVO killed up to 100 noncombatants in the central Bosnian hamlet of Ahmici and then razed the village. In October it massacred at least a score of Muslim civilians at Stupni

Dol. The HVO and BSA engaged in localized collaboration on the battlefield in the central Bosnian enclave of Maglaj, creating conditions of extreme deprivation there.

Bosnian government forces perpetrated a number of abuses and atrocities in 1993, for the most part against the Bosnian Croats. In September government troops killed dozens of Croat civilians at Uzdol; the HVO charged that many more government massacres not yet investigated occurred in central Bosnia. As the tide in the fighting turned in favor of the Government in the fall, tens of thousands of Bosnian Croats fled or were driven from their homes, most going either to Croatia or to parts of Bosnia under HVO control. In November government forces killed two Franciscan friars in Fojnica and openly looted Bosnian Croat-owned shops in Vares.

In 1993 as in 1992, all national groups were victimized by the conflict, and all sides violated the Geneva conventions. But the FSA, with Belgrade's complicity, launched the Bosnian conflict through its aggressive ethnic cleansing campaign. Its pursuit of a policy of dispersing and destroying populations based on religious and national affiliation created a climate of prejudice and fear that ultranationalists on all sides subsequently exploited.

International efforts to stop the conflict were not successful by year's end. At best, international attention diminished the level of fighting for short periods of time. The participants to the conflict negotiated and signed numerous cease-fires but did not adhere to them. Bosnian Serb ethnic cleansing campaigns in eastern enclaves in the spring occurred even as Karadzic and Serbian President Slobodan Milosevic negotiated aspects of a settlement plan. Bosnian Croat atrocities in the spring, summer, and fall took place in spite of Boban's formal acceptance of several internationally sponsored peace initiatives. Bosnian government offensives against Bosnian Croat enclaves in central Bosnia late in the year occurred during sessions of the Geneva negotiations. Resolutions adopted by the United Nations Security Council failed to have a significant impact on the human rights situation or the war itself. U.N.-deployed peacekeepers (UNPROFOR)—some units of which were being investigated for abuses, corruption and partiality—were not equipped for peacemaking and found that there was no peace to keep.

The U.N.'s Commission of Experts, established by a Security Council resolution in October 1992 to investigate possible war crimes, continued to study abuses of human rights in Bosnia, Serbia, and Croatia. The War Crimes Tribunal was created by a subsequent resolution in February to assess the culpability of alleged perpetrators of atrocities and issue a comprehensive report on violations of human rights and humanitarian law. At year's end, all judges had been sworn in and a chief prosecutor named. Between September 1992 and June 1993, the United States Government submitted eight separate reports to the War Crimes Commission summarizing thousands of instances of killings, torture, rape, interference with humanitarian deliveries, mass deportations, and other violations of humanitarian law. In addition, the United States provided the United Nations with 400 refugee reports totaling over 1,000 pages. Illustrative examples from these submissions appear in sections of the report below.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—In the circumstances of the Bosnian war, targeted killings were difficult to distinguish from killings resulting from indiscriminate attacks and unpremeditated actions. (See Section 1.g. for a description of large-scale, war-related atrocities committed against civilians, including killings.) While only the pro-Karadzic Bosnian Serbs pursued ethnic cleansing as a matter of broad policy, local units of HVO soldiers and Bosnian government troops, as well as Serbian and Montenegrin paramilitaries and civilian gangs and mobs, killed many people out of nationalistic or religious hatred. The United Nations confirmed the existence of dozens of mass grave sites, as yet unexhumed. The Bosnian Government, HVO and Bosnian Serbs alleged that there were many more.

During ethnic cleansing campaigns in the early part of 1993, the BSA targeted local civic and religious leaders with the goal of figuratively decapitating Muslim society. Among the prominent individuals assassinated for political reasons was Bosnian Deputy Prime Minister Hakija Turajlic, who was shot at point-blank range by Bosnian Serb soldiers in January while riding in a U.N. vehicle that had been stopped—against U.N. procedures—at a roadblock.

At least 10 international relief workers died in 1993, shot by BSA or HVO soldiers or snipers of unknown affiliation. Sixty-some UNPROFOR soldiers died in outright attacks or as a result of sniper fire, and 34 journalists were killed (10 in 1993) since the beginning of the conflict. The U.N. High Commissioner for Refugees (UNHCR)

and some international relief agencies suspended operations on several occasions during 1993 because of danger to personnel.

b. *Disappearance.*—There were no reliable figures for the numbers of missing persons, but with hundreds of thousands dead, thousands incarcerated, and over 2 million having fled their homes, many more were missing. The Bosnian Government claimed that 26,000 Bosnians were missing as of May. Two international journalists were known to be missing.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—In spite of intense international pressure to close the prison camps discovered under BSA control in mid-1992, there were probably still scores of detention facilities for civilians, including women, children, and the elderly, in operation throughout Bosnia at the end of 1993. As many as 260 camps have been known to exist at one time or another during the conflict. In January 1993, the U.S. Government estimated that there were 135 Serb-run detention centers in Bosnia. Many of these formed part of the penal system established in BSA-held areas in mid-1992; a significant number in this network were closed by the end of 1993. Many HVO and Muslim camps, numerous in the summer and fall of 1993, were also closed by the end of the year.

Because camps closed down and reopened depending in part on the status of negotiations and the presence of international observers, it was difficult to estimate the numbers of persons detained. The three sides defined all males between 16 and 65 as combatants, so some civilian detainees were listed as prisoners of war. In October the UNHCR reported that the HVO was holding 4,200 Muslims and Roma in registered centers, down from the summer's high of 15,000 (many of whom were Muslim soldiers formerly in the HVO.) According to the UNHCR, the government held 1,100 detainees in registered centers as of October. The BSA was believed to be holding 550 Muslims and Croats in registered camps as of October, significantly less than the number of those incarcerated in 1992. Far more were held in unregistered centers. Observers stated throughout the year that the three sides hid prisoners and criticized the HVO's refusal in mid-1993 to allow international officials to visit camps around Mostar, where numerous refugees reported conditions to be dreadful.

Camps with poor living conditions in 1993 included those in Batkovici, Kamenica, Trnopolje, and Doboj (operated by the BSA); Rodoc, Otok, and Dretelj (operated by the HVO); and Zenica and Konjic (operated by the Government). At Dretelj, perhaps the most notorious camp of 1993, the UNHCR found prisoners in conditions of "appalling brutality and degradation," with broken ribs and fingers, bruises, and heart irregularities. Amnesty International said prisoners at Dretelj were so cramped that they could not lie down. Beatings and torture were reported at BSA camps in Manjaca, Batkovici, and Prijedor in the spring, at HVO camps in Rodoc and Jablanica in the summer, and at government camps in Visoko and Konjic, also in summer. Summary executions and deaths due to torture or neglect were attested to in 1993 and almost certainly continued through December.

Individuals detained in 1993 told of meager and sometimes poisoned or spoiled rations, malnutrition, poor or nonexistent sanitation, withholding of medical care, forced labor (performed by women as well as men) including trench-digging on the front lines and removal of corpses and the wounded, forced blood donations, overcrowding, and lack of amenities such as bedding. There were scattered reports of groups of prisoners being conscripted into enemy armies and of prisoners of one nationality being sold as conscripts from the second to the third nationality. The three sides were accused of using prisoners as human shields. In June the BSA arrested non-Serbs in Doboj and forced them to stand as a living front line in combat areas nearby.

Bosnian Muslim women in the spring and summer accused HVO and BSA soldiers of perpetrating mass rape. The UNHCR noted that HVO soldiers may have raped 100 or more women, some in gang-rape situations; many of the rapes occurred in connection with evictions from Mostar in mid-1993 and fighting near Vitez earlier in the year. Reports of rapes by Bosnian Serb civil and military police and soldiers continued, but the number of such charges was lower for 1993 than for 1992, when the BSA first practiced mass rape as a tool of war. Reports from Brcko, Nerici, Stolina, Skijana, and Grcica described the continuing confinement and sexual abuse of a total of at least 130 young Muslim women by the BSA. UNPROFOR troops were accused of frequenting some locations where Muslim women were held. Bosnian Croat women charged government troops with raping them in Mostar and Bugojno; the Bosnian Serbs also said government soldiers had raped Bosnian Serb women. International observers were not able to corroborate most accusations because access to victims was very limited.

d. *Arbitrary Arrest, Detention, or Exile.*—The BSA continued to round up members of the intelligentsia and target regional and local political, economic, and religious

figures in an effort to destroy the social structure of other nationality groups. Sarajevo's Roman Catholic Archbishop, Monsignor Vinko Puljic, was abducted by the BSA and held temporarily along with his UNPROFOR guards in November. Ransom was sometimes an additional motive for arbitrary arrest and detention. BSA and HVO troops abducted government bodyguards of international officials from UNPROFOR vehicles on several occasions and held UNPROFOR soldiers hostage for brief periods.

In addition to the large number of civilians detained in prison camps (see Section 1.c.), some civilians were detained for prisoner exchanges. Families of military officers were abducted with regularity because they had a high exchange value. In Vitez in April, both the HVO and the government forces arrested large numbers of civilians for use in future exchanges. The residents of some entire villages were prevented from leaving municipal confines (see Section 2. d.) so they could be used in prisoner exchanges. The Serbs detained Muslims, Croats, and Roma for use as unpaid labor in combat zones (see Section 6.c.).

While the Bosnian Government did not practice exile per se, detainees released by the Government, as well as those released by the BSA and HVO, were sometimes forced over the border (see Section 1.g.). Ethnic cleansing and mass population movements before advancing troops resulted in forced dislocation that was equivalent to exile for the half of Bosnia's prewar population that at the end of the year was seeking refuge abroad or protection elsewhere within Bosnia.

e. *Denial of Fair Public Trial.*—In areas under its control, the Bosnian government attempted to maintain a functioning judicial system. International legal experts have said the March trial for war crimes of two Bosnian Serb soldiers who had confessed to mass killings and mass rape at the behest of commanding officers was fair.

Summary trials and executions of local warlords who served as irregular government army commanders took place in Sarajevo in October, during a government crackdown on rogue elements in the military. The individuals who were tried and executed had been identified as responsible for seizing UNPROFOR vehicles and controlling extensive black market activities.

Near the front lines and in BSA and HVO-controlled areas, military authorities who held power did not guarantee the legal rights of non-Serbs and non-Croats, respectively.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Virtually all officials of the three sides (and international observers as well) assumed they were subjected to systematic surveillance. Most were unwilling to use telephones or the mail system, to the extent that they functioned, for any but the most routine business. Citizens who were interrogated reported that their questioners did not conceal the practice of surveillance.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Violations of humanitarian law and international conventions on the treatment of civilians in time of war were widespread and egregious. Many human rights violations committed by the BSA occurred as part of specific policies to expel Muslims and Croats from areas the Serbs desired for themselves. The HVO engaged in localized efforts to drive Muslims away from territories they sought to occupy. Other abuses took place on a more haphazard basis. Paramilitaries, vigilantes, "weekend warriors," criminal gangs reporting to local warlords, and civilian mobs were responsible for numerous instances of crimes against civilians. Atrocities detailed in this section include indiscriminate attacks against civilians; forced population movements; interference with the delivery of humanitarian relief, including attacks on international relief workers; interference with utilities and infrastructure; and forced conscriptions. Mistreatment of prisoners of war resembled mistreatment of civilian detainees and is handled in Section 1.c. Use of prisoners as human shields is also treated in Section 1.c. (See the Country Report on Serbia/Montenegro for information on Bosnian Serb paramilitaries who crossed the border into Serbia to attack Sandzak Muslims.)

The BSA's relentless military assault on the eastern enclaves in early 1993, its periodic attacks on Sarajevo, and ethnic cleansing campaigns in Banja Luka, Bijeljina, and towns in north-central Bosnia throughout the year resulted in tens of thousands of civilian deaths. U.N. observers reported that mass killings of civilians and attacks on refugees trying to flee Srebrenica, Gorazde, and Zepa were commonplace. UNPROFOR claimed the BSA was attacking and seizing one or two Muslim villages a day in the eastern region throughout March. In April and May, concern over conditions in besieged enclaves prompted the passage of U.N. resolutions that declared Srebrenica and subsequently Gorazde, Zepa, Sarajevo, Tuzla, and Bihac "safe areas" where security and relief deliveries were to have been guaranteed. Heavy BSA attacks on the safe areas continued through June, and more spo-

radic attacks occurred during the rest of the year. By the summer, most of Gorazde and surrounding hamlets had been leveled. Many villages outside Srebrenica were completely destroyed, as were some villages in the vicinity of Zepa.

In Banja Luka, the BSA killed and mutilated Muslim and Croat civilians as part of ethnic cleansing campaigns throughout the year. When a group of Muslims under attack sought protection in a local mosque in February, the BSA attacked the mosque. BSA advances also destroyed much of Maglaj and Doboj and many smaller communities near Brcko. Several civilians in Maglaj were killed while attempting to retrieve airdropped parcels, their only source of food in the latter half of the year. BSA killings of individuals in central Bosnia, as in the eastern enclaves and Banja Luka, sometimes involved mutilations.

Sarajevo was under heavy BSA pressure throughout the year. Thirty civilians, including a leading physician delivering baby food, were killed in the first 10 days of December. In November, 9 children were killed and 20 injured by an BSA shell that fell on a school. As in the eastern enclaves, the BSA deliberately aimed shells at hospitals, mosques, markets, cemeteries, and residential areas.

HVO attacks, particularly on Muslims, increased dramatically in 1993. The HVO slaughtered approximately 100 Muslims in the central Bosnian village of Ahmici in April. Masked Croats killed Muslim civilians in Vitez in house-to-house fighting later that month. In September, the United Nations said HVO shelling killed 10 to 15 Muslims a day in Mostar. The HVO in the spring also reportedly shot two Serb women who were part of a small contingent of Serb inhabitants of Mostar forced out of the city and told to walk to BSA-held positions. In October between 25 and 50 Muslim villagers, including women and children, were killed by the HVO at Stupni Dol, near Vares; the remainder of the town's population was taken captive and the village entirely destroyed. The HVO shelled UNHCR officials attempting to gain access to Stupni Dol for 3 days before finally letting medical examiners through. Later in the month, the Bosnian Government claimed the discovery of a mass grave in Tasovcici containing the bodies of alleged victims of HVO attacks in Stolac and Capljina.

Government troops also targeted civilians in 1993, particularly Bosnian Croats. Thirty Bosnian Croat civilians were massacred at Uzdol in September. Survivors of the attack said they were used as human shields. Government soldiers murdered two Franciscan friars in Fojnica in November. The HVO charged the Government with killing more than 100 other Bosnian Croat civilians between April and October in a variety of central Bosnian locations including Trusina, Doljani, Bugojno, Jakovice, Kiseljak, and Kopijari. Witnesses described torture preceding the killings and mutilation afterward. The United Nations is investigating the charges. Government soldiers killed a score of Bosnian Serb civilians in the village of Skelani, in the Srebrenica pocket, in January, and shot several Bosnian Serbs in Sarajevo, including two elderly people being evacuated.

The Bosnian conflict has brutally uprooted millions of civilians. The residents of Cerska and the populations of several villages in its vicinity were driven out of their homes as part of the BSA's ethnic cleansing campaigns in eastern Bosnia in early 1993. The BSA then plundered and burned or shelled virtually all houses. Large segments of the populations of other eastern enclaves also fled the BSA in the spring, some across mined territory. Many refugees from the BSA went to Tuzla (behind the front lines,) the population of which increased four-fold in the spring. World Health Organization (WHO) officials in the city termed conditions "desperate" because the limited infrastructure could not handle the huge refugee population.

Bosnian Serbs pursuing cleansing operations in southern Herzegovina ordered residents of Trebinje and Bileca to leave the district in January, killed several who did not comply, and bombed mosques. Over 1,000 Muslims fled to Montenegro. In an effort to frighten non-Serbs into leaving Banja Luka, BSA soldiers cut phone lines, beat residents, sealed off and bombed non-Serb shops, seized non-Serb apartments, fire-bombed mosques, threatened citizens with rape, and warned non-Serbs via the local television station they would have to pay heavy fines for remaining. (As noted above, they also killed and mutilated non-Serb residents of Banja Luka.) Some non-Serbs in Bijeljina were reportedly forced to give up house keys and property deeds before being driven to front lines and ordered to walk across them. In August a group of Muslims from Bijeljina was driven through Serbia proper to the Hungarian border, where they were dumped. Cleansing operations in central Bosnia continued. Of 43,000 Muslims recorded as living in Doboj in the 1991 census, only 1,000 remained in November 1993, according to the United Nations.

HVO troops worked most actively around Mostar to force non-Croats to move out. In May the HVO rounded up thousands of Muslims and imprisoned them temporarily in the heliodrome stadium while simultaneously running thousands more out of town. When several made their way back, they found former Muslim areas empty

and buildings shot full of holes. In June the HVO burned the personal papers, including apartment leases, of Muslims who had not so far been detained or chased out and forced them across a bridge under a hail of gunfire to a section of east Mostar where they were ghettoized. By the end of June, international relief agencies said the HVO had destroyed virtually all Muslim property in Mostar. In July a number of the ghettoized Muslims in Mostar were boarded onto buses and dumped in Croatia against their will. In September the UNHCR described signs of malnutrition and physical abuse among the 14,000 Muslims who had escaped Mostar and surrounding towns and made it to Jablanica, behind the front lines in central Bosnia.

The HVO chased Muslims out of several central Bosnian locations in early 1993, including an Italian-run refugee camp whose staff and inhabitants were forced to flee; local HVO commanders said they planned to expel more Muslims from the region to make room for Bosnian Croats who were homeless as a result of government-HVO fighting. At midyear, the HVO began evicting Muslims from Stolac, Capljina, and Livno, forcing as many as 20,000 across the front lines. Before the evictions began, local HVO officials disconnected Muslims' telephones, requisitioned their cars, and made radio broadcasts saying their security could not be guaranteed.

Tens of thousands of Bosnian Croat refugees fled Konjic, Travnik, Novi Travnik, and Vitez in fear of advancing government troops in the spring. In September government forces used death threats and extortion to pressure Bosnian Croats to leave Zenica; a month later government soldiers rounded up 1,000 Bosnian Croat refugees trying to flee Konjic, robbed them, beat them, and fired shots at them. In November the UNHCR described the situation around Vares as "chaotic," with gunmen terrorizing 15,000 mostly Bosnian Croat civilians who had fled their homes in fear of attack. Boban claimed 150,000 to 190,000 Bosnian Croats had been displaced by fighting in central Bosnia or driven out by the Government as of late fall.

All parties to the conflict interfered with humanitarian assistance, but abuses by the BSA were most widespread in 1993. In February BSA troops issued orders formally sealing off Bihac, Zepa, Gorazde, and Srebrenica from relief deliveries, which in any case had not occurred for many months. In Zepa, Cerska, Srebrenica, Konjevic Polje, Kamenica, and Gorazde, deaths due to a combination of severe malnutrition, exposure, and wounds that could not be treated for lack of medicine occurred in the winter and spring. WHO doctors said 20 to 30 people died of untreated wounds, lack of food, and exposure every day in Srebrenica during the month of March. When observers reached Zepa at the end of January, they found the population eating bread made of straw. After seizing 14 villages near Cerska in March, the BSA blocked international evacuation of the wounded, resulting in more deaths. The BSA then shelled UNPROFOR troops attempting to carry a field hospital into Srebrenica and threatened to fire on German relief planes if Germany participated in the relief effort. The WHO reported that tuberculosis and hepatitis were increasing sharply among the refugee population of Tuzla as the "pharmaceutical situation collapsed." In April the BSA blocked convoys bound for Gorazde, where starvation was reportedly imminent, as the ICRC announced from Zagreb it was considering withdrawing from Bosnia because of BSA harassment. In June BSA positions shelled a UNHCR convoy near Maglaj, killing three relief workers.

Throughout the remainder of the year, more relief workers were killed, more citizens died of deprivation, and more vitally import medical evacuations failed to take place both inside and outside the United Nations' safe zones due to BSA threats and harassment. U.N. Secretary General Boutros Boutros-Ghali, on a trip to the safe areas shortly after they were declared, described conditions brought about by long-term BSA denial of relief as "appalling."

The HVO began closing roads leading to Muslim areas of central Bosnia to all commercial traffic in February. In April the HVO seized and briefly held several international relief workers near Kiseljak, claiming they had sided with the Government. In May the HVO began blocking all relief convoys bound for Mostar; as a result, almost none reached the city until late August. Participants in an HVO attack on a U.N. convoy in central Bosnia in mid-1993 said they were acting under orders to threaten European Community (EC) and U.N. officials. In July the HVO began charging tolls termed "extortionate" by relief workers. In August the UNHCR temporarily suspended relief deliveries to central Bosnia because its convoys were being harassed by the HVO. International relief agencies reported that the HVO had targeted its workers for harassment and abuse, bound and gagged UNHCR employees in Mostar, and fired a grenade (which did not explode) at an ICRC truck. In November an HVO commander accused of leading the attack on Stupni Dol ordered all U.N. relief workers to depart Kiseljak. Later in the month, a combination of malnutrition and exposure brought about by HVO interference with relief resulted in several deaths in Mostar.

In February the Bosnian Government responded to the BSA's order to seal off the eastern enclaves and Bihac from relief by refusing relief deliveries to Sarajevo. Frustrated at the politicization of humanitarian assistance, the UNHCR temporarily suspended aid to many parts of Bosnia. In March local officials in Srebrenica detained UNPROFOR General Phillipe Morillon as a shield against further BSA shelling. (Morillon subsequently elected to remain as a gesture of solidarity with the people of the enclave.) In Sarajevo the Government refused the delivery of fuel bound for Bosnian Serb hospitals. In Mostar local government officials detained the first convoy to arrive in the city in 3 months and a UNPROFOR contingent as well, apparently in the hope that keeping them in Mostar would prevent the HVO from renewing its attacks on the city. In the fall, government soldiers attacked a UNHCR convoy near Novi Travnik and killed the driver; they subsequently shot and wounded a U.N. driver in Kakanj after his convoy refused to hand over fuel. In December government soldiers attacked a Croatian convoy attempting to deliver relief to Bosnian Croats in Nova Bila.

At the end of 1993, UNPROFOR forces were under investigation for showing favoritism in the provision of humanitarian assistance. At year's end, the United Nations was investigating reports that some UNPROFOR units attempted to influence the outcome of the conflict through preferential deliveries of aid.

The BSA interfered with utilities and infrastructure to a much greater extent than the HVO or Government. The WHO, terming the situation in Sarajevo "desperate" in January, said several elderly residents of nursing homes had frozen to death due to Bosnian Serb diversions of natural gas to the capital. The BSA cut the water supply to Srebrenica in April and prevented U.N. workers from repairing it. In July a U.S. Office of Foreign Disaster Assistance relief team visiting Sarajevo reported that most houses lacked electricity and gas; water was generally unpotable, and dysentery was spreading. The UNHCR noted in July that Gorazde's water supply was contaminated with human waste as a result of BSA interference. In October, 10 days after the announcement that the BSA had achieved its aims and ended the siege of Sarajevo, heavy shelling resumed, and gas supplies were reduced. The WHO reported an increase in burns as residents used more "do-it-yourself" heating contraptions in an effort to keep warm. In November the UNHCR said some patients had died in hospitals that remained unheated due to the BSA cut-off of gas, and cold had made some patients too weak to withstand operations. As of the end of the year, Sarajevo was under the heaviest mortar fire since before NATO's August warning, and water, electricity, and gas flows remained sporadic and at barely usable levels.

The HVO prevented international relief workers from supplying water pumps and water-purifying equipment to Mostar in the summer. In November the HVO destroyed Mostar's 400-year-old UNESCO-protected Ottoman Foot Bridge, which supplied the Muslim ghetto in the eastern sector with water. A Belgrade architect noted that the bridge had "linked cultures and people" and remarked that, "with a loss like this, people lose their place in time." No instances of government interference with utilities and infrastructure have come to light, but government forces near Mostar in August did threaten to release the floodgates on the Neretva River to drive the HVO out of the area.

The three sides practiced forced conscriptions to a limited degree in 1993. In some BSA-held areas, those who refused the draft were dismissed from work and detained. Some families of men who refused conscription were also dismissed. In April the BSA forced evacuation flights from Srebrenica to divert to BSA-held Zvornik, where evacuees were taken prisoner and threatened with conscription. The HVO segregated Bosnian Croat males from among displaced persons on the run near Stolac and Capljina and forced them to enlist in the HVO in October. There was no right to conscientious objection under Bosnian law; Serbs and Croats who refused the draft in Banovici were arrested by local officials, conscripted into the government army, and taken to the front lines in the spring. Also in the spring, the Government prevented draft-age men from leaving Zepa and Sarajevo.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Bosnian Serb refugees complained of living in a virtual police state under Karadzic's SDS. They suffered harassment, dismissal, and incarceration at the hands of BSA soldiers and pro-Karadzic local officials for taking a public stance in support of the Bosnian government or for opposing the ideology of the SDS. A BSA military court sentenced a Bosnian Serb worker to a prison term this summer for trying to broker cease-fire talks between the Government and BSA. A Bosnian Croat family living near the BSA detention facility in Trnopolje was shot because they "looked at the camp" too frequently, and officials feared they

might talk about it. In 1993 as well as 1992, numerous Bosnian Serbs were killed by BSA soldiers for speaking up in defense of Bosnian Muslim neighbors.

Freedom of speech and debate was protected as a matter of principle in Bosnian schools, but due to security concerns educational institutions were open only sporadically, sometimes in unusual settings such as underground bunkers. In a move that denied freedom of thought and expression to all Bosnians, the BSA fire-bombed the national library in Sarajevo, destroying major collections of cultural importance to all nationalities.

Before the war, the principal Bosnian media—Sarajevo radio and television, the Sarajevo daily Oslobodjenje, the independent television station Yutel—were widely regarded as accurate and balanced. Oslobodjenje, with a multiethnic staff, has maintained standards of objectivity and accuracy that won international prizes and acclaim even under the difficult circumstances of the war. The newspaper endorsed the notion of a pluralistic Bosnia and supported democratic and progressive elements in the Government. Editorials freely criticized government policies and officials. Sarajevo also had a tabloid press that the Government tolerated, but authorities detained several reporters from Tanjug, the Belgrade-based news service, and denied visas to Radio Zagreb personnel.

The single television station operating in Sarajevo in 1993, funded by the Government, took a pro-government line. The Government also ran a radio station and allowed an independent station to broadcast. The government news agency, BH Press, emphasized reports of attacks against Muslims and downplayed reports of atrocities committed by government forces.

The SDS news agency SRNA, headquartered in Pale, provided biased and distorted reporting. Both SRNA and Tanjug, the Serbian news service, carried unsubstantiated reports of crimes against Serbs in order to reinforce ethnic Serb solidarity, promote ethnic hatred, and instigate violence. A pro-Karadzic television station that broadcast from Banja Luka transmitted reports directly from Serbia and received financial support from Belgrade Television. As noted in Section 1.g., in February it advised Muslims and Croats to leave Banja Luka or pay fines for remaining.

The HVO's newly established news agency, HABENA, reported Bosnian Croat casualty figures far in excess of those attested to by international relief organizations. Radio Zagreb regularly issued distorted reports. For example, in November it reported that Swedish peacekeepers detained by the HVO had been helping Muslims when in fact they were attempting to escort Bosnian Croat civilian refugees near Vares to safety.

b. *Freedom of Peaceful Assembly and Association.*—The right of peaceful assembly and association could not be observed in the conditions of war and violence. In areas not under the control of the Government, assemblies of persons whose nationality and religion were not the same as those in power were regarded with suspicion and in some cases participants were subjected to harassment and attack. Even in government-controlled areas, large gatherings such as queues often attracted snipers.

c. *Freedom of Religion.*—Religious tolerance has been a tradition of the diverse Bosnian population for 500 years. Serbian Orthodox Bosnian Serbs, Roman Catholic Bosnian Croats, and Muslim Bosnians are largely indistinguishable in terms of language and physical appearance. But the war and ongoing atrocities radicalized many, and religion became one of the justifications for fighting. Citizens living in government-controlled areas enjoyed the greatest freedom of religion in 1993, as the Government remained committed to pluralism and included representatives of all religious groups.

In connection with ethnic cleansing campaigns, BSA troops systematically destroyed religious institutions and made cultural monuments specific targets. In areas under BSA control, virtually all mosques and Roman Catholic churches have been bombed, shelled, burned, or bulldozed, and statuary has been defaced. The BSA destroyed the last of Trebinje's mosques in April, after expelling the majority of the town's Muslims. Banja Luka's historic 16th century mosques were also demolished, as were all the mosques in Bijeljina.

The HVO destroyed mosques as well, including four in Stolac and one in Pocitelj this summer. The HVO charged the BSA and the Government with the destruction of 66 churches in the course of the conflict. All told, hundreds of mosques and churches have been demolished, including several of unique architectural and cultural significance, since the war began.

Mixed marriages accounted for 20 to 30 percent of unions before the war began; citizens in mixed marriages faced difficult choices as the war expanded. In some cases, they hid their religious backgrounds or sought shelter with those of a different faith to avoid being separated from their families. In government-held areas,

where commitment to religious diversity was a matter of law, individuals in mixed marriages had an easier time than those in BSA- or HVO-controlled areas.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The wartime situation, coupled with mass detention and expulsion (discussed in Sections 1.d. and 1.g above), interfered with the free movement of millions of Bosnians. The changing front lines made many others virtual hostages within broad geographic areas. Sarajevo was the most heavily populated island of "hostages" in Bosnia. The lack of safe transportation into or out of the capital put citizens and officials at risk when they attempted to travel to other parts of the country or abroad. The airport was one of the most frequently attacked targets in the city.

In some cases citizens of whole villages were given orders to remain within specified confines, or be shot or fined, in order that a pool of people to perform labor and take part in prisoner exchanges could be maintained. In some areas, the BSA established local "Commissions for Exchange" to ensure that non-Serbs wishing to leave were exchanged for Serbs who wished to return. In March the BSA put in place procedures whereby non-Serbs wishing to go to other regions were not permitted to carry valuables or travel by car; non-Serbs were also required to pay higher prices for bus tickets and exorbitant transit taxes in BSA-controlled towns they crossed.

The Government inhibited movement by citizens in part to avoid a mass exodus. During the BSA sieges against the eastern enclaves in the spring, local officials sometimes prevented UNPROFOR from leaving areas under attack. The Government prevented large numbers of Bosnian Croats from leaving Bugojno and Banovici during the summer, using the civilians in prisoner exchanges and as forced labor. Local authorities announced in September that Zenica's 23,000 Bosnian Croats could not leave the city. (Earlier in the month, government soldiers had pressured them to depart against their will.) In Sarajevo the city's Secretariat of Evacuations often refused Bosnian Serbs permission to leave or delayed their departure for many months.

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

The duly elected Bosnian Government did not have the means to protect its territory, to defend its sovereignty, or to guarantee its citizens' rights. Nearly 80 percent of the country was under the military control of various separatists supported by Serbia or Croatia. In this environment, the Bosnian Government's goal of establishing a secular, pluralistic, democratic society in an undivided land had little chance of success. Bosnia's only election, which occurred in April 1992, created a bicameral National Assembly with 240 seats, of which 99 were filled by Muslims, 84 by Bosnian Serbs, 50 by Bosnian Croats, and 7 by others, in proportion to the composition of the population of the country at the time. There were no elections scheduled for 1993.

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

The Bosnian Government, the BSA, and the HVO all agreed in principle to allow international observers access to territory under their control so alleged human rights abuses could be investigated. In practice, political and military authorities imposed obstacles and made it difficult for international officials to carry out investigations.

All sides in the war viewed the work of international organizations through the prism of their political interests. All sides downplayed their own culpability for atrocities. Both the BSA and HVO denied responsibility for human rights abuses that international investigators assigned to them, claiming for example that the Government was killing its own civilians in the hope of blaming the other side for atrocities. No side has cooperated fully on the issue of examination of prisoners.

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

Women.—In addition to being subjected to rape (Section 1.c.), women suffered other sorts of physical abuse in 1993. Muslim women in Mostar reported they were strip-searched (and in some cases raped) by male HVO soldiers before being evicted from the city. Before the war, discrimination against women was not officially practiced, although there were few women in prominent positions.

Children.—The United Nations Children's Fund (UNICEF) reported in June that 1,400 children had been killed and 12,800 wounded since the beginning of the conflict; 91 percent had witnessed shooting in the course of the conflict, 72 percent had had their homes shelled, 41 percent had witnessed a person being injured or killed, and 81 percent thought they could have been killed during 1993. Many lived on a diet of bread, rice, and pasta, when those goods were available, and had not eaten

fresh fruit or vegetables since early 1992. The result was widespread anemia and other wasting conditions in children who did not suffer more serious injuries or illnesses. Children witnessed atrocities, including murder and rape committed against their parents and neighbors. Tens of thousands were orphaned, and tens of thousands more lived in refugee centers. Assessing the psychological effects of war trauma on children in Sarajevo, Bihac and Banja Luka, UNICEF found that virtually all suffered from nightmares and inappropriately apathetic or aggressive behavior as a result of exposure to the conflict.

National/Racial/Ethnic Minorities.—Extreme nationalism precipitated the war to cleanse non-Serbs from parts of Bosnia. Other micronationalist ideologies developed in the context of violent separatism, and at the end of 1993 national identity was a critical factor in whether one would keep a job or lose it, remain at home or be driven out, or all too often live or die. Throughout Bosnia, violence, fear, and the collapsing social structure eroded support for pluralism. No group was more victimized than Bosnia's Muslims.

People with Disabilities.—The pervasiveness of the war, the destruction of the economy, and the Government's reduced means limited assistance to the disabled, including those disabled by the war. An example of disregard for the needs of the disabled occurred as the HVO withdrew from Fojnica: troops evacuated the doctors from a hospital for mentally impaired children, but left the patients behind.

Section 6. Worker Rights

a. *The Right of Association.*—Legally, all workers were free to form or join unions of their own choosing without prior authorization. Before the outbreak of the war, this right was generally respected. Bosnian workers had independent trade unions, while journalists, teachers, and others organized independent professional associations to address labor issues. The bulk of Bosnian workers were probably members of the semi-official Council of Independent Trade Unions of Bosnia and Herzegovina (CITUBH), although new trade unions were also organized. The right to strike was recognized but not exercised in connection with work-related grievances in 1993.

b. *The Right to Organize and Bargain Collectively.*—Bosnian law formally guaranteed this right, but the fighting among the three sides interrupted Bosnia's economic transition from state domination to a market-oriented system. As a consequence, the management of state-owned enterprises had not adopted collective bargaining as a practice prior to the war.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor was legally prohibited and did not occur before the outbreak of the war. In some villages, however, citizens found themselves under virtual "house arrest" so surrounding forces would have a convenient labor pool. As with civilians placed in detention centers, villagers under house arrest were sometimes forced to erect shelters or fill sandbags in dangerous conditions near the front lines. Although the BSA was the main user of forced labor, government troops also occasionally surrounded villagers and forced them to work. Bugojno was surrounded for most of the summer, and in May government troops surrounded the residents of Banovici and sent some of them to the front lines to dig trenches. As the trenches were completed, the troops advanced.

d. *Minimum Age for Employment of Children.*—The minimum age for employment was 16, although children in agricultural communities sometimes assisted their families with farm work before they reached that age. As in 1992, there were occasional reports in 1993 that children were employed for military functions such as reconnaissance and running messages.

e. *Acceptable Conditions of Work.*—In principle, minimum wages were guaranteed; with the economy in total disarray, however, workers had no assurance they would be paid for work performed. Dismissals because of ethnicity or political affiliation occurred throughout Bosnia. The prewar 42-hour workweek, with a 24-hour rest period, was formally still in effect, and sick leave and other benefits were generous. But in the context of the war, benefits counted for little. Regulations on occupational health and safety were adequate but not enforced.

BULGARIA

Bulgaria is a parliamentary republic ruled by a democratically elected government. President Zhelyu Zhelev, former chairman of the Union of Democratic Forces (UDF), was elected in January 1992 to a 5-year term in the country's first direct presidential elections. After a UDF government fell in October 1992, and the UDF and Bulgarian Socialist Party (BSP) each failed to form a government, the Movement for Rights and Freedoms (MRF), mainly representing the ethnic Turkish mi-

nority, nominated centrist economist Lyuben Berov as its candidate for Prime Minister. Lacking a stable parliamentary majority during 1993, Berov was forced to depend on the BSP, heir to the Bulgarian Communist party structure, for much of his support.

The UDF, formerly the largest parliamentary bloc, was weakened by internal divisions in 1993. A UDF-supported hunger strike by a Member of Parliament (M.P.), aimed at bringing down the Berov Government and forcing the President to resign, ended when President Zhelev gave provisional support to the idea of earlier-than-required parliamentary elections in 1994. The BSP adopted a policy designed to reduce further the President's already circumscribed powers and to reassert itself as the strongest force in the three branches of government.

Most security services are the responsibility of the Ministry of the Interior, which controls the police, National Security Service (civilian counterintelligence), internal security troops, border guards, and special forces. The President oversees the National Intelligence Service (foreign intelligence). There were few accusations of illegal wiretapping in 1993, compared to previous years. Some allegations that police used excessive force, particularly against Gypsies, were substantiated by domestic and international human rights groups. Human rights groups made credible assertions that a police bill passed in December gives police forces excessively broad powers of search and entry without first obtaining a warrant.

The transition to a market economy continued, albeit slowly and against political and social resistance. Restitution of shops and houses that were confiscated by the communists in the 1940's has put capital into the hands of many ordinary Bulgarians, helping fuel rapidly growing consumer goods and service sectors. However, privatization of state-owned industry moved slowly, as did the breakup of state-organized collective farms. Bilateral agreements with members of the European Free Trade Association entered into force, and a bilateral investment treaty with the United States concluded in 1992 was expected to enter into force in 1994. Bulgaria reached preliminary agreement with its private creditors to restructure $10 billion of defaulted commercial debt, but had not concluded a standby agreement with the International Monetary Fund by year's end.

Bulgaria's human rights performance continued to be generally good in 1993. Freedom of press, assembly, religion, speech, association, and travel were respected, with some significant exceptions. Although the Government made some efforts to address the specific difficulties of minority groups and to investigate alleged human rights violations, xenophobia, nationalism, and antiethnic expression increased noticeably among the population at large. Gypsies (Roma) continued to be the target of police beatings and other excessive force; the Government investigated only a few such incidents. Constitutional provisions against ethnically based political parties continued to pose a potential threat to the legality of the MRF and to prevent the participation of parties representing Gypsy interests. Western missionaries and some Bulgarian religious groups reported harassment.

The Government dismissed several key figures in the state-owned media for so-called antigovernment activity. Parliament passed an anti-Communist "lustration" bill (see Section 1.a.), upheld by the Constitutional Court, which resulted in a significant number of dismissals in the scientific and academic communities. Parliament also annulled census results in two towns in the southwest, on the questionable basis that citizens there had been pressured into declaring themselves ethnic Turkish. Overall, little progress was made toward passing legislation needed to implement the rights enshrined in the Constitution or toward establishing a clear judicial basis for addressing human rights complaints.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no confirmed reports of political or extrajudicial killing in 1993. Three prisoners who killed a guard while escaping were recaptured and reportedly beaten to death. The Government and a human rights nongovernmental organization (NGO) are investigating the incident. One policeman was convicted of wrongful death in the shooting of an ethnic Turkish individual who lived in the Gypsy community, although his conviction was overturned by a higher court.

One Bulgarian human rights group alleged that the 1992 death of MRF deputy Svilen Kapsuzov in an automobile accident was a case of political murder. No direct evidence of murder emerged during the trial, although circumstantial evidence lent some credence to the charge. The driver of the car which struck Kapsuzov's car, reportedly a former state security agent, was convicted of involuntary manslaughter.

A parliamentary commission charged with investigating the case neither confirmed nor dismissed the allegations.

Many observers expressed concern about the fatal shootings by police of two Iranians suspected of being involved with a drug ring and of being responsible for the earlier death of two policemen. The shootings, and the Ministry of Interior's handling of the brief investigation which followed, led some observers to question whether the intent of the police was to apprehend the suspects or to seek revenge for the deaths of their fellow officers.

b. *Disappearance.*—There were no reported instances of disappearance.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution expressly prohibits torture, cruel, inhuman, or degrading treatment, forcible assimilation, and subjection to medical, scientific, or other experimentation without consent.

A number of credible reports described police beatings of Gypsies during arrest and mistreatment during incarceration. In one particularly egregious case, police arrested on suspicion of attempted theft a 33-year-old male Gypsy and brutally beat him during interrogation. Doctors later told local human rights representatives that his injuries—several broken ribs on both sides of his chest—most probably resulted from kicks. Doctors later surgically removed part of the victim's lung and kidney. The Government is conducting an investigation. In another case, a 14-year-old Gypsy was severely beaten upon arrest; the local prosecutor's office declined to initiate an investigation. To date, no police have been convicted and punished for brutality against minorities.

In April in the town of Novi Pazar, a force of more than 50 police arrived at approximately 4 a.m. without a written search warrant and forcibly entered a number of homes in search of suspected criminals. Police were dressed in plainclothes or camouflage uniforms, and some wore masks. According to witnesses, the police failed to identify themselves. Witnesses reported that police indiscriminately beat men, women, and children of the Gypsy community. Fifty arrests were made. The Government initiated no investigation of the incident. By the end of the year, all but six of the detainees had been charged with minor crimes and released on bail or on their own recognizance.

A Ministry of Interior investigation into a similar case in Pazarjik in 1992 was concluded in 1993. The Ministry announced it had found no evidence of serious transgressions but declined requests to release the report for examination by independent observers.

Conditions in some prisons are substandard, although they do not appear to threaten life or health, and overcrowding problems eased in 1993. Prisoners' complaints received media coverage and in some cases resulted in improved treatment. The Government cooperated with requests by NGO's to monitor prison conditions.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution provides for access to legal counsel from the time of detention. Judicial authorities must rule on the legality of a detention within 24 hours. Defendants have the right to visits by family members, to examine evidence, and to know the charges against them. Charges may not be made public without the permission of the chief prosecutor. Pretrial detention is limited to 2 months under normal circumstances, although this may be extended to 6 months at the discretion of the chief prosecutor, who may also restart the process.

Approximately 30 percent of Bulgaria's 8,000 prison inmates are in pretrial detention (see Section 1.c.). In the event of a conviction, time spent in pretrial detention is credited toward the sentence. The Constitution provides for bail, and some detainees have been released under this provision, although bail is not widely used.

Neither internal nor external exile is used as a form of punishment.

e. *Denial of Fair Public Trial.*—Under the Constitution, the judiciary is granted independent and coequal status with the legislature and executive branch. The court system consists of regional courts, district courts, the Supreme Court, and the Constitutional Court. A Supreme Court of Cassation, provided for in the Constitution, has not yet been established. The Constitution stipulates that all court hearings shall be public unless the proceedings involve state security or state secrets. There were no reported complaints about limited access to courtroom proceedings. Defendants have the right to know the charges against them and are given ample time to prepare a defense. They are considered innocent until proven guilty and are guaranteed the right of appeal which is widely used. Defendants in criminal proceedings have the right to confront witnesses and to have an attorney, provided by the State, if necessary, in serious cases.

The Constitutional Court rules on matters of constitutionality. The Supreme Court serves as a court of appeal for cases not directly constitutional in nature. Military courts handle cases involving military personnel and some cases involving na-

tional security matters. The Constitutional Court does not have specific jurisdiction in matters of military justice.

Most observers agreed that the judiciary, while generally independent, struggled with continuing problems in 1993. Judicial salaries were relatively low, and many positions remained unfilled, creating a heavy backlog of cases and sparking complaints that pretrial detention was excessively lengthy. Partly as a legacy of communism, and partly because of the court system's structural and personnel problems, the public at large has little confidence in the judicial system. Many credible legal experts from Parliament, as well as voices on the Constitutional Court, condemned attempts, spearheaded by the BSP in late October, to amend the current law on the judiciary while a reform judiciary law was already in its second reading. These experts noted that the amendments would establish intrusive legislative branch control over the tenure of judges in office. They noted further that the proposed amendments' qualifications for service as Chief Prosecutor or as a member of the High Judicial Council, the judiciary's policymaking body, required such a long term of prior legal service that only jurists and judges who had served during the era of former Communist dictator Todor Zhivkov would be eligible. Observers objected as well to the irregular way in which the BSP and its supporters voted the amendments out of committee in the absence of a quorum for the vote. The amendments passed a first reading the early November. They may be subsumed under the reform judiciary law.

A number of criminal cases against former Communist leaders were carried forward in 1993. Some observers characterized these indictments as part of the democratization process, while others viewed the trials as politically motivated. Todor Zhivkov appealed his 1992 conviction for abuse of power involving personal expense accounts and state privileges. In August he was indicted on a charge of embezzlement for giving grant aid to Communist regimes in other countries; 10 other former leaders, including former Prime Minister Andrei Lukanov, were also indicted in the "Moscow case." Some human rights observers criticized these indictments, asserting the activities in question were political and economic decisions, not criminal acts. The Chief Prosecutor responded that the transfer of funds had been carried out without parliamentary approval and was thus illegal. In another case, former Prime Minister Georgi Atanasov and former Minister of Economy and Planning Stoyan Ovcharov were convicted of embezzlement of state funds and sentenced to 10 and 9 years in prison, respectively. The Supreme Court upheld these convictions, and both men went to prison.

The first indictments relating to the forced assimilation and expulsion of ethnic Turks in 1984–85 and 1989 were handed down, and a trial began for five defendants who were members of the security services. The Chief Prosecutor asked Parliament to strip BSP MP Dimitur Velev of his immunity in this case, but Parliament declined. Former dictator Zhivkov, former Prime Minister Atanasov, and former Interior Minister Dimitur Stoyanov were indicted and are scheduled to go on trial in February 1994. Another criminal trial was launched in connection with the notorious prison camps set up by the Communists after they came to power in 1944. The defense claimed that the statute of limitations had expired and two of the five original defendants have died, but proceedings in a regional court continued against the remaining three. Finally, two former Communist party leaders were convicted of failing to inform the public of health dangers related to the Chernobyl nuclear reactor accident and received short prison terms.

The Constitutional Court upheld the controversial 1992 lustration act, the Law for Additional Requirements toward Scientific Organizations and the Higher Certifying Commission, or "Panev law". Under this law, former secretaries and members of Communist party committees are barred from positions as academic council members, university department heads, deans, rectors, and chief editors of science magazines. Several hundred people reportedly lost positions under this law. Some of these acknowledged past Communist associations, while others were dismissed for refusing to sign a declaration saying they had had no such associations. The Panev law applies a presumption of collective guilt that is clearly in conflict with international human rights standards.

The Penal Procedural Code gives prosecutors the right to remove appointed and elected officials with little satisfactory recourse. A local prosecutor removed the mayor of Satovcha from office on charges he had falsified documents and abused his administrative powers by intimidating Pomaks (Muslims of Slavic ancestry) into changing their names from Slavic to Turkish versions. The charge of intimidation was later dropped, and the mayor appealed his suspension to the court. The appeal was unsuccessful, and in November he was formally indicted.

Human rights groups complain that local prosecutors and magistrates sometimes fail to pursue vigorously crimes committed against minorities. Bulgaria has no polit-

ical prisoners, although it appears that political motives lie behind some indictments of former Communist leaders.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution stipulates inviolability of the home, protects the freedom and confidentiality of correspondence, and provides for the right to choose one's place of work and residence. A bill regulating police activities was passed and went into effect in December. Several human rights groups made credible charges that the new law, which allows police under some circumstances to enter homes without first obtaining a warrant, was unconstitutional because it provided excessively broad powers of search and entry. Compared to previous years, there were few charges of illegal monitoring of correspondence or telephone conversations during 1993.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution prohibits censorship of the press and mass media. The variety of newspapers published by political parties and other organizations represented the full spectrum of political opinion. Foreign newspapers circulated without hindrance, and Turkish-language newspapers appeared regularly. A Gypsy-language paper stopped publishing for financial reasons. One exception to freedom of the press was the confiscation of newspapers published by the illegal ethnic Macedonian group UMO-Ilinden (see Section 2.b.). Some self-censorship exists among journalists who must conform to what are often heavily politicized editorial views. In other cases, large financial groups that hold interests in several nominally independent newspapers intervened directly to control editorial content.

A new Penal Code article makes it a crime to publish information about the activities of internal security police. Although not invoked during 1993, the article represents a potential stifling of press freedom.

Television remains a state monopoly under parliamentary supervision. Two channels broadcast in Bulgarian, while a third broadcasts Russian programming. Foreign government radio programs such as British Broadcasting Corporation and Voice of America had unrestricted access to commercial Bulgarian radio frequencies. Television and radio news programs present opposition views but are generally seen as being biased in favor of the Government. There are no formal restrictions on programming. Some political groups complained that coverage was one-sided, although they acknowledged that their representatives were interviewed regularly. Opinion polls rate television as the most credible news source. Both television and radio provide a variety of news and public interest programming, including talk shows and public opinion shows.

The Berov Government fired a number of high-level media and communications figures. Some of the firings were in retaliation for what it described as antigovernment political activity, while others were a clear attempt to impose stricter controls over the political content of broadcasts. Among those dismissed were Stefan Sofianski, head of posts and telecommunications, Acen Agov, General Director of National Television, and Ivo Indjev, director of the Bulgarian Telegraph Agency. When the High Court ruled that, as a government employee, Indjev could only be fired by Parliament, Parliament voted to remove him legislatively. The cumulative effect of these firings was to raise questions about the Berov Government's commitment to freedom of the electronic media.

Approximately 30 independent radio stations are licensed in Bulgaria. Some Turkish-language broadcasting takes place. Radio transmitter facilities are owned by the Government. Applications were solicited to operate cable television and radio throughout the country.

Private book publishing remained lively in 1993, with more than 50 publishers in business. Academic freedom, with the notable exception of the Panev law described in Section 1.e., continued in 1993.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right to peaceful and unarmed assembly. Permits are required for rallies and assemblies held outdoors, and most legally registered organizations were routinely granted permission to assemble. However, several religious groups reported difficulties obtaining permits for outdoor assemblies. The Sofia municipality reportedly denied an evangelical group a march permit in September on the grounds the march might spark violent protests by those opposed to "foreign" religious groups. Some religious groups also had difficulties renting assembly halls to which they had previously had access. Vigorous political rallies and demonstrations were a common occurrence during 1993 and took place without governmental interference.

Bulgaria, as a member state of the Conference on Security and Cooperation in Europe, has undertaken to respect the right of individuals and groups freely to establish their own political parties or other political organizations. Despite this undertaking, there are constitutional and statutory restrictions on such activity that limit

the right of association and meaningful participation in the political process. For example, the Constitution prohibits organizations that threaten the country's territorial integrity or unity or that incite racial, ethnic, or religious hatred. In 1990 the Government denied registration as a legal organization to a Macedonian rights group, UMO-Ilinden, on the grounds it was separatist, and also denied a subsequent appeal. Police forcibly broke up attempts by its members during 1993 to hold public meetings. One of UMO-Ilinden's leaders, George Solunski, was arrested in June on a charge of attempted murder following an incident in which he allegedly fired a shot at a political opponent. The murder charge was later dropped, and Solunski was charged instead with "hooliganism" and possession of a small amount of ammunition in his house without a permit. He remained in pretrial detention at year's end, which is uncommon for the charge. TMO-Ilinden, a related cultural group which was legally registered and operated freely in 1992, had its registration suspended at the Chief Prosecutor's request. The suspension was justified on the basis that elements of the group's statutes failed to conform with the law, although the Chief Prosecutor's public statements suggested it was actually because of the group's alleged separatist activities.

The Constitution forbids the formation of political parties along religious, ethnic, or racial lines. It prohibits "citizens' associations" from engaging in political activity. These restrictions were used in 1991 to challenge the legitimacy of one of the three leading political parties, the MRF, which has a mainly ethnic Turkish constituency but which is working to broaden its appeal and electoral base to become a national party. A Constitutional Court ruling in 1991 preserved the party's legal status, but the Court's decision was taken with less than the full bench. Some legal observers believe the Court's ruling was definitive, while others think the MRF remains vulnerable to a new challenge to its legal status.

A Gypsy party, also denied registration in 1991 on the grounds it was ethnically based, chose not to challenge this stricture in 1993. A party which professes to represent the interests of Bulgaria's Pomak population was registered as a political party, although its legal status may also be open to challenge.

c. *Freedom of Religion.*—The ability of some religious groups to operate freely came under attack in Bulgaria in 1993. Early in the year, there was wide public support for the decision of the Berov Government to deny entry to a planeload of Swedish evangelists who arrived at Sofia airport without visas. In the wake of that incident and extensive press reporting which painted lurid and often inaccurate pictures of the activities of non-Orthodox religious groups, missionaries began to report harassment. Specific problems included difficulties in obtaining visas and residence permits and, in one case, a bomb threat against the opening of an evangelical Bible college. Hare Krishna followers, physically assaulted in the street and the subject of threats, reportedly had difficulty obtaining adequate police protection. A neighborhood organization in Sofia has petitioned for their eviction. M.P.'s from both the UDF and BSP supported this call.

The Constitution designates Eastern Orthodox Christianity as the "traditional" religion of Bulgaria. Religious bodies must register with the Directorate of Religious Affairs, or with the courts as a citizens' association. No group was denied registration, and more than 30 are officially recognized. A number of major religious bodies, including the Muslim and Jewish communities, receive government financial support. There were no restrictions on attendance at religious services or on private religious instruction. A school for imams, a Muslim cultural center, university theological faculties, and religious primary schools operated freely. Many new mosques were constructed, especially in the southern regions. Bibles and other religious materials in the Bulgarian language were freely imported and printed. Muslim, Catholic, and Jewish publications were published on a regular basis.

The 1992 schism in the Orthodox Church appeared to move toward resolution in 1993, as the Government drew back from involvement in the controversy which erupted under the previous government.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Freedom of movement within the country and the right to leave it are constitutionally enshrined and not limited in practice. Every citizen has the right to return to Bulgaria, may not be forcibly expatriated, and may not be deprived of citizenship acquired by birth. A number of former political emigrants were granted passports and returned to visit or live in Bulgaria. Bulgaria concluded agreements with Poland and Germany for the repatriation of thousands of Bulgarians illegally resident in those countries.

Bulgarian law provides for granting asylum to persons persecuted for their opinions and activities based on standards in the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. Parliament in April approved an amendment to remove geographical restrictions on Bulgaria's ratification of the Convention and

the Protocol. To date, Bulgaria has received few requests for asylum and more often serves as a transit point for third-country nationals seeking to travel to the west. Official estimates of the number of illegal aliens resident in Bulgaria, ranging from 12,000 to 30,000, appear to be exaggerated. A Bureau of Territorial Asylum and Refugees was staffed and funded in 1993 and was to begin processing applications for refugee status by early 1994. Approximately 100 persons fleeing the conflict in the former Yugoslavia are resident in Bulgaria and have received assistance from the Government and the United Nations High Commissioner for Refugees.

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

Citizens have and exercise the right to change their government and head of state through the election of the President and members of the National Assembly, but restrictions on parties based on religious, ethnic, or racial identities have the effect of circumscribing access to the political process (see Section 2.b.). The most recent parliamentary elections took place in October 1991, when more than 40 parties and coalitions participated. At the same time, Bulgarians voted in the first multiparty elections for local government since the Communist era. In January 1992, incumbent (appointed) President Zhelyu Zhelev was elected in Bulgaria's first direct presidential elections.

A parliamentary commission charged with an investigation into the 1991 elections failed to reach a consensus. UDF members of the commission complained that vote fraud had taken place. Other members of the commission disputed this charge, and independent election observers opined the supporting evidence was inconclusive.

The Constitution provides for unicameral parliamentary elections by secret ballot. The 240 parliamentary deputies are elected by a proportional system from party lists. Their term is for 4 years, although the Constitution provides for earlier elections if Parliament is unable to agree on a government. Suffrage is universal at the age of 18.

A distinct separation of powers exists between the Government (Prime Minister and Cabinet) and the President, who is Chief of State. The President has limited powers and is elected for a term of 5 years. During 1993, as part of ongoing political disputes, some BSP figures, as well as hard-line elements within the UDF, complained that the President had exceeded his constitutional powers. Another challenge to the President's power took place during the summer when the UDF mounted a series of anti-Presidential strikes, but there were resolved through peaceful negotiation.

There are no restrictions in law or practice on the participation of women in government. A number of women hold elected and appointed office at high levels, including approximately 15 percent of parliamentary seats.

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

An increasing number of local and international human rights groups operated freely in Bulgaria in 1993. A Bulgarian chapter of Helsinki Watch founded in 1992 was formally affiliated with the international organization in 1993. This group should not be confused with the self-proclaimed Helsinki Watch headed by Rumen Vodenicharov, a member of the 1990–91 Grand National Assembly, whose group has a strongly nationalistic flavor. Another group, the Helsinki Citizens Alliance, actively investigated police-Gypsy clashes and developed a working relationship with the Ministry of the Interior. In general, the Government cooperated well with NGO's and human rights groups, although such groups often encountered difficulty working with local authorities.

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

The Constitution provides for individual rights, equality, and protection against discrimination. In practice, some instances of discrimination still exist, particularly against Gypsies.

Women.—Most organizations defending women's interests are closely associated with political parties or have primarily professional agendas. One nationwide group, the Women's Democratic Union of Bulgaria, is heir to the women's group which existed under the Zhivkov dictatorship. This group addresses itself primarily to creating employment opportunities for women. The Constitution forbids privileges or restrictions of rights on the basis of sex. However, women face discrimination both in terms of recruitment and the likelihood of layoffs. Official figures show the rate of unemployment for women to be 2.6 percent higher than that for men, and this gap appears to be widening. Some observers believe the Labor Code provides relatively limited protection for pregnant women and women with small children, although the

labor inspection unit of the Ministry of Labor and Social Welfare has issued a written directive bolstering this protection. While women are equally likely to receive university education, some single mothers report difficulty in finding housing, either for financial reasons or because their needs are perceived to be less compelling than those of men.

The courts prosecute rape, although it remains an underreported crime because some stigma still attaches to the victim. The maximum sentence for rape is 8 years; convicted offenders often receive a lesser sentence or early parole. Marital rape is a crime but rarely prosecuted. There are no figures on the occurrence of domestic violence, and no evidence, either anecdotal or otherwise, that it is either pervasive or increasing. No organizations or government agencies exist specifically to provide support to victims of domestic violence.

Children.—The Government appears to be committed to protecting children's welfare. It maintains, for example, a sizable network of orphanages throughout the country. Government efforts in education and health, however, have been constrained by serious budgetary limitations. The vast majority of Bulgaria's approximately 1½ million children are free from societal abuse. Some Gypsy children, particularly those who were homeless or abandoned, were beaten by "skinhead" groups. The Helsinki Citizens' Alliance initiated a program to work with Gypsy children. There were reports, so far unsubstantiated, that police sexually abused Gypsy minors; to date, there has been no response to the reports and no investigation. Some Gypsy minors were reportedly forced into prostitution by family or community members.

National/Racial/Ethnic Minorities.—Ethnic Turks and Gypsies make up the two largest minorities, each constituting between 6 and 9 percent of the population. The overwhelming majority of ethnic Turks are Sunni Muslims, although there are scattered Shi'ite villages in the eastern Balkan range and Rhodope mountains; relations are amicable between the two communities. Pomaks constitute the other sizable minority, comprising about 2–3 percent of the population. Sometimes referred to as Bulgarian Muslims, Pomaks are a distinct people of Slavic descent whose ancestors converted to Islam; most are Muslim, although a handful have become atheists or converted to Christianity.

Economic migration to Turkey continued, although at a reduced pace due to increased border controls implemented by Turkey. The MRF, supported by the Podkrepa trade union confederation, launched a series of strikes in the fall, protesting low purchase prices for tobacco. While some MRF leaders accused the Government of using economic means deliberately to drive ethnic Turks out of the country, the Government's decision to retain control of tobacco purchasing appeared to be motivated by a desire to obtain revenues. The Ministry of Labor prepared plans to relieve unemployment in hard-hit minority areas in the south and northwest, but these plans had not been put into operation by year's end.

There are no restrictions on the practice of Muslim religious traditions, the speaking of Turkish in public, or the use of non-Slavic names. A government-funded program which paid administrative costs for those who wished to take Turkish-version names ended in November. Some ethnic Turks protested that the program should be extended, but this appears to be an administrative rather than a human rights issue. Voluntary Turkish-language classes continued and expanded in areas with significant Turkish-speaking populations, and more than 400 teachers graduated from Turkish training in institutes in Kurjali and Shumen. By year's end, only 17,000 ethnic Turkish students throughout the country were believed to be without access to Turkish-language classes. Most complaints about language classes by ethnic Turks stemmed from a desire either to have more hours per week of such classes or to make them compulsory in largely ethnic Turkish areas.

The results of a census conducted in December 1992 caused controversy. Those who consider themselves ethnic Macedonians complained they were unable to identify themselves as such on the census form. Others, especially members of the BSP and the Internal Macedonian Revolutionary Organization (IMRO), accused members of the ethnic Turkish community of "forcible Turkification," i.e., pressuring members of the Muslim community to declare themselves ethnic Turks and take Turkish names. On the basis of an investigation into these charges, Parliament in September annulled census results in two towns in the southwest. Independent observers found community and peer pressure but no evidence of forcible Turkification. There were credible reports that some Muslim religious figures refused to bury Muslims with Slavic names, which some observers saw as an encroachment on religious freedom.

In the 1992 census, approximately 3.4 percent of the population identified itself as Gypsy (Roma), although the real number is believed to be much higher since many individuals of Gypsy descent tend to identify themselves as ethnic Turks or

ethnic Bulgarians to the authorities. Gypsy groups continued to be divided among themselves, although a newly formed federation had some success in presenting national Gypsy issues to the Government. As individuals and as an ethnic group, Gypsies faced apparently rising levels of discrimination. Several local citizens' groups with antiethnic agendas attacked Gypsy clubs and neighborhoods. Many newspapers routinely attribute crimes to Gypsies before any formal investigation has taken place. The quality of Gypsy housing is relatively poor, with many houses still lacking water, electricity, and sewage facilities. Gypsies reportedly encounter difficulties applying for social benefits. Rural Gypsies are discouraged from claiming land to which they are entitled under the law dividing up agricultural collectives. Domestic and international human rights groups substantiated a significant number of reports of police mistreatment of Gypsies upon arrest and during incarceration. These included severe beatings that resulted in serious injuries (see Section 1.c.).

The Government is beginning to recognize the discrimination Gypsies face. The Ministry of Labor launched a pilot work-literacy program in Plovdiv, and the Ministry of Education introduced a Gypsy-language schoolbook into a number of schools in areas with Gypsy populations. The Ministry of Interior launched an investigation into allegations of police brutality in Stara Zagora. The Council of Ministers agreed to set up a special governmental council on Gypsy problems. A number of Gypsy police were hired, 10 in Plovdiv alone. The first teachers received Roma-language training, although this program lagged far behind its Turkish-language counterpart and ran into significant local opposition.

Thousands of Bulgarians, mainly in the southwest, identify themselves as Macedonians, most for historical and geographic reasons. Members of the two organizations which purport to defend the interests of ethnic Macedonians, UMO-Ilinden and TMO-Ilinden, are believed to number in the hundreds (see Section 2.b.).

Workplace discrimination against minorities continued to be a problem, especially for Gypsies. Employers justify such discrimination on the basis of their relatively low training and education levels. Supervisory jobs are generally given to ethnic Bulgarian employees, with ethnic Turks, Pomaks, and, particularly, Gypsies often being among the first to be laid off.

During compulsory military service most members of minorities are shunted into labor units in which they often perform civilian as well as military construction and maintenance instead of serving in normal military units. Only a few ethnic Turkish officers, and reportedly no Gypsy officers, serve in the armed forces.

People with Disabilities.—Disabled persons receive a range of financial assistance, including free public transportation, reduced prices on modified automobiles, and free equipment such as wheelchairs. The Government in 1993 worked with the Union for Handicapped Persons to launch a pilot project to improve access to rail transportation. Handicapped persons have access to university training and to housing and employment, although no special programs are in place to allow them to live up to their full employment potential. To date, little effort has been made to change building or street layouts to help blind or otherwise handicapped persons. Also, policies under the previous regime that deliberately separated mentally and physically handicapped persons, including children, often placing them in institutions and workplaces remote from the larger cities, have persisted.

Section 6. Worker Rights

a. *The Right of Association.*—The 1991 Constitution guarantees the right of all workers to form or join trade unions of their own choice. This right appears to have been freely exercised in 1993. Estimates of the unionized share of the work force range from 30 to 50 percent. This share is shrinking as large firms lay off workers, and most new positions appear in small, nonunionized businesses.

Bulgaria has two large trade union confederations, the Confederation of Independent Trade Unions of Bulgaria (CITUB), and Podkrepa. CITUB, the successor to the trade union controlled by the former Communist regime, now appears to operate as an independent entity. Podkrepa, the independent confederation created in 1989, was one of the earliest opposition forces but is no longer a member of the UDF. The two confederations work together on some tactical issues, particularly in the country's tripartite body, the National Social Council, which includes employers and government. Podkrepa's founder, Dr. Konstantin Trenchev, continued to play an active role in union and political affairs despite being indicted in a criminal investigation concerning a fire in the former security service headquarters.

Military, police, energy production and supply, and health sectors are defined as essential services, and workers in these sectors are restricted from striking. The National Social Council played a major role in political life in 1993, determining pension levels, the minimum wage, and cost-of-living adjustments. It also considered

legislation which had an impact on labor and agreed on a split of union property between the two main labor confederations.

The Labor Code passed in December 1992 recognizes the right to strike when other means of conflict resolution have been exhausted, but political strikes are forbidden. Only one major national strike took place in 1993, a miners' strike called in December which had not been resolved at the end of the year. A teachers' strike was resolved with some concessions by the Government, as were local strikes by arms production workers and transport workers. Legal actions initiated against some unions in 1992 on the grounds that their activities violated the constitutional prohibition against political activities by citizens' associations (defined to include trade unions) were still pending at year's end. Until the limitations of this constitutional clause are more clearly defined, either by legislation or judicial precedent, inappropriate attacks on legitimate union activities will likely continue.

On a first reading, the International Labor Organization's (ILO) Committee of Experts expressed satisfaction with the Labor Code's provisions barring job discrimination. Noting two Constitutional Court rulings which found that legislation excluding Communist party officials from elective positions on the boards of banks and excluding employment in a management position of a Communist organization as counting for pensionable services were in violation of Convention 111, the COE requested further information on lustration proceedings, on measures directed at compensating ethnic Turks for abuses under the previous regime, on efforts taken to improve the economic condition of minorities, and on measures to promote equality of workplace opportunity between men and women. The Committee on Freedom of Association rejected CITUB's contention that a 1991 law confiscating the assets acquired by Communist organizations since 1944 violated the principles of freedom of association, but stated that this should not include voluntary contributions paid by CITUB members since 1990 and urged the Government to settle the trade union assets question in consultation with the trade unions. There are no restrictions on affiliation or contact with international labor organizations, and Bulgarian unions actively exercise this right.

b. *The Right to Organize and Bargain Collectively.*—The Labor Code institutes collective bargaining, which was practiced both nationally and on a local level. Only Podkrepa and CITUB are authorized to bargain collectively. This led to complaints by smaller unions, which may in individual workplaces have more members than either of the two large confederations. Smaller unions also complained that they were excluded from the National Social Council.

The Labor Code's prohibitions against antiunion discrimination include protection against dismissal as a form of retribution for a period of 6 months. While these provisions appear to be within international norms, there is no specific mechanism for resolving complaints, and the burden of proof in such a case rests entirely on the employee. There were no cases in which an employer was found guilty of antiunion discrimination and required to reinstate workers fired for union activities. The International Confederation of Free Trade Unions charged that the revised Labor Code does not provide effective protection against acts of antiunion discrimination. It also categorized the "national representation" requirement as constituting a substantive violation of the right to organize and criticized the provision making negotiation of individual contracts possible regardless of existing collective agreements. The same obligation of collective bargaining and adherence to labor standards prevails in Bulgaria's export processing zones which, at year's end, appear to exist only on paper.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor. Some observers suggested that the practice of shunting military draftees who are members of minorities or conscientious objectors into work units that sometimes work on civilian construction projects could be considered a form of forced labor (Section 5).

d. *Minimum Age for Employment of Children.*—The Labor Code sets the minimum age for employment at 16; the minimum for dangerous work is set at 18. Employers and the Ministry of Labor and Social Welfare are responsible for enforcing these provisions. Child labor laws are enforced well in the formal sector. Some underage employment occurs in the informal and agricultural sectors, although the practice is neither widespread nor systematic.

e. *Acceptable Conditions of Work.*—The National Social Council adjusted the minimum wage on several occasions in 1993, although not enough to keep pace with inflation. At the end of the year it stood at approximately $45 (1,434 leva) a month. Inflation in 1993, estimated at 65 percent, dramatically increased the cost of living. The minimum wage is not enough for a single wage earner to provide a decent standard of living for a family. The Constitution stipulates the right to social security and welfare aid and assistance for the temporarily unemployed.

The Labor Code provides for a standard workweek of 40 hours, with at least one 24-hour rest period per week. Enforcement is the responsibility of the Ministry of Labor and Social Welfare. Enforcement is effective in the state sector but much weaker in the emerging private sector.

Bulgaria has a national labor safety program with standards established by the Labor Code. The Constitution states that employees are entitled to healthy and nonhazardous working conditions. The Ministry of Labor and Social Welfare is responsible for enforcing these provisions. Under the Labor Code, an employee has the right to remove himself from a work situation which presents a serious or immediate danger to life or health without jeopardizing continued employment. In practice, refusal to work in situations with relatively high accident rates or associated chronic health problems would result in loss of employment for many workers. Conditions appear to be worsening owing to budget stringencies and a growing private sector in which labor inspectors have not yet made a concerted effort, due in part to the difficulty in locating the many small unlicensed businesses which do not pay taxes and do not have other links to government entities.

CANADA

Canada is a constitutional monarchy with a federal parliamentary form of government. Representatives in the multiparty political system are elected by universal suffrage at local, provincial, and federal levels. The Constitution defines government responsibilities and is subject to interpretation by an independent judiciary.

Elected civilian officials control the federal, provincial, and municipal police forces which are responsible for national and local law enforcement, and the armed forces, which have no role in domestic law enforcement except in strictly defined national emergencies.

Canada has an open economic system which encourages private ownership, investment, and entrepreneurship. Workers benefit from laws regulating acceptable working conditions and, except for uniformed members of the armed forces, are guaranteed freedom of association.

Canadians enjoy, in law and in practice, a wide range of freedoms and individual rights as enumerated in the Charter of Rights and Freedoms, which was appended to Canada's revised Constitution in 1982. Principal complaints of human rights abuses arise in the areas of discrimination against nonwhite minorities, Aboriginals, and women. The Constitution and laws provide avenues for legal redress of such abuses, and the Government and private organizations seek to ensure that human rights are respected in practice at all levels of society.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no politically motivated or other extrajudicial killings. See the report on Somalia for allegations of abuse by Canadian peacekeepers in Somalia.

b. *Disappearance.*—Secret arrest, clandestine detention, and politically motivated disappearance did not occur.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture and ill-treatment are prohibited by law, and are generally not practiced. Reports of the use of excessive force by police declined in 1993. Past incidents, which often (but not always) involved nonwhite minorities, continued to strain relations between minority communities and the police. In Montreal, a multiracial and independent police ethics committee (composed of one officer and two civilians) continued its investigation of a 1991 shooting, in which a previous inquiry determined that "a totally unacceptable level of racism" existed in the Montreal Urban Community Police (MUC). The committee had not reported its conclusions by year's end.

During 1993 several police departments took steps to redress the problem of violence against minorities. The MUC began mandatory cultural awareness seminars for its officers, Toronto police implemented a policy requiring a written use of force report for each time an officer draws a weapon in public, and the Halifax and Montreal police instituted affirmative action programs to increase minority representation on the force.

Native groups complained of cultural insensitivity and harassment by police officers. The Canadian Government instituted training programs for officers with a view to preventing future incidents. The British Columbia provincial government's Commission on Native Issues continued to study specific allegations of law enforcement abuses against natives of the Chilcotin Band.

Prisons are open to independent monitoring by human rights groups and the media.

d. *Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and imprisonment, and this prohibition is respected in practice. Arrest warrants are issued by judicial authorities, and suspects are charged before a justice of the peace (for minor offenses) or a judge within 72 hours of their arrest.

A 1988 law authorizes the Government to take special measures, including the suspension of civil liberties, to ensure safety and security during national emergencies. The 1939 Official Secrets Act prohibits the private possession, distribution, and publication of information deemed prejudicial to the interests of the State and provides that persons under suspicion may be arrested without a warrant. There were no such arrests in 1993.

e. *Denial of Fair Public Trial.*—The judicial system is based on English common law at the federal level and in most provinces. In the Province of Quebec, the judicial system is based on the Napoleonic Code. Judges in Canada are appointed. In criminal trials, the law provides for a presumption of the defendant's innocence and the right to a public trial, counsel (free for indigents), and appeal. In 1993 judges made infrequent use of their power to close courtrooms to the media in order to protect victims (particularly children) and to guarantee fair and impartial hearings. One such effort, however, raised the issue of freedom of the press versus the right to a fair trial and caused considerable controversy (see Section 2.a.). The overwhelming majority of trials, including military courts-martial, remained open to the public and the media.

The Official Secrets Act provides that trials involving classified government information be held in secret, with certain presumptions in favor of the State. Prosecutions under this statute are extremely rare, and convictions are hard to sustain on appeal.

There are no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Canadians are afforded strong legal protection from arbitrary interference under the Constitution, and federal and provincial governments generally do not interfere with an individual's basic rights without due process. Intrusive searches may be carried out only when there is a reasonable basis for presuming that the person is involved in criminal activity. Police officials face judicial penalties if they abuse a person's privacy without first obtaining a judicial search warrant. No such penalties were imposed in 1993.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and press is provided for by the Constitution and generally respected in practice. A ruling by an Ontario judge banning news reports about a trial concerning a particularly grisly murder case prompted considerable debate about how to balance the right of a defendant to a fair trial with freedom of the press. The judge imposed the ban in an effort to ensure jury impartiality. Several Canadian organizations filed suit to overturn the ban, while other media have defended the ban.

Restrictive decisions by provincial film censorship boards and laws prohibiting certain forms of hate literature and pornography are exceptions to these freedoms. Canadian customs authorities have been known to confiscate sexually explicit material and items deemed to be hate propaganda. Some civil libertarians have criticized such actions on freedom of information grounds. Some feminist groups regard sexually explicit material as degrading to women and stimulating violence against women. The Canadian Human Rights Act makes it illegal to make repeated communications by telephone which expose a person or people to hatred or contempt. Minority language and cultural rights are protected by the Constitution.

Laws in the Province of Quebec restricting the public display of any non-French-language signs were amended in 1993. Bilingual commercial signs are now permitted, as long as the French version is "clearly predominant." The provincial government issued regulations on specific aspects of the sign laws in December.

b. *Freedom of Peaceful Assembly and Association.*—Freedom of assembly and freedom of association are guaranteed by the Constitution. Permits are not required for meetings.

c. *Freedom of Religion.*—There is complete freedom of religion.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no restrictions on movement within or outside Canada, including the rights of emigration and repatriation. Canada continues to be a haven for many refugees and displaced persons. In 1992 Canada tightened its generous refugee law in an attempt to limit entry to the asylum system to legitimate applicants and to simplify dealings with persons whose claims have been determined to

be unfounded. Concerns expressed by minority advocacy groups that the new process would systematically discriminate against nonwhite refugees proved unfounded, according to some prominent human rights groups.

Canada was praised by several women's groups after it granted refugee status to a woman on the grounds that she would face persecution in her own country because of her gender. The Immigration Review Board subsequently released new guidelines for such cases.

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

Canada is governed by federal and provincial governments which are freely elected by secret ballot through universal suffrage. The Governor General is the Queen of Canada's representative as Head of State. In practice, power is exercised by the Prime Minister and the Cabinet, who usually are elected members of the 295-seat House of Commons. Legislative elections at the federal and provincial levels must be held at least every 5 years, and these often result in a transfer of power to opposition parties. Voter participation rates are high.

The most recent federal election, held on October 25, was contested by three national and several regional parties. Led by Jean Chretien, the opposition Liberal Party emerged victorious with a substantial parliamentary majority.

Debate on such fundamental matters as constitutional change and provincial secession from Canada are open and routine.

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

Canada has a wide variety of private human rights organizations which operate freely. The Canadian Human Rights Commission and its provincial counterparts investigate and seek to resolve complaints of discrimination and abuses of civil rights in public and private cases.

Canada has a good record of cooperation with outside investigations of alleged human rights abuses. In 1990 the Government allowed international monitoring of a standoff between police and natives near Montreal.

In 1993 the United Nations Human Rights Committee declared that Quebec's French-only sign law violated freedom of expression. The Government of Quebec altered the law to allow for the use of English on commercial signs (in conjunction with French).

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

Food, shelter, health care, and education are available to all inhabitants regardless of race, religion, sex, ethnic background, or political opinion. Article 15 of the Charter of Rights and Freedoms guarantees equal benefits and protection of the law regardless of race, national or ethnic origin, color, religion, sex, age, or mental or physical disability. These rights are generally respected in practice, but Canada's multicultural society continues to experience some problems of discrimination.

Non-French speakers in Quebec continued to face difficulties in 1993. With few exceptions, Quebec law still requires immigrants to educate their children in French. Law 86, which amended the Province's language law in 1993, did not significantly broaden access to English-language schooling. The Province argues that the education and sign laws protect French language and culture, but those who prefer English resent these restrictions. Because of the atmosphere engendered by the language laws and a perceived lack of economic opportunity in Quebec for those whose mother tongue is not French, many young English-speakers born there have left the Province.

Women.—Federal and provincial governments, the private sector, and women's groups have been effective in keeping the issue of family violence, and in particular, violence against women, in the forefront of Canada's social agenda. On July 29 the Canadian Panel on Violence Against Women published an extensive study on the issue and a list of 494 recommendations, which were under review by the Government at year's end. The report's survey figures, which are the subject of dispute among social scientists, indicated that over 50 percent of women surveyed had experienced a rape or attempted rape.

Federal and provincial governments and nongovernmental organizations have attempted to address the problem of family violence by funding various educational and preventive programs. The press has given wide coverage to studies of spousal violence against women. Television advertisements and publicity campaigns have targeted the abuse of women and children within families. Police forces have taken a greater interest in the handling of incidents of conjugal violence.

Women are well represented in the labor force, including business and the professions. Despite recent gains, government reports show that women generally earn less on average than men in the same occupational group. Ontario law now requires all employers (public and private) with more than 10 workers to provide equal pay to men and women for work requiring comparable skill. In the fall of 1993, the Ontario Government advertised a government job as being open only to members of designated disadvantaged groups. Public outrage forced the government to withdraw the advertisement. A December 1993 Gallup poll indicated that 74 percent of Canadians oppose such overt government employment equity programs, but the government of Ontario has reiterated its belief in the principles of employment equity. The municipality of Toronto recently provided significant compensation to government employees working in occupations traditionally staffed by women, acknowledging that such positions have in the past paid less than "traditionally male" occupations. Women enjoy marriage and property rights equal to men.

Children.—Federal and provincial regulations seek to protect children from abuse, overwork, and discrimination. Parents receive tax credits for their children.

Indigenous people.—Canada's treatment of its native peoples is probably the most important human rights issue facing the country. Old disputes between the Canadian and provincial governments on the one hand and Aboriginals on the other once again led to civil disobedience and confrontation. Although there were no major incidents in 1993, unresolved land claims resulted in violence and credible allegations of human rights abuses in the past. Disputes over treaty rights, taxation, duty-free imports, fishing rights, and alleged harassment by police added to tension on many reserves.

In 1993 Canada made some progress on resolving land-claim issues in sparsely populated regions. The most notable step taken was parliamentary approval for the Nunavut Land-Claims Agreement. This act settled a dispute with the Inuit of the Eastern Arctic and created a new territory (scheduled to be established by 1999) in which a majority of the population is to consist of Aboriginals.

Aboriginals remained underrepresented in the work force. Statistics Canada reported that 25 percent of all Aboriginals were unemployed, nearly 15 percentage points higher than the national average. Aboriginals also earned less on average than their non-Indian counterparts. Almost 42 percent of all Aboriginals living on reserves were dependent upon welfare.

In 1992 Canadians (including a majority of Aboriginals) rejected a constitutional reform package which, among other provisions, addressed outstanding native concerns and recognized an inherent Aboriginal right to self-government within Canada. Although the referendum debate increased awareness of native issues, there was little progress towards addressing native problems after the defeat of the constitutional reforms.

Canadians were shocked by film footage of substance abuse by native children in the town of Davis Inlet. Public reaction to this focused attention on the problems of Aboriginal children.

The Royal Aboriginal Commission, established in 1991, continued hearings to examine Aboriginal concerns, including self-government, land claims, and native justice. The Commission is expected to issue a report in 1994.

National/Racial/Ethnic Minorities.—Racial discrimination is prohibited by federal law and offenders are prosecuted. Nevertheless, isolated incidents of racist-inspired discrimination and violence persisted.

People with Disabilities.—The Charter of Rights and Freedoms and the Human Rights Act explicitly prohibit discrimination against people with disabilities. Recent attempts to provide better employment opportunities to the disabled have not been entirely successful; disabled persons remain underrepresented in the work force.

In the 1993 elections Canada made notable improvements in its services and facilities for voters with disabilities.

Section 6. Worker Rights

a. *The Right of Association.*—Except for members of the armed forces, workers in both the public and private sectors have the right to associate freely. The Canada Labour Code, which covers all employees under federal jurisdiction, protects these rights at the federal level, while provincial labor legislation protects all other organized workers. Trade unions are independent of the Government and may affiliate freely with international organizations. About 38 percent of Canada's nonagricultural work force is organized into trade unions. All worker rights protected in law are respected in practice. The Canadian Labor Congress (CLC), the largest of the country's labor federations, is a member of the International Confederation of Free Trade Unions. Slightly more than one-third of CLC member unions are also

affiliates of American Federation of Labor and Congress of Industrial Organizations unions.

Workers have the right to strike, with the exception of certain groups of essential public sector employees. In response to complaints by these workers, the International Labor Organization (ILO) asked the Government in 1992 to establish a procedure to resolve labor disputes when negotiations resulted in a deadlock. The Government reported developments in some of these cases to the ILO in 1993.

Laws and regulations prohibiting retribution against strikers and union leaders are effectively enforced.

In response to complaints from a group of professional employees of the Government, the ILO requested that the Government exercise care in defining employees as "managerial." The employees believed that they were being denied fair access to collective representation. At year's end, the Government was preparing a response on the issue.

In the first 11 months of 1993, there were 21 major work stoppages (involving 500 or more employees), only 2 of which were illegal work stoppages. As of November, there were four unresolved labor disputes; the remainder were settled through direct bargaining, mediation, or (in the case of British Columbia railway workers) by a government back-to-work order.

b. *The Right to Organize and Bargain Collectively.*—Workers in both the public (with some exceptions for police) and private sectors have the right to organize and bargain collectively. Collective bargaining is protected by law and freely practiced, though some essential public sector employees have limited collective bargaining rights which vary from province to province. Antiunion discrimination is banned by law, and there are effective mechanisms for resolving complaints and seeking redress. Employers foun . to have practiced antiunion discrimination are required to reinstate workers fired for union activities.

All labor unions have full access to mediation, arbitration, and the judicial system.

Canada has no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is illegal and not practiced.

d. *Minimum Age for Employment of Children.*—Child labor legislation varies from province to province. The Government generally prohibits youth under 17 years of age from working for the Government while school is in session. In most cases, provinces prohibit those under age 15 or 16 from working without parental consent, working in any hazardous employment, or working at night. These prohibitions are effectively enforced through inspections conducted by the federal and provincial labor ministries.

e. *Acceptable Conditions of Work.*—Minimum wages are established in both federal and provincial jurisdictions. The federal minimum wage, which has remained at $3.04 (Canadian $4.00) since 1986, applies to employees in industries under federal jurisdiction (i.e., about 8 percent of the entire work force). All provinces and territories have minimum wage rates which are higher than those at the federal level. At the federal level, minimum wage rates are established by ministerial order and enforced by the Department of Labor. Provincially, the rates are enforced by the labor wage boards or other labor boards. Three provinces (Ontario, Alberta, and British Columbia) and the Northwest Territories have lower minimum wage rates for youths and students, while Nova Scotia sets a lower wage for "inexperienced workers." In all other provinces and territories, youth and students are entitled to the same minimum wage as adults. Less than 1 percent of workers covered by the federal minimum wage are paid at the minimum rate, while approximately 5 percent of workers governed by provincial minimum wages receive the minimum rate. A family with only one member employed and working at minimum wages would be below the poverty level.

Labor standards vary from province to province, but all limit the standard workweek to 40 or 48 hours. The Employment Standards legislation provides at least 1 full day of rest per week.

The Government establishes health and safety standards for the approximately 8 percent of workers covered by federal labor legislation. Provincial and territorial legislation provides for health and safety standards for other workers. Federal, provincial, and territorial labor departments enforce these standards through inspections. Federal, provincial, and territorial laws protect the right of workers with "reasonable cause" to refuse dangerous work and to file complaints about such conditions.

CROATIA

The Republic of Croatia declared its independence from the former Socialist Federal Republic of Yugoslavia in 1991. The Yugoslav National Army (JNA), assisted by paramilitary forces from Serbia/Montenegro and from Serb-inhabited areas of Croatia, then attacked Croatia, ultimately establishing control over a quarter of Croatia's territory. A cease-fire went into effect in January 1992. The February 1992 peace plan, negotiated by former U.S. Secretary of State Cyrus Vance and approved by the U.N. Security Council (UNSC) as Resolution 743, aimed at normalizing life in the Serb-occupied areas through a multistage process including demilitarization, the return of displaced persons, reconstitution of police forces based on prewar ethnic proportions, and negotiations leading to reintegration of the areas into Croatia. The United Nations Protection Force (UNPROFOR) was deployed in March to serve as peacekeepers and implement the Vance Plan. The areas of Croatia seized during the war were designated U.N. Protected Areas (UNPA's) and identified as Sectors North, South, East, and West. Adjacent to some UNPA's are "Pink Zones," Croatian-controlled territory in which UNPROFOR has a limited peacekeeping role.

The UNSC extended UNPROFOR's mandate six times in 1993, including Resolution 801, which for the first time identified the UNPA's as "integral" parts of the Republic of Croatia. The most recent UNPROFOR mandate extension, UNSC Resolution 871, expires on March 31, 1994. Little progress was made in implementing the Vance Plan in 1993. The 15,000-troop UNPROFOR mission was not able to prevent the outbreak of armed conflict between Croats and Serbs in January and September, as well as the almost daily shelling of Zadar and other areas along the Dalmatian coast from the Serb-controlled areas of the UNPA's. Apart from the above exceptions, UNPROFOR's presence significantly abated the fighting in the UNPA's. UNPROFOR, however, was unable to demilitarize the UNPA's or begin repatriating persons displaced from their homes in the UNPA's.

Although JNA forces left Croatia by the end of 1992, the UNPA's (except for part of Sector West) were under the control of heavily armed, aggressive Serbian elements, defying UNPROFOR and continuing the "ethnic cleansing" of non-Serbs.

Two major outbreaks of fighting occurred in 1993. The Croatian army in January launched an offensive to reestablish road connections between northern and southern Dalmatia by seizing a key area around Maslenica. In September Croatian forces launched a second offensive to capture several Serb-held villages near Medak, allegedly in retaliation for Serbian mortar fire against the town of Gospic. They destroyed 11 Serbian villages and killed at least 67 Serbs, including civilians. In October the Government suspended several officers pending an investigation. Serbian forces responded with rocket and artillery attacks against Karlovac, several Zagreb suburbs, and the Sisak oil refinery, killing many civilians. (See also Section 1.g.)

The Constitution provides for a parliamentary system headed by a president invested with considerable powers. Dr. Franjo Tudjman, elected President in August 1992, is in the second year of a 5-year term. He serves as the Chief of State, chairs the influential National Defense and Security Council, and appoints a Prime Minister who leads the Government. Dr. Tudjman's party, the Croatian Democratic Union (HDZ), holds a majority of seats in both houses of Parliament.

The Ministry of Defense oversees the armed forces, which include an army, a small air force, a small navy, and a national guard reserve. The President is armed forces commander in chief. The Ministry of Interior manages the police. The once formidable Office for the Defense of the Constitution was disbanded in 1993. Some of the office's functions were incorporated into the Interior Ministry, and some were subsumed by a new National Intelligence Service. The armed forces were guilty of violations of humanitarian law during the year. Law enforcement agencies were criticized for severe human rights abuses.

In the occupied UNPA's, "authorities" of the self-proclaimed and internationally unrecognized "Republic of Serbian Krajina (RSK)" controlled all military and police functions. The Krajina Serb forces, numbering some 15,000–18,000 men, were organized into an army and various "police" forces, with large amounts of weaponry at their disposal. These forces were heavily augmented from time to time by "volunteers" provided by the Government of Serbia/Montenegro and by Serbian criminal warlords from other parts of the former Yugoslavia. In the immediate aftermath of both the Maslenica and Medak pocket incidents, the authorities in Serbia were reliably reported to have dispatched substantial numbers of "volunteers" to Sectors North and South to fight against the Croats. The firing of the FROG rockets on Croatian cities in September is almost certain to have been carried out with at least the implied consent of Serbian authorities. More fundamentally, Sectors North and South, as well as the southern portion of Sector West, are economically cut off from

trade or supply with or from any source except Serbia—via the northern corridor—or, for certain items, the Bosnian Serbs. All these forces were directly involved in a continuing pattern of serious human rights abuses against non-Serbian populations as well as other Serbs.

According to statistics compiled by the United Nations High Commissioner for Refugees (UNHCR), as of October 1993, there was a total of 247,000 Croatian and other non-Serbian displaced persons coming from areas under the control of the "RSK" and 254,000 Serbian displaced persons and refugees from the rest of Croatia, an estimated 87,000 of whom were inhabitants of the UNPA's.

The aftereffects of the 1991 war, the massive refugee burden, the spillover from the war in Bosnia-Herzegovina, the absence of significant international financial assistance, the loss of export markets in the former Yugoslavia, and other factors continued to stymie Croatian economic recovery. The Government made little progress toward privatization and a free market economy. Inflation ran at 25 to 30 percent per month until a stabilization program was introduced in October, and the average standard of living stood at less than 50 percent of its pre–1991 level.

There were continued serious human rights abuses in areas of Croatia under government control in 1993, although physical violence against Serbs declined. Abuses occurring near frontline areas were aimed at citizens of Serbian nationality and included killings, disappearances, physical abuse, illegal detention, harassment, destruction of property including house bombings, loss of employment, and summary eviction from dwelling units. Other human rights problems included limitations on freedom of the press, arbitrary detention, and discrimination against minorities, especially Serbs.

In the Serb-controlled portions of the UNPA's, there was no evident commitment to ending human rights abuses against Croats, Hungarians, Slovaks, and other non-Serbs. Some of the Krajina Serb "authorities" continued to be among the most egregious perpetrators of human rights abuses against the residual non-Serb population, as well as Serbs not in agreement with nationalistic policy. Human rights violations included killings, disappearances, beatings, harassment, forced resettlement, or exile—all part of the systematic campaign of "ethnic cleansing" designed to ensure Serbian dominance of the areas.

Following the UNSC's establishment of a War Crimes Commission in 1992 to investigate possible war crimes, the UNSC in February 1993 passed a resolution to create a War Crimes Tribunal. By year's end, all the judges had been sworn in, and a chief prosecutor had been appointed. The Tribunal is to assess the culpability of alleged perpetrators of atrocities and to issue a comprehensive report on violations of human rights and humanitarian law. From September 1992 through June 1993, the United States Government submitted to the United Nations eight separate reports summarizing thousands of instances of killings, torture, rape, impeding deliveries of food and medical supplies to civilian populations, mass forcible deportations of civilians, and other violations of humanitarian law. In addition, the U.S. Government provided the United Nations with 400 refugee reports totaling over 1,000 pages. Illustrative examples of these abuses appear in appropriate sections of this report.

This section of the Country Reports addresses human rights within the territory of Croatia. Croatian responsibility for human rights abuses on the territory of Bosnia and Herzegovina is addressed in the report on Bosnia and Herzegovina.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Compared to 1992, there were fewer substantiated reports of politically motivated or other extrajudicial killings in 1993. One controversial murder case was resolved on October 13 when four policemen were convicted of the 1991 killing of Croatian Party of Rights (HSP) Vice President Ante Paraga. They received jail sentences of from 5 to 7 years. However, the December 1992 murder of former trade union leader Milan Krivokuca remains unsolved despite reported continuing police investigation.

Killings continued to occur in the UNPA's as part of the Belgrade-backed Serbs' program of "ethnic cleansing." In Sector South, for example, an elderly Croat woman who refused to flee the area was found with a meat hook through her neck and hand. Krajina Serb elements are credibly reported to have planted a bomb which killed 3 Croatian policemen and wounded 18 others on September 8 in Pakrac.

In October a U.N.-sponsored forensic team, with the cooperation of the Croatian Government, excavated a mass grave site in Sector West thought to contain corpses of Serbs murdered during the 1991 fighting. Nineteen bodies were exhumed. All but two suffered gunshot wounds to the head. The Government opened criminal inves-

tigations, but by year's end no charges had been submitted to the court. The same forensic team attempted to excavate a mass grave at Ovcara near Vukovar but was prevented from doing so by Serbian obstructionism. (Some critics claimed that if UNPROFOR had asserted the right of the forensic team, the excavation would have been allowed.) This site is believed to hold the remains of over 170 wounded Croatian soldiers who had been taken from Vukovar hospital when the city fell and summarily executed by JNA troops.

b. *Disappearance.*—There were fewer reported new cases of missing persons in 1993, but there was little progress in solving previously reported cases. The Croatian Government's Office for the Victims of the War lists 7,857 persons "missing or forcefully disappeared in the territory of Croatia" as of the end of 1993.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture or cruel or degrading punishment. In practice, Croatian detention facilities generally meet accepted standards of order and amenities. It appears that treatment of combatants may also generally meet international standards. Croatian prisons generally appear to meet international standards of cleanliness and nutrition. Prisoners receive regular meals, adequate if not appetizing. Jails are crowded but not to excess Family visits and access to counsel are available. Medical care is provided. There were allegations of mistreatment and physical abuse of some prisoners by guards.

Conditions in prisons within the Serb-controlled UNPA's are reliably reported to be abysmal. Harsh treatment of non-Serbs is commonplace and unpunished. There were reports of torture and abuse in Serb-run prisons in the UNPA's. In a prison compound in Knin, for example, 10 Croat prisoners were secretly kept in a basement, without the knowledge of Red Cross officials, and forced to sleep on concrete floors. One released prisoner reported being beaten upon his arrival at the prison and then being registered with the Red Cross 8 days later. Prisoners at the compound were always kept inside and fed only twice daily.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution contains provisions to protect the legal rights of all accused, but there were credible reports of abuse of pretrial and investigative detention. For example, nine members of the Dalmatian Action Party, including the husband of the party president, were placed in investigative detention after being accused of bombing their own party office on September 28. One of these detainees later was beaten by other prisoners. All were released by the end of November.

Under Croatian law, police normally seek arrest warrants by presenting evidence of probable cause to an interrogating magistrate. A suspect may be arrested without issuance of a warrant if police believe the suspect might flee, attempt to destroy evidence, or commit other crimes. If the suspect is arrested without a warrant, the police have 24 hours to inform the local interrogating magistrate and must justify its decision to arrest without a warrant.

After arrest, persons must be given access to an attorney of their choice within 24 hours; if they have no attorney, one will be appointed by the interrogating magistrate from a list of public defenders. The interrogating judge must, within 3 days of the arrest, decide whether sufficient cause exists to hold the arrestee in custody pending further investigation. The judge must justify the decision in writing, including the length of detention ordered. These decisions are appealable, either immediately or later in the detention period. The usual period of investigative detention varies from a few days to a few weeks but by law may be as long as 2 years. Accused persons have the right to have their attorney present during the entire investigation as well as during any appeal against investivative detention. In practice, arrestees are almost always bound over for investigation unless it is clear no case against them exists. Once the investigation is complete, the usual practice is to release the accused persons on their own reconizance pending trial, unless the crime is a major offense or the accused is considered a public danger. There are no provisions for posting bail, although police will sometimes retain the accused's passport to prevent them from leaving the country.

In the Serb-controlled areas of the UNPA's, virtually no safegurds exist against arbitrary detention. The use of detentions to intimidate non-Serbs continued in 1993. Even politically moderate Serbs in the UNPA's were subjected to arrest and harassment. Three such individuals, who were active in an UNPROFOR-brokered dialog with the Croatian Government, were imprisoned for a second time in 1993.

Exile is constitutionally prohibited. However, the Croatian Helsinki Committee (a local oragnization with no links to Helsinki Watch) asserted that since 1991 as many as 10,000 houses, many owned by Croatian Serbs, have blown up or razed. In some cases, the residents were killed. In most cases, Croatian Serbs fled the country (see Section 5).

Exile, in the form of "ethnic cleansing," was employed aggressively and with the blessing of UNPA Serbian "officials" against Croats, Hungarians, Slovaks, Czechs, and other non-Serbs. For example, on July 19, 4 Croatian women were expelled from Sector South, and, during the week of August 6, 16 Croats were forced out of Sector East. UNPROFOR estimates that fewer than 400 Croats remain in Sector South. The leader of the Democratic Union of Hungarians from Croatia stated on June 28 that 8,000 citizens of Hungarian nationality had been forced to flee to Hungary, largely from Sector East, while another 2,000 had been displaced to other parts of Croatia because of Serbian "ethnic cleansing."

e. *Denial of Fair Public Trial.*—The Croatian legal system consists of municipal and district courts, a Supreme Court, and a Constitutional Court. The High Judicial Council (with a president and 14 members from all parts of the legal community) appoints judges and public prosecutors. The House of Parishes nominates persons for membership on the Council, and the House of Representatives elects members to 8-year terms. The judicial process is not yet free of ethnic bias or political influence.

A defendant has the constitutional right to a fair trial by a competent court, to attend the trial, and to be represented by an attorney. The defendant must be informed of the charges and the evidence against him and may not be forced to admit guilt. Illegally obtained evidence is inadmissible. Counsel is provided to indigent defendants.

In practice, the prosecuting attorney has leeway in deciding whether to bring a case against an individual. In cases considered "political," both the bringing of charges and the conduct of trials may be subject to outside influence. The arrest of leading members of the Dalmatian Action Party (see Section 1.d.) and the case brought against Croatian Party of Right (HSP) leader Dobroslav Paraga raised questions about the Government's motivation. Paraga and other senior party officials were brought to trial in 1993 for alleged activities endangering the Croatian State committed in 1991 and 1992. The charges arose from the fact that, when the war broke out, in the absence of an organized Croat army at the time, various groups formed paramililtary organs to fight the Serbs. One of the most active of these was the HSP's "Croatian Liberation Movement" or HOS, which operated in Slavonia (headquartered in Osijek) and contributed to the defense of Vukovar. When Croatia established its army, these groups were required to become part of the Croatian army or disarm. Refusing to do so, some HOS fighters continued to maintain their separate identity (if not actual military operations) well into 1992. To compel the dissolution of the HOS paramilitary forces, the Government brought Paraga and his chief lieutenants to trial, even though Paraga in the meantime had lost control of the "offical" HSP. Paraga, new official HSP leader Ante Djapic, and HOS commander Ante Djopic all were acquitted of the charges against them late in 1993.

Observers have criticized cases of government prosecution of Serbs under Section 236(f) of the Criminal Code, which prohibits "rebellion," arguing that some have been convicted on insufficient evidence. Tens of such trials took place in 1993, with many of the accused tried in absentia. Virtually all the accused were found guilty after trials before military courts. Many of these summary convictions, however, have been quietly expunged.

According to the U.N. Special Rapporteur of the Commission on Human Rights, an ethnic Serb working for the United Nations was arrested on September 1 on a charge of "armed rebellion," despite his having previously received clearance from the Croatian police. The Special Rapporteur reported that no indication of the specific accusation against him was given and that his lawyer was denied access to any evidence or witnesses against him. He was tried in camera by a military court and on October 24 was released after being granted an "amnesty" for his alleged activities.

The Special Rapporteur's field staff investigated the case of a Croatian citizen of Serbian origin, arrested on December 12, 1992, in Zagreb on charges of having tortured Croatian prisoners of war (POW's) in the Glina camp. On February 18, the District Court of Zagreb found him guilty and sentenced him to 12 years' imprisonment. although no substantial evidence was produc d against him. Furthermore, in spite of being convicted as a civilian, he was exchanged under duress as a POW before his appeal could be heard by the Supreme Court.

The six-court military legal system tries cases involving members of the armed forces and national security matters. Civilians may be tried in this forum on certain security charges. Defendants have the same legal rights as those tried in civilian courts.

Observers have decried the legal system in Serb-controlled UNPA's as a sham, describing kangaroo courts which serve those in power as operating with bias and prejudice and outside of any semblance of the rule of law.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution declares homes inviolable. Only a court may issue a search warrant, and justification for the search of a home or other premises must be stated. Police may enter without a warrant or the owner's consent only if necessary to enforce an arrest warrant, apprehend a suspect, or prevent serious danger to life or important property. In practice, Croatian authorities do not always adhere to these constitutional requirements. Throughout 1993, military police carried out illegal evictions from state-owned apartments without prior legal proceedings and in some instances using excessive force. The Croatian Defense Ministry insisted that it had inherited ownership of these properties, while tenants often insisted on their right to the dwelling based on purchase or sublease. The Housing Commission of the Ministry of Defense often refused to address individual complaints. The military police also apparently ignored court rulings for the reinstatement of tenants. While authorities of the Housing Commission acknowledged that illegal evictions took place, they stated that many illegal evictions were committed by displaced persons from the UNPA's who "take matters into their own hands" and that the authorities "must demonstrate understanding for those whose families have suffered from the Serbs," especially "when it is well known that the tenants are active on the enemy side."

The Constitution guarantees the secrecy and safety of personal data, but it is unclear if such guarantees are adhered to in practice.

Serbian "authorities" in the UNPA's showed no compunction in interfering with the rights of non-Serbs. In Sector South, UNPROFOR had to provide 24-hour protection for a small Croatian village after local Serbian "authorities" announced they could no longer "protect" the inhabitants from the depredations of armed bands. A series of arrests of politically moderate UNPA Serbs in September, ordered by certain Krajina Serb leaders, reportedly included scores of violations of privacy rights, including fire-bombings. Another serious abuse was the practice of forced resettlement which the Krajina Serbs continued to utilize in Sector East. They housed so-called Serbian refugees with local non-Serb or mixed marriage families against the occupants' will. After often severe harassment by their "guests," the rightful occupants moved out, thus "abandoning" their property to the Serbian immigrants. Ethnic Croats remaining in the Serb-controlled areas of the UNPA's, along with some Serbian native residents of these areas, reportedly have become targets for the many gangs of criminals which have emerged among the Serbian immigrant population in the UNPA's, particularly Sector East.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—The January 1992 cease-fire between Croatian forces and the JNA and other Serb-led forces was accompanied by a peace plan negotiated by former U.S. Secretary of State Cyrus Vance. This plan aimed at normalizing life in the Serbian-occupied areas through demilitarization, the return of displaced persons, the reconstitution of police forces, and negotiations for the reintegration of these areas into Croatia. The UNSC deployed UNPROFOR as peacekeepers in four U.N. Protected Areas (UNPA's), which were under the control of Serbian military and paramilitary forces. No progress was made in implementing the Vance Plan during 1993, and no general and complete cease-fire was agreed upon.

Exchanges of fire and shelling between the Croatian army and Serbian forces in the Krajina area continued along the cease-fire lines at a low level throughout 1993. Krajina Serb artillery attacks were a daily fact of life for many Croatian communities near the cease-fire lines thoughout 1993. Two major outbreaks of fighting occurred, with widespread loss of civilian lives and destruction of property. In January the Croatian army attacked Maslenica, in order to try to reestablish a transportation link between the northern and southern Dalmatian coast and attempted to drive Krajina Serbian forces outside of artillery range of the area so that a bridge to the coast road could be built. The Serbian forces responded by stepping up their shelling of the bridgehead the Croats were trying to secure and of neighboring Croatian areas. When the fighting spread to the Peruca area, the Serbs critically damaged the Peruca dam by setting off charges they had placed in the dam many months earlier. Although the fighting caused civilian, principally Serbian, casualties, there are no reliable figures on either side.

The U.N. Special Rapporteur received reports of the deaths of seven elderly ethnic Serb civilians who were found dead following an attack by Croatian government forces against the village of Mirlovic Polje in the UNPA Sector South on September 6. Four of the victims were reportedly executed, and three were apparently burned to death.

In September, following reportedly sustained Serbian mortar fire on Gospic from several Serb-held villages in the Medak area, Croatian forces launched an attack to seize three such villages whose inhabitants were predominantly Serb. This area is situated in a "Pink Zone" near UNPA Sector South. After negotiating a cease-

fire and the withdrawal of Croatian forces, the field staff of the U.N. Special Rapporteur reported that 67 bodies were recovered, while another 25 persons were missing. Medical experts reported that several victims were shot at close range. Some of the bodies were mutilated and showed signs of possible torture, including serious burns. Most of the victims appeared to be civilians, including a number of elderly persons. At least nine were women, seven of them elderly. None of the victims were children, and it was assumed that they had been evacuated before the attack occurred. Witnesses to the Croatian attacks reported that Croatian armed forces shelled civilian targets and, upon entering the villages, continued systematically to destroy the villages with explosives, including grenades and mines. While denying the charge of atrocities, Croatian authorities relieved the military district commander and two subordinate commanders of their positions and launched their own investigation. The results had not been made public by year's end.

After this Croatian attack, Krajina Serbian forces dramatically increased rocket and artillery attacks on several Croatian cities and towns. They shelled downtown Karlovac for several days, killing 7 and wounding 23 on September 10; they hit the Zagreb suburb of Lucko, nearby Samobor, and Jastrebarsko with rockets on succeeding days. They also shelled the Sisak oil refinery on September 9. During this largely indiscriminate shelling, dozens of civilians were killed, scores were injured, and many houses and buildings were destroyed.

In addition to the deliberate shelling of the villages in the Medak pocket, the Special Rapporteur received reports that Croatian forces also engaged in deliberate shelling of civilian areas in the villages of Baljci, Vrlika, and Biljane Gornje.

Krajina Serb forces continued a deliberate and indiscriminate campaign of artillery attacks on major Croatian cities and economic targets throughout 1993. There were numerous civilian deaths and injuries and extensive damage to schools, hospitals, and refugee camps, as well as houses and apartments. Gross violations of human rights remained commonplace in the UNPA's. Krajina Serb forces, operating with impunity and under the direct guidance of Krajina Serb "authorities," were directly implicated in a continuing series of murders, rapes, bombings, and arson. The Serbian terrorist and wanted war criminal, Zeljko ("Arkan") Raznjatovic, a member of the Belgrade Parliament, operated in Sector East with the open support of local "authorities," setting up terrorist training facilities and a gas station and casino complex and traveling to and from Serbia with no hindrance. On October 9, a party of 16 armed "VIP (very important persons) guards" from Arkan's units forced their way across the bridge from Serbia into UNPA Sector East. UNPROFOR peacekeepers who were guarding the crossing were beaten when they confronted the intruders, and three were injured. UNPROFOR's protest to Serbia was not answered.

In the areas under the control of the "Republic of Serbian Krajina," the organized and massive "ethnic cleansing" of Croats and other non-Serbs is largely a fait accompli. A climate of hostility and abuse against the few remaining ethnic minorities exists, and they continue to leave the UNPA's. Serbs who show any inclination toward or involvement in reconciliation with Croats are considered spies and traitors and are subject to harassment and intimidation by Serbian "authorities."

In Sector South and the Pink Zones, home to 44,000 ethnic Croats in 1991, there were reportedly only 1,161 ethnic Croats by year's end.

On September 21, two former high-ranking members of the Knin authorities were accused of cooperation with Croats and arrested because of their participation in a social reconstruction project cosponsored by the United Nations and a nongovernmental organization. A Serb who was the manager of the project was also arrested.

In UNPA Sector East, most of the Croats have been driven out, and ethnic Hungarians, Slovaks, and Gypsies were threatened. The Croatian population has dropped from 46 percent of the total in 1991 to approximately 6 percent, whereas the Serbian population increased from 34 percent to approximately 73 percent. The Hungarian population of the area dropped by approximately 44 percent. There were reports of murder, rape and pillage, as well as brutal beatings against the remaining non-Serbs and the forcible recruitment of non-Serbs into the armed forces. In several reported cases, those who refused recruitment were beaten, imprisoned, and even killed.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution guarantees freedom of thought and expression, specifically including freedom of the press and other media of communication, speech and public expression, and free establishment of institutions of public communication. The Government continued significantly to limit the exercise of certain of these rights It used its ownership interest in print media and its near monopoly over distribution to limit media independence. The official Croatian news agency sometimes issued distorted reports about the fighting in Bosnia. In the Serb-

controlled portions of the UNPA's, freedom of speech and press virtually does not exist.

The Constitution states that "any call for or incitement to war, or resort to violence, national, racial, or religious hatred, or any form of intolerance shall be prohibited and punishable." There is an active and vocal political opposition which conducts a broad-ranging and open public debate in the print media and occasionally in the electronic media.

Critics have charged, however, that local variations of slander and false information statutes constitute an infringement of free speech. One of the most prominent such cases in 1993 resulted in the conviction of an individual who claimed that large numbers of Serbian civilians were being held in Croatian POW camps. The defendant received a 6-month suspended sentence after an on-site investigation by the Russian Ambassador and a government team determined the charge was false.

The Croatian Helsinki Committee alleged that Croatian authorities brought politically motivated legal proceedings against top officials and activists of two minor opposition parties, which the Committee feared demontrated a tendency to inhibit political pluralism. Under various pretexts, these cases were brought before the Military Solicitor's Office, which resulted in a significant restriction on defendants' rights. The head of the Military Solicitor's Office is also the chairman of a political party, which means that he is conducting trials of the chairmen or activists of rival parties. Members of the Dalmatian Action Party were arrested and accused of planting explosives on their own property. Contacts with the detainees were not allowed, and the Helsinki Committee reported that some of them were physically abused (see Section 1.d.).

The Government controls all national television broadcasting and all (save one) national radio stations and retains a controlling interest in two of the four news dailies. Although these state-controlled or heavily state-influenced media, particularly the press, frequently carry reportage critical of the Government, government control nonetheless ensures an overall editorial slant generally favorable to the Government and the ruling HDZ. The emergence of more independent mass media is hampered mainly by the absence of a clear commitment by the Government and the ruling party to that objective.

A few newspapers continued to guard their independence. Novi List, a daily published in Rijeka, was privatized in 1993 and asserted a strongly independent editorial line. The highly popular, independent, semitabloid weekly Globus continued to feature articles based on investigative journalism. The weekly Nedjeljna Dalmacija retained widespread respect for its independent orientation. A new intellectual bimonthly journal entitled Erasmus, launched in May and financed in part by the International Media Fund and the Open Society Foundation, provided another forum for topical public debate of sensitive political issues.

The irreverent satirical weekly, Feral Tribune, was resurrected, although Feral's editor reportedly received a lecture at the Ministry of Culture for the tabloid's persistently crude, grossly personal attacks on Croatia's President. In early 1994, the editor in chief, a reservist who had already undergone military training, was confined to barracks for several weeks after failing to respond to a military callup. He appealed his induction and was released, and the Government stated that an exemption from further military service might be granted. Nevertheless, some observers felt that the mobilization order was politically motivated as it happened immediately after the Feral Tribune ran a piece attacking Tudjman.

The Government's politically inspired decision to compel the reprivatization of the respected Split daily Slobodna Dalmacija generated criticism. The new owners fired a number of prominent Slobodna journalists and shifted the paper's editorial stance closer to the Government's position on certain issues.

The President of the Croatian Journalists' Society complained about the gap between the principle and practice of press freedom and said that, while Croatia accepted the principle of freedom of speech and information, in practice journalists were attacked for their views when they differed from state policies. For example, there were reports that military police assaulted several journalists covering an attempted eviction, dragging a female reporter away by her hair and hitting a cameraman in the face. The President of the Society said that privatization of the media was not leading to greater media freedom. State purchase of shares allowed the Government to continue to have a "controlling" voice in media. He also said that the Government exploited the extremely weak financial position of most newspapers to manipulate and pressure them. His remarks were nonetheless reported by all the government-controlled papers.

The International Federation of Journalists in March suggested that Croatia's admission to the Council of Europe should be delayed because it was "very concerned" about freedom of the press in Croatia. The Federation specifically mentioned the

privatization process and the question of the approriateness of having well-known ruling party members in charge of state television and newspapers.

In May the Parliament responded to criticism from opposition party spokespersons of the lack of media freedom by appointing a five-person multiparty commission to investigate the situation and report to the legislature at its next session. By year's end, no report had been issued, but local press reports indicated a seven-member council for protecting the press was established in December.

International papers and journals remained available throughout government-controlled areas.

Croatia has three major television channels, as well as regional stations in Zadar, Rijeka, Split, and Osijek. Zagreb-based Channels One and Two are part of the official Croatian Radio and Television (HTV) enterprise. The third, OTV-Youth Television, with a signal that reaches only the capital district, has an uncertain legal status and operates at the sufferance of the Government. Channel Two's popular, late night HTV show, "Frame by Frame," continued to carry interviews with major public figures as well as extensive replays of Western television coverage of events in the former Yugoslavia.

HTV also began a periodic prime-time program featuring live, face-to-face debates between senior government and opposition figures, in which some of the most sensitive political issues of the day were hotly debated.

There are private local radio stations operating under provisional licenses in Croatia, but their legal status is open to question in the absence of a national media law. Croatian radio on at least eight occasions refused to broadcast informational programs prepared by UNPROFOR. However, regular, lengthy, unedited interviews of senior UNPROFOR figures were prominently featured in the government-controlled and independent press throughout the year.

Privatization of television and radio was a hotly debated topic in 1993 and has yet to be implemented. A government draft broadcast law providing for the allocation of radio and television broadcast frequencies to new, private outlets is pending in Parliament.

The House of Representatives' Committee for Human Rights and National Minorities expressed its dissatisfaction with television broadcasts on minorities. Members of the Committee who represent minority groups in Parliament criticized the television program for minorities "Prizma," which they considered to be unfocused and of no use to minorities. They proposed to Parliament that a minority representative be included on the television administration board.

The Croatian Helsinki Committee in July issued its first document about media freedom in Croatia, criticizing the Government's policy regarding freedom of the media. The document, presented to the Prime Minister, alleged that higher taxes were imposed on private newspapers than on dailies owned by persons connected to the Government. It said that the Government's monopoly of distribution, sales, and printing of newspapers hindered the development of a pluralistic press and was an indirect form of censorship. For instance, it cited different treatment of different papers regarding sales and distribution and the lack of access to television advertising as methods used to restrict the independence of newspapers. It criticized the Government's failure to change the law that establishes the State's monopoly on Croatian radio and television and prevents the development of pluralistic private electronic media. It pointed out that the Government violated the Information Law, which prohibits a person with immunity from charges of libel from being a chief editor, when both the chief editor of the daily Vjesnik and the Director General of Croatian Television are parliamentarians who are thereby immune from libel suits. Finally, it criticized the Government's failure to implement the law calling for democratic institutions, such as the constitutionally mandated Court for Human Rights and the Council for the Protection of Public Information, established by the Information Law passed in April 1992. Among its recommendations, the Committee said the process of privatizing the dailies Slobodna Dalmacija, Glas Slavonije, and Vecernji List and the weekly Danas should be reexamined. It also recommended the establishment of oversight and coordination bodies to prevent discrimination, correct irregularities, and secure equal treatment for all publications on the market.

In the Serb-controlled areas of the UNPA's, martial law remains in effect, and there are no guarantees of press and other freedoms. Radio, television, and newspapers published elsewhere in Croatia are available in the Croatian-controlled portion of Sector West. In the Serbian-controlled UNPA areas, Serbian papers, usually published in Belgrade, are generally available, although the supply is sometimes sporadic. Lacking a functioning civil government, these Serb-controlled UNPA areas are effectively under martial law. There is one small paper published weekly or biweekly in Serbian in the Serb-controlled area of Sector North.

There are a few low-powered local radio stations broadcasting from Serb-held territory in some of the UNPA's, and Croat radio and television signals are received in these areas as well. The Serbian "TV Krajina," whose studios are in Petrova Gora and Knin, broadcast daily. Two other Serbian mobile studios also operate out of Beli Manastir and Plitvice.

Academic freedom is generally respected in Croatia, but ethnic considerations reportedly led to some dismissals of academics of Serbian nationality. A recently enacted university reform law established a revised curriculum and created a government Council for Higher Education. There is apprehension within the academic community about the effects of this measure on faculty and programs.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides that all citizens shall be guaranteed the right to peaceful assembly and association for the protection of citizens' interests or the promotion of social, economic, political, national, cultural, and other convictions and objectives. Citizens may freely form, join, and leave political parties, trade unions, and other associations. In practice, the rights of peaceful assembly and association are respected in Croatia. Permits are required for rallies but are granted routinely.

During 1993, political parties, refugee associations, women's groups, and others held peaceful rallies and demonstrations without hindrance or incident. These rights are also granted to other citizens, including members of the Serbian and Muslim communities. In Serb-controlled areas, however, these rights are not respected.

c. *Freedom of Religion.*—There is no state religion. The Constitution guarantees freedom of conscience and religion and free public profession of religious and other convictions. All religious communities are equal before the law and separate from the State. Religious communities are free to conduct public services and to open and run schools and social and charitable institutions.

Roman Catholicism, Eastern Orthodox Christianity, and Islam are the main faiths in Croatia. The majority of practicing Croats are Roman Catholic. The Government provides an option of Catholic religious education in schools. There is also an active Jewish community in Croatia. The main mosque in Croatia is located in Zagreb, where it serves not only as a religious center but also as a social aid office. There are no formal restrictions on religious groups. Croatian Protestants from a number of denominations as well as foreign clergy actively practice and proselytize in the country.

Religion was so closely identified with ethnicity that religious institutions continued to be targeted. An Orthodox Church in Osijek was damaged by an explosion. The regional governor immediately deplored the attack and promised state financial assistance to repair the damages. The Serbian Orthodox cathedral in downtown Zagreb remained open, and several other Orthodox churches and monasteries operated freely in government-controlled northern Croatia. Although the majority of the Orthodox clergy left at the start of the war in 1991, a few Orthodox priests, most of them retired, remained to carry out religious duties.

Most Catholic churches in the Serbian-controlled UNPA's have been destroyed. On December 24, the unoccupied residence of the Serbian Orthdox Eparchy in Karlovac was blown up. The act was immediately condemned by Cardinal Kuharic, the Croatian Government, and the public. The identity of the perpetrators is unknown. An investigation continued at year's end.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution states that anyone who is lawfully in Croatia has the right freely to move and choose a residence. Citizens have the right to travel abroad, to emigrate, and to return home. The right to enter or leave the country may be legally restricted under exceptional circumstances, if necessary to protect the legal order, health, rights, or freedom of others.

There are restrictions on freedom of movement for all journalists and all male citizens from age 18 through 55, in the cities and areas close to the demarcation lines (Osijek, Karlovac, Zadar, and Sisak). The press has reported on such restrictions. Journalists, as well as other individuals, must request permission to enter the conflict zones. All males of draft age must also request permission from the local municipality draft board to travel abroad.

The Government imposed no significant restrictions on the movement of refugees, displaced persons, or national minorities already resident in Croatia, although there were several confirmed instances of refoulement of Muslim refugees. Regulations imposed in 1992 limiting the admission of new Bosnian Muslim refugees to those with assured passage to third countries remained technically in effect. In practice, however, large numbers of new refugees from Bosnia, both Croat and Muslim, entered and remained in Croatia in 1993.

As of October, according to government figures, there were about 246,000 displaced Croats in Croatia and about 278,000 refugees from Bosnia, of whom about

190,000 were Muslim and the rest ethnic Croats. Together, the refugees and the displaced persons number about 520,000, of which 80 percent, approximately 410,000, were lodged in private homes, and 20 percent, about 110,000, were in collective facilities such as camps, resort hotels, old army barracks, and schools. On the average, each day an additional 100 displaced persons and refugees are added, a slight majority of whom are Muslims and the rest Croats. An estimated 20,000 to 30,000 Bosnian Muslim refugees were not registered with the Croatian authorities; they were mostly men of draft age.

There were incidents of harassment and abuse, including clandestine deportations by Croatian police into HVO hands, and bombings of Muslim refugee centers, although these rarely resulted in significant damage. There were allegations that the police and other Croatian authorities frequently refused to register newly arrived Muslim refugees from Bosnia and Herzegovina.

To refurbish some tourist hotels in Dalmatia which had housed Bosnian Muslim refugees for nearly a year, the Government offered some 2,000 of these refugees either settlement in third countries or relocation to facilities elsewhere in Croatia. According to U.N. observers, many refugees were not happy at having to leave the hotels, although there were no recorded instances of forcible eviction. Some of them resettled abroad, alleging that their departure from Croatia had not been voluntary. U.N. officials indicated that none of these refugees were forced to depart Croatia.

The Government's treatment of Muslim refugees and other Muslims temporarily resident in Croatia became an issue as a result of a government investigation and raid on certain Middle Eastern relief agencies in Croatia in August. The police discovered evidence that some persons were involved in activities incompatible with their aid work status. This investigation led to the deportation of scores of Bosnian and other Muslims, which ended after the Government was criticized for illegally deporting refugees.

On July 29, the field staff of the U.N. Special Rapporteur received reports that Bosnian refugees in Zagreb, Samobor, Split, Pula, Varazdin, and the island of Obonjan were being expelled from Croatia to Bosnia and Herzegovina. Some 1,500 refugees were arrested in camps around the country towards the end of July. Almost 500 were detained for alleged criminal activity, and 120 were deported to Bosnia and Herzegovina, in contravention of refugee conventions and commitments made by the Government to the U.N. High Commissioner for Refugees. In one verified case, the civilian police arrested a large number of refugees in Zagreb. The Croatian authorities explained that they were conducting a police operation against "illegal" refugees without documents. However, most of those arrested had been previously registered by the Croatian authorities, while others had appropriate UNHCR documents. Fifty-two refugees were taken to the border with Bosnia and Herzegovina where they were handed over to the Bosnian Croat (HVO) military police and detained. The detainees, who were predominantly Muslim, were told that they would be exchanged for Croats detained by Bosnian government forces. There were reports of abuse and torture in the detention center, as well as dangerous labor on the front lines.

There continued to be isolated incidents of individual expulsions by the Croatian police, especially in the area adjacent to Herzegovina. For instance, on August 28, a Bosnian Muslim was reportedly arrested by Croatian police in Trogir and handed over to the HVO military police, although his documents were in order. In general, however, the Government stopped repatriating refugees after the UNHCR and foreign governments, including that of the United States, publicly protested such actions.

In the UNPA's, Serbian threats against the remaining non-Serb population have produced a de facto coercive control situation for those people. Practices in the UNPA's include strict curfews, prohibition on the movement of clergy, strict limits on travel between towns and the front lines, and forced resettlement.

Despite the establishment of UNPA's in March 1992, the goals of the Vance Plan were still not met by the end of 1993. Hostile Serbian elements, sustained by links with the Serbian Government in Belgrade, still control over one-fourth of Croatia.

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

Croatia held multiparty presidential and parliamentary elections on August 2, 1992. The Croatian Democratic Union (HDZ) of incumbent President Dr. Franjo Tudjman won decisively, and he was returned for a 5-year term. The President exercises considerable power, authority, and influence but constitutionally is limited to two terms. In April President Tudjman appointed a new Prime Minister, Nikica Valentic, the fifth since the spring of 1990.

In elections for the second chamber of the Parliament (the House of Zupanije or Parishes), held in February, the HDZ again won a majority of the seats, and five other parties also won seats. These elections were generally regarded as free and fair. Serbian "authorities" in the UNPA's refused to allow residents to participate in these elections, just as they had in the August 1992 balloting.

"RSK" authorities held elections in the UNPA's in December which neither UNPROFOR nor any other international body has recognized as legitimate. There were no international or other unbiased observers present, making it difficult to judge the degree of freedom in these elections or the presence of fraud. In the key December race for the "RSK" presidency," no candidate reportedly won more than 50 percent of the vote, so runoff elections were scheduled for January 23, 1994.

There are no legal restrictions on participation by women or minorities in the political process, but they are represented in small numbers in Parliament, the executive branch, and the courts. Six women hold seats in Parliament, including one who serves as a vice president of the House of Representatives and two others who lead opposition parties.

The federal election law provides for representation of all minorities in Parliament, with proportional representation guaranteed for any minority that makes up more than 8 percent of the population. The Federal Election Commission designated 13 Serbs to "represent" the Serbian minority, who comprise 11 percent of the population. Eight of those 10 were elected as members of the Croatian People's Party. The remaining three parliamentarians were members of the Serbian National Party, which was constituted to promote the particular interests of Croatia's Serbs.

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

Peace groups in Zagreb, Rijeka, and Osijek worked to prevent forcible evictions and other human rights abuses in their respective localities and brought their concerns to the attention of the local and national authorities. Similar human rights groups in Split, however, were harassed and intimidated by local extremists, and some of their members had their personal property vandalized or destroyed. A Croatian Helsinki Committee was formed in 1993, and its members met on several occasions with government officials to discuss human rights concerns. The Serbian Democratic Forum in Zagreb and its affiliate in Rijeka continued to document violations of human rights against Serbs in Croatia. Other local human rights nongovernmental organizations include, for example, the Human Rights Committee of the Union of Serbs in Croatia. Both the Serbian National Party (SNS) and the Social Democratic Union (SDU) have human rights committees. All these have been publicly and vociferously critical of the Government on occasion, for example, on the subject of alleged ethnic discrimination in the assignment of housing, as well as in other areas where they felt human or civil rights were not fully observed.

Senior government officials, including the President, have met with international human rights experts and the local Helsinki human rights group. The Government cooperated in the excavation of suspected mass graves of Serbian victims of atrocities and in discussions of the treatment of Muslim refugees in Croatia. The Parliament's Human Rights Committee also actively considered human rights and other social issues. The Committee Chairman has defined the Committee's role as that of "analyzing legislative proposals for their democratic content before they are presented for legislative approval." The Committee, for example, was instrumental in building into the new law on registration of political parties criteria demanding that any new groups seeking registration show they are founded on "democratic values." It has also examined in detail allegations that evictions from state-owned housing were based on ethnic considerations. The Chairman also told the press earlier in 1993 that, like the UNHRC itself, his committee's mandate did not extend to consideration of individual cases of alleged human rights abuse, although, he said, more than 300 requests for such investigations had reached the Committee since its founding in November 1992.

Serbian "authorities" in the UNPA's continued to obstruct investigations into alleged violations of human rights by their forces. In one egregious incident, Serbs prevented the excavation of the suspected mass grave at Ovcara by a team of United Nations experts.

When refugees were arbitrarily arrested and held for repatriation during the summer, U.N. officials were initially denied access to those arrested (see Section 2.d.)

In areas where fighting or military operations were taking place, both Croatian and Serbian forces denied access to international observers, although the field staff of the Special Rapporteur was able to monitor human rights violations both in areas under Croatian government control and those controlled by the Serbs.

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

The Constitution specifies that all citizens shall enjoy all rights and freedoms, regardless of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, education, social status, or other attributes. It adds that members of all nations and minorities shall have equal rights in Croatia. One article provides for special "wartime measures" but states that restrictions shall be appropriate to the nature of the danger and may not result in the inequality of citizens in respect of race, color, sex, language, religion, or national or social origin.

Women.—Violence against women reportedly increased in 1993. In general, it was part of the larger picture of increasing societal and family tensions as a result of economic disruptions and the unsettling effect of the continued conflict in occupied areas of Croatia. Women (and children) were especially subjected to violence at the hands of men, including demobilized soldiers, acting out their frustrations and stresses. Womens' groups, however, are devoting more attention to this issue, but there are social inhibitions against making "family" issues a subject for the courts.

A center for the psychological and medical care of abused women was founded in Varazdin for 30 women and their families. A similar center was scheduled to be opened in Makarska, Dalmatia. A center for urgent psychiatric and medical aid for the victims of abuse was opened in Zagreb's Medvescak Medical Center and includes a 24-hour "hot line" which reportedly is well used. The French humanitarian organization "Medecins du Monde" will also finance a program in Croatia for abused mothers and their children.

The Croatian health service reportedly has established new, special protocols to insure comprehensive and effective treatment of female victims of rape, spousal abuse or other violence which apply both to hospitals and to outpatient clinics throughout the Republic. There are a number of other centers and programs offering psychological and medical care for abused women and others who have been traumatized or tortured in the course of the war, offered both by local institutions, voluntary agencies, and international organizations. The list of agencies that are part of a working group for social services and psychosocial services for those affected by the war has some 48 entries, including the "Society for Psychological Assistance," "Women's Help Now," "Evangelische Frauenarbeit," "The Center for Women War Victims," "Marie Stopes International," and "Biser." In November Tresnjevka opened its center to assist abused women.

Women do not face legal barriers or discrimination in inheritance, marriage, family laws, and property rights.

Gender-based support groups are relatively new, but Zagreb and several other large cities have started family crisis associations. An association of the "Women of Vukovar," who have missing relatives from the war in the east, and "Mothers for Peace" are active and operate without hindrance.

Spousal abuse is present in Croatian society and is a subject of considerable public interest, freely discussed. One of the more popular late-night call-in radio programs here, for example, frequently features abused spouses (or their neighbors) calling in to present their problems. Local newspapers in late 1993 reported in detail the case of the wife of one of President Tudjman's physicians, who divorced her husband following a beating so severe that several of her ribs were broken. The police reportedly respond willingly to calls from neighbors regarding domestic disputes, for example if the neighbors indicate the likelihood that physical harm will occur. A well-established procedure for prosecuting cases of spousal abuse exists and is apparently effectively used, with the usual result being payment of large damages by the abusing spouse.

Educational and job opportunities are generally available without regard to sex. Mothers are entitled to special protection at work. "Special protection" means employed mothers whose children become ill may, upon presentation of a doctor's certificate to that effect, take paid leave (not counted against their own vacation time) to care for the sick child. Working mothers receive 180 days of paid leave after the birth of a child and may take up to an additional 30 months of unpaid leave without jeopardy to their employment. Pregnant women, mothers of handicapped children, and nursing mothers cannot be transferred to other work without their consent. Mothers of handicapped children also have the right to work only half-time (at half-pay, however) without jeopardizing their employment. All these provisions are well established, accepted by employers, and routinely observed.

Children.—There is no documented pattern of societal abuse or discrimination against children. Schools provide free meals for children. Day nurseries are available in most communitites even for infants and, while their primary purpose is to support working single-parent mothers, they also provide an early education and societal base for the children. Medical care for children is free, as are prescription

medications. They receive obligatory periodic medical examinations without charge. Children younger than 15 years are prohibited from employment and, as noted in Section 6.d., safeguards apply to the employment of children above that age.

National/Racial/Ethnic Minorities.—Other sections of this report address serious human rights abuses suffered by persons based on their nationality, including cases of government abuse of ethnic Serbs.

Constitutionally, Croatian Serbs enjoyed the same protection as other self-identified ethnic groups in the country. In practice, however, there continued to be ever-present, subtle, and sometimes open discrimination against Serbs in such areas as the administration of justice, employment, housing, and the free exercise of their cultural rights.

The U.N. Special Rapporteur received several reports of the killing of Serbs and allegations that the Croatian authorities failed to conduct a proper investigation or to prosecute those responsible. For instance, it was reported that an elderly Serb woman was murdered and mutilated in her apartment in Sisak on July 30. The police did not conduct a full investigation nor inform the family of any results. The neighbors of the victim were afraid to disclose information about the identity of the perpetrators, especially after the police approached them. There are credible reports of organized Croatian gangs, such as the so-called Black Legions, which single out Serbian civilians for criminal attacks.

Government sources report criminal proceedings were initiated against 126 persons of Croatian ethnic origin, 13 ethnic Serbs, and 8 persons from othe ethnic groups. Nevertheless, the Special Rapporteur stated that the authorities have not demonstrated a serious willingness to suppress such acts.

In 1993 the police force was made up almost exclusively of ethnic Croats. The vast majority of cases involving violence against Serbs and mistreatment of Serbian prisoners went unpunished. Meanwhile, the Government filed thousands of criminal charges against Serbs accused of "war crimes."

The founder of the Serbian National Party, Milan Dukic, claimed that one of the main problems was that the Croatian and Serbian communities saw each other in terms of negative stereotypes fostered by media and nationalists on both sides.

Criticism continued of the Government's performance in issuing citizenship papers, new passports, and residence permits. The Interior Minister insisted that there had been no discrimination based on nationality in the processing of 550,000 applications for Croatian citizenship. However, many who are not ethnic Croats felt that the delay in processing their cases or the refusal to grant them citizenship was due to discrimination. There were credible reports that citizenship applications of persons not born in Croatia, or who held significant positions in such federal institutions as the JNA, were occasionally delayed or refused for reasons of nationality. Foreigners and stateless persons may obtain asylum, unless it is sought in connection with the commission of criminal offenses or violations of international law.

Article 30 of the Law on Citizenship defines a "Croatian citizen" as "a person who has acquired this status according to the laws valid until the taking effect of this Law." The previous laws on citizenship, valid when Croatia was part of the SFRY, provided for "republic citizenship" of the "Socialist Republic of Croatia," but, according to the U.N. Special Rapporteur, republic citizenship within the SFRY was essentially symbolic and had little or no legal effect. SFRY law provided that Yugoslav citizens enjoyed the same rights and duties throughout the republics, without regard to republic in which they had citizenship. Furthermore. republic citizenship did not necessarily coincide with the republic in which an individual was born or enjoyed permanent residence, even if that person had always been domiciled in the republic.

Thus, the Croatian Law on Citizenship had the effect of arbitrarily relegating to the status of aliens all those SFRY citizens who enjoyed lawful residence in the Socialist Republic of Croatia but who did not enjoy Croatian republic citizenship. An exception was made, however, for those deemed to be members of the "Croatian people." Such ethnic Croats who were not Croatian citizens under the SFRY laws would be accorded Croatian citizenship if they submitted a written statement that they considered themselves Croatian citizens. This exemption was available not only for Croats who had registered places of residence in Croatia but also for members of the "Croatian people" who did not have a place of residence in the Republic of Croatia or did not have previous SFRY citizenship. Those who do not belong to the "Croatian people" must satisfy more stringent requirements through naturalization in order to obtain citizenship, even if they previously were lawful residents as SFRY citizens in Croatia.

According to government sources, as of May 12, citizenship had been denied to 12,708 applicants, 7,500 of whom were ethnic Serbs. The U.N. Special Rapporteur reported several cases of procedural obstruction in which the relevant authorities

refused even to consider applications, almost always on the basis of the ethnic origin of the applicant. Another cause for concern related by the Special Rapporteur was that, while an application for citizenship is pending, the applicant is considered an alien, even if that person previously enjoyed lawful residence in Croatia as a SFRY citizen, and is consequently denied rights such as social allowances, including medical care, pensions, free education, and employment in the civil service. In practice, since the applicatuon procedure may take a considerable time, many applicants have been forced to leave Croatia because of financial pressure.

The leader of the Serbian National Party complained that citizenship documents were not being granted as quickly to Serbs as to others. He also alleged that 200 Serbs who worked in the Zagreb city administration were fired in 1 day under the pretext of "rationalization."

A delegation of Gypsies complained that local shops discriminated against them, some snack bars refused to serve them, and the police did not adequately investigate their complaints. The Stranke Roma Hrvatske (Croatian Gypsy Party) in Zagreb reports there are currently about 120,000 persons officially registered as Gypsies who are resident in Croatia but say the actual figure for Gypsy residents is probably closer to 250,000 to 300,000 because "many simply do not bother to register." They say there is a "large" number of Bosnian Gypsy refugees in Croatia, but the numbers are very difficult to estimate since the Gypsy population is so fluid. A great many Bosnian refugee Gypsies, for example, have continued to move onward to relatives in Hungary, Romania, or elsewhere.

Religious Minorities.—Serious human rights abuses perpetrated against Muslims are addressed in other sections of this report.

According to the 1991 census, 43,469 persons, 0.9 percent of the population of Croatia, identified themselvesd as Muslims. The largest concentrations were in Zagreb, where the 13,100 Muslims comprised 1.4 percent of the population, and in Rijeka, where 13,340 Muslims comprised 2.3 percent of the population. The largest percentage was in Dubrovnik, where 2,866 Muslims comprised 4 percent of the population. The massive influx of refugees from Bosnia and Herzegovina into Croatia since the war significantly increased the number of Muslims.

Since the intensification of hostilities between Bosnian Croat and Bosnian government forces in April, the Croatian media regularly refer to Muslims as "aggressors." Coverage of atrocities committed in the conflict between the two groups appeared to be selective and one-sided, with little regard for the truth. At the same time, incidents of discrimination and violence against Muslims in Croatia were rarely reported in the press.

On the Dalmatian coast, Muslim clerics and others in a position of authority were repeatedly harassed and threatened by local police and other authorities. In Dubrovnik, Split, and Zagreb, as well as other areas, shops and homes belonging to Muslims were reportedly damaged or destroyed, with little police response.

There were reports that many Muslims were denied citizenship, although they were either born in Croatia or had lawful residence there for several years. In the villages of Rajevo Selo and Gunja near the border with Bosnia and Herzegovina, almost 200 Muslims were reportedly denied citizenship. The United Nations verified many cases in which some members of a family were arbitrarily denied citizenship while others were not.

People with Disabilities.—People with disabilities face few legal discriminatory measures. Education and job opportunites generally are available to them The serious war-related injuries of increasing numbers of combat veterans have attracted growing attention to their needs. Although no specific legislation has mandated accessibility for the handicapped, there is a growing social awareness of this issue.

Section 6. Worker Rights

a. *The Right of Association.*—All workers, except military and police personnel, are entitled to form or join unions of their own choosing without prior authorization. There is an active labor movement in Croatia with three national labor federations and independent associations of both blue-collar and white-collar members. In general, unions are independent of the Government and political parties.

The right to strike is guaranteed in the Constitution and is limited only in the armed forces, police, government administration, and public services. Strikes by railroad workers, teachers, textile workers, and others occurred with increasing frequency during 1993, largely over the repeated failure of government-owned or government-run institutions or industries to pay wages on time. For example, railroad workers received paychecks from 1 to 2 weeks late throughout the year.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining is protected by law and practiced freely in Croatia. Because of the inflation problem and in reaction to newly introduced government austerity measures, the major public

service unions found themselves engaged throughout 1993 in lengthy negotiations with the Government over wages and job security. Like fellow unionists, the federations found that the Government was regularly late in meeting its payroll and in ensuring payment of minimum wages.

Many Croatian enterprises remain "socially owned," a condition of blurred ownership and managerial responsibilities which is a legacy of Socialist Yugoslavia. In the current transition to privatization and a free market economy, the unions are under pressure due to job losses, general unemployment in a weakened economy, and their own struggle to become genuine free trade unions.

There is no formal body of law or practice dealing directly with antiunion discrimination issues.

There are no export processing zones in Croatia.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory work is constitutionally forbidden. There were no documented instances of coerced or forced labor. The Ministry of Labor and Social Welfare is the agency charged with enforcing the constitutional ban on coerced or forced labor.

d. *Minimum Age for Employment of Children.*—The minimum age for youth employment is 15 and is enforced by the Ministry of Labor and Social Welfare. Under the Constitution, children may not be employed before reaching the legally determined age, nor may they be forced or allowed to do work that is harmful to their health or morality. Workers under 18 are entitled to special protection at work and are prohibited from heavy manual labor. Education is mandatory up to age 14.

e. *Acceptable Conditions of Work.*—There are national minimum wage standards. Public service unions are pacesetters for the rest of the work force, and they were in the forefront of continued efforts to encourage the Government to honor its commitments. The current minimum gross monthly wage in Croatia in December was roughly $96 (635,910 dinars). National regulations provide for a 42-hour workweek, overtime pay, a half-hour daily break, and a minimum of 18 days of paid vacation annually. It is standard practice to provide a 24-hour rest period during the workweek.

Health and safety standards are set by the Government and enforced by the Ministry of Health. In practice, industries are not diligent in meeting standards for worker protection.

CYPRUS

Cyprus has been divided since the Turkish military intervention of 1974, following a coup d'etat directed from Greece. Since 1974, the southern part of the country has been under the control of the Government of the Republic of Cyprus. The northern part is ruled by an autonomous Turkish Cypriot administration supported by the presence of Turkish troops. In 1983 that administration proclaimed itself the "Turkish Republicof Northern Cyprus" ("TRNC"), which is recognized only by Turkey. The "TRNC" is a parliamentary structure; the "Prime Minister" and "Council of Ministers" are drawn primarily from the "Assembly". The Government of Cyprus is a presidential system.

The internal political system of the government-controlled area is a democracy and in general accords basic human rights to its population, both in law and in practice. The internal political structure in the Turkish Cypriot administration is also based on free elections. The Turkish Cypriot administration generally respects basic human rights but routinely restricts the freedom of Turkish Cypriots to travel to the Greek Cypriot-controlled areas or even into the U.N.-patrolled buffer zone which divides the two communities.

Both Cypriot economies are based on free enterprise. The Greek Cypriot economy has prospered in recent years, particularly in the tourism and manufacturing sectors, but entered into a slight recession in 1993 as tourism revenues fell. The much smaller economy in the Turkish Cypriot area, closely linked to that of Turkey and plagued by Turkey's high inflation rate, remained depressed in 1993, although a resurgence in the banking, education, and tourism sectors is evident.

Conflict between the Greek Cypriot and Turkish Cypriot communities during the 1963–74 period, followed in 1974 by the abortive Greek Cypriot coup and subsequent Turkish intervention, resulted in the uprooting of Greek Cypriots and Turkish Cypriots from the northern and southern parts of the island, respectively. The resultant loss of lives, homes, and livelihoods has led to continuing charges of human rights violations by both sides. United Nations Forces in Cyprus (UNFICYP) monitors the welfare of the Greek Cypriots and Maronites in the north, as well as that of the Turkish Cypriots in the south.

RESPECT FOR HUMAN RIGHTS

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

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

b. *Disappearance.*—There were no reports of persons abducted, secretly arrested, or held in clandestine detention.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Both the Cyprus Constitution and the basic document governing the Turkish Cypriot community specifically prohibit torture. Freedom from cruel, inhuman, or degrading treatment or punishment is provided for in law in both communities. While these laws are generally respected in practice, allegations of police brutality in the Greek Cypriot community have become more common and have been given widespread publicity. In May the Council of Europe's Committee for the Prevention of Torture submitted a report to the Government concluding that "persons held in certain police establishments in Cyprus—particularly in Limassol town police station—run a serious risk of severe ill-treatment/torture."

In the most celebrated case, a Limassol man falsely arrested in 1992 for bank robbery claimed he had been beaten and subjected to electric shocks. The Government prosecuted two high-ranking police officers, but the presiding judicial panel dismissed the case in July for insufficient evidence, noting in its decision that the prisoner had clearly been mistreated but that the prosecution had failed to establish conclusively that the two officers charged were actually responsible.

In September 1993 police officers arrested a man in Larnaca on an unsubstantiated charge and severely beat him. Newspapers published photographs of the man's resulting 34 stitches and extensive bruises. Four officers involved were suspended pending an internal police investigation. The Government established a special commission to examine allegations of police brutality; no results had been announced by year's end. A bill addressing police brutality was scheduled for early debate in Parliament, according to its sponsors. If passed, the law would define as a felony the "torture, cruel or humiliating treatment of detainees," liable to imprisonment of up to 3 years or a $6,000 fine, or both. If a detainee suffers "serious bodily injuries", those convicted of the abuse could face a prison term of up to 5 years or a $10,000 fine, or both.

In the Turkish Cypriot community, allegations of police beatings are infrequent but not unknown: one Turkish Cypriot youth complained in April that he was beaten by police officers despite being the son of a policeman himself. The police replied that the youth had not identified himself as such. No investigation was conducted, and no charges were ever filed. Victims of such abuse rarely come forward.

d. *Arbitrary Arrest, Detention, or Exile.*—Laws providing for freedom from arbitrary arrest and detention are respected by the Government of Cyprus and Turkish Cypriot authorities. Arrest warrants, issued by judges, are required. No one may be held for more than 1 day for investigation of a crime without referral of the case to the courts for extension of the period of detention. Most periods of investigative detention do not exceed 8 to 10 days before formal charges are filed. Attorneys have free access to detainees, and bail is permitted. Exile is specifically prohibited by the Cyprus Constitution and by the basic document governing the Turkish Cypriot community.

e. *Denial of Fair Public Trial.*—Cyprus inherited many elements of its legal system from the British legal tradition, including the presumption of innocence, the right to due process, and the right of appeal. In both parts of Cyprus, fair public trial is provided for in law and accorded in practice. The judiciary is independent of executive or military control. Defendants have the right to be present at their trials, to be represented by counsel (at government expense for those who cannot afford one), to confront witnesses, and to present evidence in their own defense.

Cases are generally tried before a judge or panel of judges, although a request for a jury trial is usually granted. There are no special courts to try security or political offenses.

On the Turkish Cypriot side, civilians deemed to have violated military zones are subject to trial in a military court. These courts consist of one military and two civilian judges and a civilian prosecutor. Defendants in military courts have all the due process rights available in civilian courts. There were no trials of civilians in military courts in 1993.

There are no political prisoners in Cyprus.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Both the Cyprus Constitution and the basic document governing the Turkish Cypriot community include provisions protecting the individual against arbitrary inter-

ference by the authorities. A judicial warrant is required, for example, for a police official to enter a private residence.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—These rights are provided for by law and are freely practiced throughout the island. The press is free and represents the entire political spectrum. There is no press censorship. In the Greek Cypriot community, several private television and radio stations compete effectively with the government-controlled stations. Turkish Cypriot authorities retain monopoly control over both radio and television, but in late 1993 a special commission was established to consider the lifting of this monopoly. International broadcasts are available throughout the island, including telecasts from mainland Turkey and Greece. In addition, the proliferation of party and independent newspapers and periodicals in both communities enables ideas and arguments to circulate freely. Opposition papers frequently criticize the authorities.

b. *Freedom of Peaceful Assembly and Association.*—The freedom to associate, organize, and hold meetings is protected by law and generally respected in practice.

c. *Freedom of Religion.*—Freedom of religion is respected in Cyprus. In the south, the vast majority of the population is Greek Orthodox; in the north, Sunni Muslim. The Greek Orthodox Church in the south has the character of a state institution; all its activities and holdings are exempt from taxation. Although missionaries have the legal right to proselytize in both communities, missionary activities are closely monitored by theGreek Cypriot Orthodox Church and by both Greek Cypriot and Turkish Cypriot authorities.

The approximately 300 Turkish Cypriots known to reside in the southern part of the island are allowed to practice their religion freely. In the north, non-Muslims include approximately 550 Greek Cypriots, 200 Christian Maronites, and some foreign residents—all of whom are free to practice their religions.

A 1992 law allows alternative service for those Greek Cypriots who conscientiously object to military service on religious grounds: they may select either 34 months of unarmed military service or 42 months of civil defense force or social service, compared to 26 months of military service. However, this service still falls under the auspices of the military, so it does not constitute alternative civilian service. There are approximately 10 conscientious objectors in prison in the Republic, all of whom are Jehovah's Witnesses serving sentences of up to 32 months. Turkish Cypriot conscientious objectors have no alternative to military service and face imprisonment if they refuse to serve. Amnesty International in 1993 noted the first case of imprisonment of a conscientious objector in the north, who was sentenced to 3 years. He was also charged with insulting the security forces in northern Cyprus for statements he made in a press conference explaining his reasons for refusing military service and his willingness to serve an equivalent term in alternative civilian service.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Turkish Cypriots and Greek Cypriots enjoy general freedom of movement within their respective areas. However, Turkish Cypriot authorities strictly regulate travel by Turkish Cypriots into the government-controlled area. Turkish Cypriots who apply for permission to visit the south are required to justify their applications with formal invitations to events arranged by individuals or organizations resident in the south. Applicants are sometimes not given a reply until the last minute, and many are refused. Those who are denied permission are rarely given an official reason, but the basis for most denials is clearly political. Turkish Cypriot authorities sometimes cite developments in the U.N.-led negotiations, which they view as unfavorable, as reason enough to discourage bicommunal contacts. One well-known Turkish Cypriot dissident, Dr. Ahmet Cavit, has been consistently denied permission to travel into the south, despite multiple applications, because of his outspoken criticism of the ruling regime. "TRNC" civil servants periodically face a blanket prohibition against traveling from the "TRNC" into the south, or even into the U.N.-patrolled buffer zone.

The applications of Greek Cypriot residents of enclaves in the north to visit the south are usually granted, but the applicants must return within a designated period or risk losing their right to return, as well as their property. Turkish Cypriot authorities usually deny applications byGreek Cypriots to visit relatives in the north. They also generally bar Greeks, Greek Cypriots, and even third-country nationals with Greek or Armenian surnames from entering the north.

The Government of Cyprus has barred travel to the north by foreigners intending to depart the island from theTurkish Cypriot area. At the same time, it bars entry into the Greek Cypriot area by foreigners who have entered Cyprus from the north.

The right to travel abroad and to emigrate is observed, although persons facing military service or legal action in either part of Cyprus may not travel without specific permission. Turkish Cypriots have difficulty traveling to most countries because travel documents issued by the "TRNC" authorities are not generally recognized.

The Government of Cyprus does not accept third-country refugees for resettlement in Cyprus on the grounds that it already has enough responsibilities in caring for those displaced after the 1974 Turkish intervention. All refugee and asylum claimants are referred to the United Nations High Commissioner for Refugees (UNHCR), who is expected to process their applications and ensure their departure from Cyprus. The Government has been cooperative in extending residency permission to those under consideration by the UNHCR and does not generally repatriate claimants to their home country. There has not been any resettlement of internal refugees, despite U.N. resolutions calling for such resettlement.

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

Both the Government of Cyprus and the Turkish Cypriot administration have lively multiparty political systems. Political parties compete for popular support actively and without restriction. Suffrage is universal, and elections are held by secret ballot. Elections for the office of President of the Republic of Cyprus are held every 5 years and for the House of Representatives every 5 years or less.

The Turkish Cypriots elect a leader and a representative body every 5 years or less. The Turkish Cypriot voters went to the polls on December 12 in an early election that brought opposition party representatives back into the "assembly" and resulted in a new coalition "government." The opposition parties had been boycotting the "assembly" since 1990 due to allegations that the previous election law was unfair and that Turkey had intervened in the campaign. Greek Cypriots and Maronites living in the north—the latter having chosen before independence in 1960 to be regarded as members of the Greek Cypriot community—are barred by law from participating in Turkish Cypriot elections but choose their own village officials. They are eligible to vote in Greek Cypriot elections but must travel to the south to exercise that right.

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

There are organizations in both parts of the island that consider themselves human rights groups but, with the exception of one new Greek Cypriot group, all appear to be primarily concerned with alleged violations of the rights of members of their community by the other community. The new group was established in response to increased allegations of police brutality.

There are no restrictions preventing the formation of human rights groups, and representatives of international human rights organizations have access throughout the island. Although it requests assistance from other governments in resolving missing persons cases dating back to the 1974 Turkish military intervention, the Government of Cyprus would not submit outstanding cases to the United Nations Committee on Missing Persons which meets in Cyprus. In November the Cyprus government agreed to begin submitting all of its remaining cases to the U.N. Committee on Missing Persons and to review the criteria for closing out these files.

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

Women.—Throughout Cyprus, women generally have the same legal status as men, although women's groups in the Turkish Cypriot community contend that the law regulating divorce discriminates against women. While legal provisions requiring equal pay for men and women performing the same job are effectively enforced, many women's rights advocates complain that women disproportionately fill lower paying jobs. Apparently most private employers successfully implemented a 1989 law requiring equality of pay between men and women working in the private sector by the October 1992 deadline.

The Center Against Family Violence, a private Greek Cypriot organization, reports a steady number of domestic abuse cases, primarily violence against women by their husbands. Women can and do pursue these cases in the courts: some 530 cases were prosecuted in 1992, according to the Center, which indicates the cases are treated seriously. Officials at the Center believe greater openness is shown by many women on this subject, which previously was considered taboo. The law commissioner has drafted new legislation providing harsher penalties for offenders, who would also be obliged to undergo psychiatric treatment. This legislation was approved in October by the Council of Ministers, which authorized the Minister of Justice to submit the bill to the House. There is no similar center in the Turkish Cyp-

riot community. The Turkish Cypriot authorities have not made pronouncements or taken specific actions on this issue.

Western European journalists, including a Belgian author and a British Broadcasting Corporation reporter, have labeled Cyprus a center for trafficking in female prostitutes, primarily from Eastern Europe, the Philippines, and Thailand. According to the accusations, which are credible, the women are lured to Cyprus by cabaret owners who promise them well-paying nightclub "artiste" jobs and then force them into prostitution either in Cyprus or in a third country. A loose coalition of women's groups has been investigating the issue, alongside a parliamentary inquiry. The Government established a fund to provide for the welfare of women trying to escape such servitude. Considerably fewer foreign "artistes" work in the Turkish Cypriot community, but similar allegations are heard privately that some of the women are mistreated and even forced to prostitute themselves.

Children.—Instances of child abuse are extremely rare in both communities. Within the context of total resources available to each community, spending on children's welfare is adequate.

National/Racial/Ethnic Minorities.—Both the Government of Cyprus and the Turkish Cypriot administration have constitutional or legal bars against discrimination. Food, shelter, education, and health care are available to members of both communities and the tiny Maronite, Armenian, and Latin minorities, regardless of race, religion, or ethnic background. Nevertheless, Greek Cypriots living in the north, predominantly in the Karpass area, continue to complain that they are unable to move about freely and are unable to change their housing at will. Some Turkish Cypriots living in the government-controlled area have claimed they are often harassed by the community, including by the police. According to some allegations, they are kept under surveillance and questioned closely about their movements.

People with Disabilities.—Physically or otherwise disabled individuals have no special protection against discrimination in private sector employment in Cyprus, and traditional attitudes are slow to change. In the government-controlled area, disabled persons applying for a public sector position are entitled to preference if they are deemed able to carry out the position requirements and if their qualifications equal those of other applicants. In theTurkish Cypriot community, regulations require businesses to employ 1 disabled person for every 25 positions they fill. Still, enforcement appears unreliable. Disabled persons do not appear to be discriminated against in education and the provision of state services. The Cyprus Government enacted legislation effective June 1 mandating that new public buildings provide access for the disabled; in August new regulations were implemented stipulating that any new hotel or tourist resort provide access points and necessary facilities for disabled persons. The Turkish Cypriot community so far has not enacted legislation or otherwise mandated provision of accessibility for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—All workers in Cyprus, except for members of the police and military forces, have the legal right to form and join trade unions of their own choosing without prior authorization. More than 90 percent of Greek Cypriot workers and 40 to 50 percent of Turkish Cypriot workers belong to independent trade unions. Union officials in the north, however, allege that the ruling party has tried to weaken public sector unions by supporting the establishment of rival unions; the union officials have taken their complaints to the International Labor Organization (ILO). The ILO has not given an official reply to these complaints, which are difficult to substantiate. In both communities, trade unions freely and regularly take stands on public policy issues affecting workers and maintain their independence from the Government, although most are closely aligned with political parties.

Cypriot workers have the right to strike. Several strikes occurred in 1993. Strikes usually are of short duration. Both the Government of Cyprus and the Turkish Cypriot authorities have the power to curtail strikes in what they deem to be "essential services."

Unions in both parts of Cyprus freely take part in international meetings. Most unions are affiliated either with the International Confederation of Free Trade Unions or with the formerly Soviet-controlled World Federation of Trade Unions. Labor unions, more than most other organizations in Cyprus, attempt to maintain contact and cooperation across the dividing line, but this remains limited, mostly by Turkish Cypriot authorities.

b. *The Right to Organize and Bargain Collectively.*—By law, trade unions and confederations are free to organize and to bargain collectively in both parts of Cyprus. This is observed in practice in the south, and most wages and benefits are set by freely negotiated collective agreements. In the north, wage levels in many sectors

are largely pegged to the annual change in the minimum wage, set by a special commission composed of five representatives each from organized labor, employers, and the authorities. Union leaders contend that private sector employers are able to discourage union activity because enforcement is weak and penalties for antiunion practices are minimal. In both the north and the south, parties to a dispute may request mediation by the authorities.

Small export processing zones exist in Larnaca port in the south and Famagusta in the north, but the laws governing working conditions and actual practice are uniform throughout the country.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited by law, and no instances of it were reported.

d. *Minimum Age for Employment of Children.*—The Government of Cyprus has set the minimum age for employment of children in an "industrial undertaking" at age 16. In the north, the age is 15. Government labor inspectors effectively enforce the law in both sectors.

e. *Acceptable Conditions of Work.*—The legislated minimum wage in the south is renewed every year and covers clerks, salespersons, nursery assistants, practical nurses, and hairdressers. It is not sufficient to provide an adequate living for a worker and family. All other occupations are covered under collective bargaining agreements between trade unions and employers within the same economic sector, and the minimum wages set in these agreements are significantly higher than the legislated minimum wage. The legislated minimum wage in the Turkish Cypriot area, while more broadly applicable and renewed annually after tripartite negotiations, would not be adequate to support a worker and family. Most workers earn more than the minimum wage.

The Government of Cyprus has set 40 hours as the standard workweek except for shop workers and drivers, whose legal workweek is 42 hours. In 1992, however, Greek Cypriot unions won concessions that will reduce the workweek by one-half hour per year until 1997 when a 38-hour workweek will be in place for most sectors of the economy. In the north, the standard workweek is 38 hours in the winter and 36 in the summer. Government labor inspectors effectively enforce these laws.

Although standards in both sectors are not equivalent to those in Western industrialized countries, occupational safety and health regulations are administered effectively. In both sectors, a factory inspector receives and processes complaints and inspects businesses in order to ensure that occupational safety laws are observed. Workers who file complaints are protected by law and the court system in the Greek Cypriot sector but not in the Turkish Cypriot sector. In both sectors, however, workers risk losing their jobs if they unilaterally remove themselves from a position which they believe endangers their health.

CZECH REPUBLIC

The Czech Republic came into existence on January 1, 1993, when the constituent republics of Czechoslovakia became independent following the dissolution of the Czech and Slovak Federal Republic. The victorious parties in the June 1992 Czechoslovak elections negotiated arrangements for the split during the latter half of 1992. The new Czech Constitution was ratified on December 16 of that year.

The Czech Republic is a parliamentary democracy. The coalition Government is led by the Civic Democratic Party, a conservative secular free market-oriented party whose leader, Prime Minister Vaclav Klaus, is the architect of the country's economic reform. The Czech Republic adopted the democratic civil structures created in the 3 years following the 1989 revolution in Czechoslovakia. Vaclav Havel, President of the Czech Republic, is an internationally recognized advocate of human rights and social justice.

The Ministry of the Interior oversees intelligence and police matters. The security structures are currently in flux, as the Government redefines the tasks and reduces the number (currently four) of intelligence agencies. Two of these agencies, the Intelligence Service of the General Staff and the Military Counterintelligence Service are integrated into the Ministry of Defense. The External Intelligence and Information Service is an integral part of the Ministry of the Interior. Parliament supervises the Internal Security and Information Service, which is independent of ministry control. During 1993, the press criticized this latter agency, casting doubts on the competence and loyalty of its leadership and focusing especially on purported organizational and managerial shortcomings.

Economic reforms continued to transform the Czech Republic in 1993, although the split from the Slovak Republic had a short-term negative effect, primarily in the

volume of trade. Privatization of small enterprises was completed, but some of the most difficult challenges in restructuring large industrial firms remained. By the end of 1993, the private sector contributed approximately 45 percent of gross domestic product, up from less than 5 percent in 1989. The Government followed firm macroeconomic policies, resulting in a stable currency and a budget surplus. During 1993, the economic decline that had been a result of the transformation to a market economy bottomed out, and analysts foresaw slow but steady growth with continued low unemployment in the years ahead.

A number of independent human rights monitoring groups, as well as the Government, conducted studies of human rights issues, including the situation of the Roma (Gypsy) minority. Human rights abuses identified by these institutions—as well as by the press—included discrimination against the Roma minority; perceived attacks on press freedom; and the continued presence in Czech law of screening requirements aimed at those accused of collaborating with the pre–1989 Communist regime. Questions about women's rights, including violence against women, are still relegated to the margins of social and political debate.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—No political or extrajudicial killings were known to have occurred.

b. *Disappearance.*—There were no reports of abductions, disappearances, secret arrests, or clandestine detentions.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There was no evidence of any such practices.

d. *Arbitrary Arrest, Detention, or Exile.*—The Czech Republic assumed Czechoslovak laws governing arrest and related rights. Courts issue arrest warrants. Persons may be held without charge for 24 hours, during which time the arrestee has the right to consult with counsel. There was no evidence of any incommunicado detention or protective detention. A person charged with a crime has the right to appear before a judge for arraignment. At arraignment, if charges are formalized, the judge determines whether custody is necessary pending trial. Pretrial custody may not exceed 1 year, and in such cases monthly appearances before a judge are required. Counsel and family visits are available. These guidelines are followed in practice. There is no exile in law or in practice.

e. *Denial of Fair Public Trial.*—The court system consists of district, regional, and high courts. A Supreme Court, the highest court of appeal, was established early in 1993. In addition, a Constitutional Court, which rules separately on the constitutionality of legislation, was created early in the year and began deliberations in December. Military courts, which have jurisdiction over police, intelligence, and military matters, were abolished at the end of 1993, and their functions were taken over by the civil courts.

The judiciary is impartial and independent. Justice Ministry officials and press observers noted that the shortage of qualified judges (a problem under the Czechoslovak Federation) is slowly being overcome.

Persons charged with criminal offenses are entitled to fair and open public trials. They have the right to be informed of the charges against them and of their legal rights, to retain and consult with counsel, and to present a defense. If a defendant cannot afford a lawyer, the State provides one. Defendants enjoy the presumption of innocence and have the right to refuse to testify against themselves. Defendants may appeal any judgments against them. These rights are observed in practice.

The Czech Republic adopted, with some modifications, the 1991 federal "lustration" law, and the Czech Parliament retained the commission created in 1992 to enforce its provisions. The law bars many former Communist party officials, members of the People's Militia, and secret police collaborators from holding a wide range of elective, nominative, and appointive offices, including appointive positions in state-owned companies, academe, and the media for a period of 5 years.

Late in 1992, the Czechoslovak Federal Constitutional Court eliminated the so-called Category C list (those listed as collaborators but who in fact may only have been intelligence targets). The Czech Republic accepted this federal ruling in 1993. Although the screening law is still on the books, it is rarely used. Many observers—including Communist party members and human rights monitors—consider the law a dead letter, though parliamentarians still claim that it can limit careers and affect the structure of public office. One Communist party official asserted that the most significant result of the screening legislation at present is that it hurts the international image of the Czech Republic.

The screening process was criticized because it was based on the records of the Communist secret police, records many suspected were incomplete or unreliable. There is no judicial mechanism for appeal of screening decisions, though the Interior Ministry retained an internal board of appeals to review those decisions. The screening law was criticized, both domestically and internationally (it was cited in reports by the Conference on Security and Cooperation in Europe (CSCE) and the Council of Europe) as a violation of human rights principles prohibiting discrimination in employment and condemning collective guilt. Foreign ministry officials claim that in 1993 both the CSCE and the Council of Europe informed them that neither organization viewed lustration as a serious human rights problem in the Czech Republic. Similarly, labor ministry officials note that in 1993 the International Labor Organization did not renew its previous criticism of lustration with the advent of the new Czech State.

In a July law, Parliament defined the pre-1989 Communist regime as criminal and expressly lifted the statute of limitations for crimes committed by the Communist Party of Czechoslovakia during its 40-year rule. The law was criticized by human rights activists for adopting the principle of collective guilt. In late November, Parliament passed a new Criminal Code containing provisions forbidding defamation of the State and the Presidency. The Constitutional Court in December upheld both these controversial laws. There were no known political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Electronic surveillance, the tapping of telephones, and interception of mail require a court order. The Government complied with this requirement. In September the press reported that listening devices had been found in the Justice Minister's office. There were no reports of arbitrary or unlawful interference with privacy.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Czech law provides for freedom of speech and press. Individuals may, and do, speak out on political and other issues and freely criticize the Government and public figures. A wide variety of newspapers, magazines, and journals continued to be published in 1993. As an illustration, Prague, with a population of 1.25 million, is home to at least a dozen dailies with national distribution, as well as a variety of entertainment and special interest newspapers. Some newspapers are associated with the interests of political parties, but even most of these were sufficiently independent to criticize their main ideological backer on occasion. The print media enjoyed the right to publish without censorship or fear of government persecution, though the ruling Civic Democratic Party in public statements often criticized what it called the immaturity and lack of ethical behavior among print journalists.

The electronic media are independent. Some television channels are privately owned. A parliamentary commission has broad oversight and power to approve or reject candidates for the independent Television and Radio Council. The Council has responsibility for policymaking in television and radio as well as granting licenses. Since January 1993, under the media law the Television and Radio Council granted 1 television license, more than 10 radio licenses, and over 30 television cable licenses.

The Civic Democratic Party was critical of the electronic media as well. In January party figures criticized a decision by the Television and Radio Council to award a broadcast license to the Cet-21 firm for a Czech television channel. Some Civic Democrats had apparently hoped another bidder would win the contract and protested the decision. This lack of distinction between public and private interest was apparent in the stated desire of Prime Minister Klaus to acquire a government station so that the Government "has enough space to explain to the people what it deems necessary to explain."

Despite criticism from the Prime Minister and members of his party, the media, both print and electronic, continued to express a wide variety of views on most topical issues. There was no official censorship.

Universities have the authority to decide their internal affairs, including pedagogic and academic orientation and internal structure. Academic freedom is provided for by law, though the same law forbids activities by established political parties at the university.

b. *Freedom of Peaceful Assembly and Association.*—Czech law provides for the right of persons to assemble peacefully. Permits for some public demonstrations are required by law but are rarely refused. Police generally do not interfere with spontaneous peaceful demonstrations for which organizers lack a permit. Such police behavior is perhaps due to sensitivity about the actions of police against peaceful assemblies in the not-too-distant Communist past.

The right of persons to associate freely and to form political parties and movements is also protected by law and respected in practice. Organizations, associations, foundations, and political parties are required to register with local officials or at the Interior Ministry, but there is no evidence that this registration is coercive. The Communist Party is represented in Parliament and in local government and continues to own considerable assets throughout the Republic.

c. *Freedom of Religion.*—The Czech Republic enjoys religious freedom. There is no official religion, and no religion is banned or discouraged by law. The Government has not yet resolved the problem of the restitution of church property, though the issue has been the subject of considerable debate inside the ruling coalition, which includes two Christian Democratic parties. Claims for the restitution of Jewish property are still outstanding as well, but a law has been drafted that would grant the Jewish community some property previously owned by Jews, not as a precedent for restitution, but as a gift from the State.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Czech Republic has no restrictions on domestic or foreign travel, emigration, and repatriation. Passports are readily available to all wishing to travel abroad. Czechs who emigrated during the period of Communist rule frequently return to visit, or even to settle, and are able to regain Czech citizenship if they wish, though to do so they must relinquish claim to any foreign citizenship. Citizenship is not revoked for political reasons. A few localities have issued ordinances requiring nonresidents to prove that they have a place to live, a job, and no criminal record. These ordinances, specifically aimed at minorities (Roma or Asian) in the towns of Jirkov, Dubi, and Brandys nad Labem, have received extensive press coverage and criticism from human rights groups (see Section 5).

Refugees and asylum seekers are treated according to international norms. With the exception of over 2,000 refugees from the former Yugoslavia, most migrants used the Czech Republic as a transit route toward the West. (The number of migrants crossing Czech territory en route to Germany peaked at midyear and fell drastically after the implementation of a new asylum law in Germany in July.) Those granted refugee status are given permission to reside in the Czech Republic for 5 years, followed by a formal review whereby they may obtain permanent residence. A lengthy procedure to apply for naturalization is also open to them. Nongovernmental organizations work closely with Interior Ministry officials to ease refugees' transition into Czech society. In practice, however, most potential refugees choose to apply for permanent settlement elsewhere.

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

Citizens of the Czech Republic have the right to change their government by democratic means. Citizens over the age of 18 are eligible to vote in republicwide and local elections. Voting is carried out by secret ballot. Opposition groups, including political parties, function openly and participate without hindrance in the political process.

The ruling four-party right-of-center coalition was formed in June 1992, at the time of the last election in Czechoslovakia. There are also a number of left-of-center opposition parties and one party of the radical right. The Czech Constitution mandates elections at least every 4 years to the Parliament, based on proportional representation within eight large electoral districts. There is a 5-percent threshold for parties to enter the Parliament. The Constitution also calls for an upper house of Parliament, the Senate, which in 1993 had yet to be constituted; the first senatorial election should take place in 1994, although legislation defining its procedures remains to be adopted. The President, who is elected by the Parliament, serves a 5-year term. The President has limited constitutional powers but may use a suspensive veto to return legislation to Parliament, which has the right to override the President's veto.

There are no restrictions, in law or in practice, on women's participation in politics. Women appear to participate less in the public sphere, both in the work force and in public office since the overthrow of the Communist regime. Relatively few women hold high public office in the Czech Republic, though women serve as mayors and parliamentary deputies.

The two significant minorities—Roma and Slovaks—are not represented as such in Czech politics. The government- sponsored Council on National Minorities, which has representatives from all minority groups, plans to release a comprehensive minority policy paper early in 1994. No minority leader holds significant elective office at the republic or local level. Slovaks, of whom there are an estimated 300,000, are primarily "Czechoslovaks" who elected to live in the Czech Republic after the split,

and who for the most part define their interests in the context of Czech politics, not along ethnic lines. Many serve in high positions in the civil service.

Not all the estimated 200,000 Roma have integrated into Czech society, and the party that represented their interests immediately following the demise of communism, the Roma Civic Initiative, is in disarray. Other local Roma political groupings have not gained republicwide prominence. The political culture of the Czech Republic generally defines Roma as outsiders, and the Roma themselves have been unable to unite behind a program or set of ideals that would allow them to represent their interests in the democratic structures of the country (see Section 5).

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

The Czech Republic encourages the activities of domestic and international human rights organizations. The Presidency of former dissident and human rights monitor Vaclav Havel serves as a powerful moral magnet for these groups, which work without government interference or difficulty. Czech officials generally cooperate with official and unofficial visits by foreign human rights monitors or human rights officials representing countries or multilateral organizations. A study of human rights in the Czech Republic by the CSCE concluded there were no significant violations of international human rights standards, and a Council of Europe report determined that there were no human rights obstacles to Czech admission to the Council.

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

The law provides for the equality of citizens and prohibits discrimination. Health care, education, retirement, and other social services generally are provided without regard to race, sex, religion, disability, or social status. In practice, Roma sometimes face discrimination in such areas as educational opportunity.

Women.—Women are equal under the law and receive pay equal to that of male colleagues for the same job, though the median wages for women in 1993 lagged significantly behind those of men. In the Czech economy, women appear to be concentrated in professions in which the median salary is generally low: medicine, teaching, white-collar clerical jobs. Women enjoy equal property, inheritance, and other legal rights with men. Public debate about violence towards women remains nearly nonexistent, despite the efforts of a handful of women's groups to bring this and other issues to the attention of the public. Police and human rights groups sometimes link violence toward women with economic hardship and excessive drinking but without any hard facts. Justice officials claim that laws against violence are effectively enforced, and human rights groups do not contradict them.

A more public issue—and one that has gained considerable attention in the press—is the growth of prostitution, which has become increasingly visible. For the most part, prostitutes are in business for themselves, but underground elements, often also involved in smuggling and petty crime, coerce some women into prostitution. The law does not explicitly protect prostitutes against trafficking and sexual exploitation.

Children.—Government expenditure on children's welfare is adequate. Children generally receive sufficient health care, compulsory education, and basic nutrition. Some Roma children do not receive these benefits, but this is less the result of government policy than of cultural differences and instances of social prejudice. Child abuse as a social problem began to receive attention in the press in 1993.

National/Racial/Ethnic Minorities.—By far the most significant minority in the Czech Republic is the Roma population, estimated at about 200,000. Roma live throughout the country but are concentrated in the industrial towns of northern Bohemia, where many of them were settled more than 40 years ago in the homes of Sudeten Germans transferred to the West. They suffer disproportionally from poverty, crime, and disease. Efforts by foundations and by persons in the education and health fields to improve their living conditions, especially the conditions of Roma children, have had only minimal impact. Efforts by local leaders to mobilize local Roma communities, especially in the north, generally have failed.

Roma suffer from serious popular prejudice in the Czech Republic. Roma leaders claim that Roma are discriminated against in employment, housing, and everyday life. A significant example was the passage late in 1992 of decrees in the town of Jirkov (northern Bohemia), which assessed fines against those who had not gained prior permission from the owner to live in an apartment and gave the town council the right to evict apartment occupants without a court order, if the council determined they were in violation of hygienic rules and local regulations. Furthermore, the decree required those who could not prove they belonged in a residence to leave

town. The town council openly admitted the ordinance was aimed at dealing with the overcrowding of apartments by Roma. The district prosecutor in the Jirkov area said that the ordinance violated Republic law and should be rescinded. They were in fact ruled invalid by the courts but not explicitly rescinded by the municipality. These decrees were followed later in the year by similar proclamations in the towns of Dubi and, closer to Prague, Brandys nad Labem. In Brandys, local officials told the press that the decrees were aimed at regulating the influx of Asian immigrants who illegally occupied local housing.

Another celebrated incident took place in March at the Miss Czech Republic beauty pageant, at which one aspirant for the crown described her goal as ridding her (North Bohemian) town of dark-skinned people. Such attitudes were encouraged by the rightwing SPR-RPC (Republican) Party, which offered an expensive sports car to the authorities of any city hall who rid their town of Roma. In some instances, fighting has occurred, and, in at least four cases, an ethnic Czech or Roma has been killed. Newspapers reports often link such violence with skinhead provocations. Such was certainly the case in incidents in Plzen and Pisek in the fall, in each of which a young Roma died as a result of skinhead violence. There are credible reports that police ignore or condone incidents of violence against the Roma, although the Government has denounced such violence.

Roma protest the Czech Republic's citizenship law, which prevents persons who have had a criminal conviction in the last 5 years from gaining citizenship. The central issue, as in most issues affecting Roma, is cultural: ethnic Czechs see 5 years as reasonable, Roma see it as punitive. Roma comprise a disproportionate percentage of those arrested, charged, and convicted of criminal offenses. Roma leaders protest that this provision of the law is designed to discriminate against Roma. The Czech Government in 1993 established a Commission on Minorities, which is widely regarded as ineffective in dealing with problems facing the Roma. The Government is not overtly anti-Roma, although domestic policies tend to neglect the seriousness of the Roma issue. In a well-known incident, one high official, Prosecutor General Jiri Setina, publicly criticized Roma. (Setina lost his job later in the year for reasons unrelated to his statements about the Roma.)

Religious Minorities.—The Jewish community in the Czech Republic numbers a few thousand. Legal charges of slander and infringement of the rights of others, brought against the editor of the openly anti-Semitic magazine Politika, which ceased publication late in 1992, are still pending in a local Moravian court. In November a Brno man was sentenced to prison for extortion and scaremongering for telephone threats against Jewish citizens and community buildings. There was little additional evidence of public anti-Semitism, and the leaders of the Jewish community enjoyed close relations with government officials and other political leaders.

People with Disabilities.—A heretofore generous government policy of support for the disabled is being reduced for financial reasons. Standards for receiving disability pensions are reportedly applied more strictly to Roma than to other citizens, though anecdotal evidence suggests that in the past a higher percentage of the Roma qualified for disability payments than of the population at large. The Government has not placed a high priority on the issue of ensuring access for the disabled, nor has discrimination against the disabled been the subject of significant policy or public debate.

Section 6. Worker Rights

a. *The Right of Association.*—The Czech Republic preserved legislation passed by the Czechoslovak Parliament between 1990 and 1992 guaranteeing workers the right to form and join unions of their own choosing without prior authorization. Trade union leaders protested a law drafted by the Government that would have forbidden civil service workers from joining unions, claiming that such a law violated not only International Labor Organization (ILO) statutes but the Czech Constitution as well. At year's end, the draft law had not yet been debated in Parliament. More than 60 percent of the work force is unionized, though the number of workers who are members of labor organizations continued to fall steadily.

Most workers are members of unions affiliated with the Czech-Moravian Chamber of Trade Unions (CMKOS), which took over the central union role held by the Czech and Slovak Confederation of Trade Unions (CSKOS) following the dissolution of the federation. CMKOS is a democratically oriented, republicwide umbrella organization for unions not affiliated with political parties.

CSKOS continued to represent some elements of Czech (and Slovak) trade union interests, especially in contacts with international organizations, until it was disbanded in November. Some small independent trade unions outside of CMKOS also exist, including one principally led by former Communist trade union officials and one based on Christian union principles.

Workers have the right to strike, except for those in specific professions whose role in public order or public safety is deemed crucial: judges, prosecutors, members of the armed forces and the police, air traffic controllers, nuclear power station workers, workers with nuclear materials, and oil or gas pipeline workers. The law also places some limitation on the right to strike of firefighting and rescue workers, telecommunications workers, and health workers. The law requires that labor disputes be subject first to mediation and that strikes take place only after mediation efforts fail. Strikes were almost unheard of in 1993. In one instance, CSKOS and CMKOS leaders alleged that the Government sought to intimidate subway workers who threatened to strike by publishing their names in the press. The issues over which the strike was to occur were settled before it could take place. Railway workers threatened a major strike in December over government rollbacks of traditional union benefits. The strike was averted at the last minute by the Government's decision to negotiate about these benefits.

Czech unions are free to form or join federations and confederations and affiliate with and participate in international bodies. This freedom was fully exercised. The International Labor Organization's complaint against the Czechoslovak Federation—that the lustration law (which prevents former leaders of the Communist regime from holding high public office) represented an instance of employment discrimination—was dropped in 1993 with the accession of the Czech Republic to the ILO, according to Labor Ministry officials.

b. *The Right to Organize and Bargain Collectively.*—The law guarantees collective bargaining. The basic collective bargaining instrument in the Czech Republic is the law on collective bargaining. It is carried out in the tripartite system, a voluntary arrangement in which representatives of unions, government, and employers set the parameters of labor relations. At various times throughout the year, CMKOS pointed to what it saw as Government violations of tripartite agreements. Union and Government leaders generally settled such disagreements by negotiation. Wages are set by free negotiation, though an upper limit was established by law in July, much to the consternation of some union leaders. Charges of antiunion discrimination may be filed in court. Labor Ministry officials were unable to say if court proceedings had led to reinstatement or other actions.

The Czech Republic has one export processing zone. Its workers have and practice the same right to organize and bargain collectively as other workers in the country.

c. *Prohibition of Forced or Compulsory Labor.*—Legislation inherited from the federation, which enshrined elements of international human rights agreements, prohibited forced or compulsory labor. There was no evidence that such practices occurred.

d. *Minimum Age for Employment of Children.*—The Labor Code stipulates that children must be 15 years of age before they may work in the Czech Republic. Those who have completed courses at special schools (that is, schools for the severely disabled) may work at the age of 14.

e. *Acceptable Conditions of Work.*—The Government sets minimum wage standards. The established minimum wage provides an adequate standard of living for an individual worker and, when combined with allowances available to families with children, provides an adequate standard of living for a worker and a family. The minimum wage is roughly equal to $75 per month (thus around one-third of the average monthly wage of $220). Major efforts at retraining, also carried out by district labor offices, seek to provide labor mobility for those at the lower end of the wage scale. Because positive trends in the economy in 1993 led to a tight job market, the enforcement of minimum wage standards was rarely an issue.

The law mandates a standard workweek of 42½ hours. It also requires paid rest of at least 30 minutes during the standard 8- to 8½-hour workday, as well as annual leave of 3 to 4 weeks. Overtime may not exceed 150 hours per year or 8 hours per week as standard practice. The Labor Ministry, responsible for enforcement of overtime regulations, said the phenomenal growth of the private sector, especially in small service enterprises, made it very difficult to assess overtime abuses.

Government, unions, and employers have agreed to advance worker safety and health, but conditions in some sectors of heavy industry remained substandard, especially in those sectors awaiting the process of privatization. Industrial accident rates are not unusually high. In contrast, the incidence of long-term health problems in areas suffering from heavy industrial pollution is, in fact, unusually high by international standards. The Office of Labor Safety is responsible for enforcement of health and safety standards.

DENMARK

Denmark is a constitutional monarchy with a tradition of democratic parliamentary rule. Queen Margrethe II is Head of State. The Cabinet, accountable to the unicameral Folketing (parliament), leads the Government. A majority coalition led by Prime Minister Poul Nyrup Rasmussen took office in January 1993.

Denmark has a unified national police. Its higher ranks are often filled with lawyers on internal rotation from the civil service. It is fully controlled by and responsible to civilian authorities. Personal freedoms and the right to pursue private interests and to hold private property are protected by law and respected in practice.

An advanced industrial state, Denmark has an economy with limited public ownership, except in utilities and public transportation. The Government continues to seek ways to reduce the public sector's share of the economy. In 1993, for example, the Government sold 51 percent of the Giro Bank, Denmark's fifth largest bank, and also privatized parts of the Copenhagen regional bus system.

Deeply rooted democratic principles, an egalitarian tradition, a lively press, and highly developed educational and social welfare systems have made Denmark a leading defender of human rights domestically and in the world. Anyone may protest to the Ombudsman, established by the Folketing as mandated by the Constitution, if he or she feels wrongly treated by any national authority.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Such killings did not occur.

b. *Disappearance.*—There were no abductions or disappearances.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Such practices are prohibited by law. Torture does not occur. Allegations of inhuman treatment are rare, and there are legal means of redress if it occurs. Two cases alleging excessive use of police force against two African tourists were investigated; the result was a 1992 finding by a judicial inquiry that the force used was excessive, but that it was the result of individual action of one officer, not the result of government policy. While the Danish Government considers the case closed, it resurfaced in the Danish press in 1993, as some, including Amnesty International (AI), were unhappy with the result. AI expressed concern that the report of the inquiry had not accepted that force used against a detainee can qualify as cruel, inhuman, or degrading punishment, whether or not that treatment is deliberate or intended to frighten or coerce the detainee.

An innovative center for torture victims (from abroad) at a Copenhagen hospital, supported by the Foreign Ministry, treats patients, assists torture victims, and studies ways to counter the use of torture worldwide.

d. *Arbitrary Arrest, Detention, or Exile.*—No person may be deprived of personal liberty without due process of law. Those arrested must appear before a judge within 24 hours. A judge may order that they be held in pretrial detention, including detention in isolation, for a period up to the length of the prison sentence for the crime for which they were arrested. All accused have the right to obtain their own attorney or a public attorney. Bail is allowed. There is no exile.

e. *Denial of Fair Public Trial.*—The Danish judicial system consists of a series of local and regional courts, and the Supreme Court at the apex. Trials are usually public; however, judges may make exceptions, e.g., in paternity and divorce cases. In criminal cases, trials are closed when necessary to protect a victim's privacy, such as in rape cases, or to safeguard a witness' identity.

The rights of the accused are carefully protected. Defendants have the right to be present, to confront witnesses, and to present evidence. They are presumed innocent until proven guilty. Both the defendant and the prosecution may appeal a sentence. The judiciary is fully independent. Judges appointed by the Minister of Justice serve until age 70. They may not be dismissed but may be impeached for negligence or criminal acts. There are no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The constitutional prohibition against searching homes, seizing papers, and breaching the secrecy of communications without a court order is respected.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—An independent press, an effective judiciary, and a democratic political system ensure freedom of speech and press. There is one large state-owned radio and television company. Editorial control is exercised by a board independent of the Government. A second national television channel is one-third government subsidized. In both cases, management decides programming con-

tent, but operational decisions are restricted by the television-radio law, which limits, for example, broadcast time reserved for commercials. Programs critical of the Government appear on both channels. Cable television and satellite dishes, which are now common, have greatly increased access to foreign news broadcasts.

Private stations are restricted to transmitters of 10 watts for radio or 100 watts for television. Direct relay transmission of foreign radio broadcasts is prohibited, although they may be carried on the cable net. Publications, including books and newspapers, reflect a wide variety of political opinion. Academic freedom is respected.

b. *Freedom of Peaceful Assembly and Association.*—Danes may freely assemble and form associations. Public meetings require permits, which are routinely given. Any organization may affiliate with international bodies in its field.

c. *Freedom of Religion.*—The Constitution provides for religious freedom. The Evangelical Lutheran Church is the state church and is state supported. There is religious instruction in the schools in the state religion, but any student may without sanction be excused from religion classes with parental permission. No religion is banned or discouraged and conversion is unrestricted. No one may be discriminated against for one's religious beliefs.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Danes have full freedom of travel and movement. People determined to be refugees are never repatriated against their will. However, there is a growing popular desire to repatriate those who have been unsuccessful in establishing a legitimate claim to political asylum. A 1991 decision by the Folketing made clear that, following due process, those denied asylum would be returned to their homelands. Meanwhile, asylum seekers who arrive in Denmark via another safe country are returned directly to that country, pursuant to the Dublin Convention.

A large influx of asylum seekers from the former Yugoslavia began in September 1992 and continued in 1993. Denmark's financial and logistical resources were stretched to help absorb the new arrivals. In 1992, 14,000 new asylum seekers entered Denmark. This was more than three times as many as came in 1991, and significantly more than came in the previous record years of the mid-1980's (the era of the Iran-Iraq war). In 1993 more than 15,000 asylum seekers arrived in Denmark, more than 10,000 of whom came from the former Yugoslavia. As a result of this influx, the Government modified the country's liberal asylum rules effective October 10, 1992, and again on June 24, 1993. The first change revamped asylum claims processing to make it easier to determine a case to be "obviously groundless." The latter change imposed a requirement that would-be asylum seekers from the former Yugoslavia had to be prescreened by Danish authorities resident in Zagreb. The United Nations High Commissioner for Refugees in the former Yugoslavia can also refer needy cases to the Danish refugee adjudication center in Zagreb. These changes permitted Denmark to control the inflow of asylum seekers from the former Yugoslavia in order to select refugees from the most troubled areas. After a slow startup and initial criticism from the Human Rights Center, the program has met with broad support in Denmark.

The Government of Prime Minister Poul Schlueter fell in January as a result of the "Tamilgate" scandal. An investigation led by an independent prosecutor concluded that Schlueter knew of the illegal activities of a justice minister who had ordered his ministry to slow its processing of family reunification petitions from Tamil refugees living in Denmark, with a view to pressuring the Tamils to return home. Although the investigation's conclusions were contested and denied, including by Schlueter himself (who nevertheless announced his intention to resign the day the report was released), the scandal indicated that there was at least some high-level tolerance of, if not active support for, actions to limit the number of refugees in Denmark. This scandal led to the first impeachment in 83 years by the Folketing. The case is now before a special court for trials of cabinet ministers.

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

Danes have the right to change their government peacefully. Ministers are responsible to the Folketing and may be removed by a vote of no confidence. The Prime Minister is appointed by the Queen after consultation with parties in the Folketing. Parliamentary elections must take place every 4 years or earlier by decision of the Prime Minister.

The Folketing's 179 members are chosen in free and open elections under a complex system of proportional representation designed to help small parties and to reflect the popular vote. Twelve parties ran in the 1990 election; eight, with a wide range of political views, achieved the minimum 2 percent of the vote needed to obtain seats. The current Government is a four-party majority coalition. Danes 18

years of age or over may vote. Foreigners who are permanent residents may both vote and run in local elections; such persons hold 13 city council seats nationwide. There are no restrictions, in law or in practice, on the participation of women in government or politics. Women head 7 ministries in the new Government, compared to 4 under the former Government, and hold 59 seats in the Parliament.

The territories of Greenland (which has a primarily Inuit population) and the Faroe Islands (whose inhabitants have their own language) have democratically elected home rule governments with broad powers encompassing all but foreign and security affairs. Greenlanders and Faroese are Danish citizens and enjoy the same human rights as people in the rest of Denmark. Each territory elects two representatives to the Folketing.

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

Domestic human rights organizations operate freely. The Danish Center for Human Rights, a government-funded institution, conducts research and provides information on human rights. Denmark is party to various international human rights conventions that promote and protect human rights.

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

The extensive state welfare system ensures that every member of Danish society regardless of race, religion, sex, age, disability, or ethnic background is provided with food, shelter, health care, education, and training. The rights of indigenous people are carefully protected. Discrimination based on sexual orientation is prohibited.

Women.—Denmark places no restrictions on the participation of women in the civilian work force. Women hold positions of authority throughout society, including in politics, though they are less well represented at the top of the business world. Some 75 percent of all women between the ages of 16 and 66 belong to the work force; 46 percent of the work force is female, while 23 percent of all supervisors are women. Wage inequality exists, but wages are generally high for both men and women. Denmark has laws that guarantee equal pay for equal work and that prohibit job discrimination on the basis of sex. Women have and use the legal recourses available to them when they feel discriminated against.

Danish authorities do not tolerate, in law or in practice, violence or abuse against women or children. Crimes against women and children are considered serious; cases are investigated promptly by the State, and appropriate action is taken swiftly. However, according to the Danish National Institute of Social Research, less than 10 percent of cases involving domestic violence are reported. Denmark has no specific programs for the prevention of rape and domestic violence, although the Council for Prevention of Crime publishes a pamphlet entitled "Rape Can Be Prevented." There are 34 crisis centers for counseling and housing victims (plus a number of counseling centers without overnight facilities) which are supported by local governments, volunteer workers, and donations. In addition, Denmark has centers for abused men, women, and families.

Children.—Children in Denmark are protected by law; parents are required to protect children from physical and psychological abuse. The authorities act quickly to protect children from actually or potentially abusive or neglectful parents. Parents, regardless of income, receive the equivalent of about $1,300 per year for each child younger than 7 years old and about $1,000 per year for children from 7 to 17 years old. At least 20 percent of the total Danish social welfare budget is allocated to children and youths younger than 18 years.

Indigenous People.—The rights of the people in Greenland and the Faroe Islands are fully protected. Greenlandic law is specially designed for Inuit customs. It provides for the use of lay people, rather than experts, as judges. Most prisoners are sent to holding centers—rather than prisons—where they are encouraged to work, hunt, or fish during the day. The Greenlandic Government again in 1993 rejected suggestions that the treatment of criminals be made more severe. This rejection was based partly on the experience of Greenlandic prisoners in Danish jails (they have a very difficult time adapting to confinement) and partly on the expense of building a prison. In Greenland, education is provided to the native population in the Inuit language.

National/Racial/Ethnic Minorities.—The inflow of ethnically and racially diverse refugees and immigrants (mostly Iranians, Palestinians, and Sri Lankans, but since late 1992, overwhelmingly former Yugoslavs) has provoked a degree of tension between Danes and immigrants. Incidents of random, racially motivated violence do

occur, but are rare. The Government effectively investigates and deals with all cases of racially motivated violence.

Overtly racist or neo-Nazi groups are few and small in size, and monitored closely by police. Swastikas and antiforeigner graffiti do exist in certain areas. Violent acts against refugees are rare. A woman active on behalf of refugees was beaten in Copenhagen, and two Albanian asylum seekers were attacked by three young Danish men. The case against the woman's assailant remains unresolved, but in the other case, the three men were prosecuted. Several politicians who have openly called for greater tolerance towards refugees have received hate mail and telephone calls. The former Turkish-born deputy mayor of Farum, the first immigrant ever to be elected to so high a post in Denmark, received telephone threats within the first week of taking office. The authorities investigated the threats, but did not find those responsible for the calls.

Refugees and asylum seekers can apply for Danish citizenship upon completing 6 years' residence and passing a language examination. Foreign-born, non-Nordic Danish citizens and legal permanent residents, however, suffer from significantly higher unemployment rates than Nordic residents and citizens. Some naturalized citizens have complained of job discrimination on the basis of race but have so far been unable to prove that they were discriminated against. Legislation prohibits job discrimination on the basis of race and provides for legal remedies.

In 1991 the Supreme Court rejected discriminatory racial and ethnic quotas in public housing which had been imposed by some towns to limit the number of immigrants who can live in a building. As a result, the quota system was dropped. Proponents claimed such limitation prevented ghettos. In 1993 about 5 municipalities refused to accept their share of the recent arrivals, despite rules and directives that they do so, because they objected to the cost and did not want the ethnic mix of the communities to be upset. The Government responded by forcing the municipalities to accept the refugees. In one case, the dissenting city councilors were found in contempt, and fines were imposed. The fines were never collected as the city council eventually accepted the Government's position and took the refugees.

People with Disabilities.—The extensive social safety net ensures that the special needs of the disabled are addressed. Danish building regulations provide for special installations for the handicapped in public buildings built or renovated after 1977. Older buildings which change the nature of their use also must meet the regulations for public access. The code calls for easy access for the handicapped, defined as level-free access to the ground floor and at least one restroom equipped for use by the handicapped. The Danish Act on Social Welfare includes the provision of financial assistance for the alteration of private dwellings to accommodate the special needs of those in wheelchairs or needing other special equipment and for assistance in purchasing vehicles with special accessories for the disabled. The Center for Equal Treatment of the Handicapped was launched in August 1993. The Center is a consultative body that assists communities and individuals to ensure that existing regulations concerning the handicapped are followed. There is no Danish antidiscrimination legislation in connection with equal employment for the handicapped. However, a written rule on hiring in the civil service states that preference should be given to the handicapped individual when other factors are the same.

Section 6. Worker Rights

a. *The Right of Association.*—The law states that all workers, including military personnel and the police, may form or join unions of their choosing. Approximately 80 percent of Danish wage earners belong to unions, which are independent of the Government and political parties. The Danish Confederation of Trade Unions (LO), which includes about half of the country's work force, remains closely associated with the Social Democratic Party. Over the years (but not in 1993) there have been a few—but widely reported—incidents in which workers who joined trade unions not affiliated with the LO were harassed or rejected by members of the mainstream unions in the workplace. All but civil servants and the military have the right to strike. The number of days not worked due to labor conflicts in 1992 was 62,800 (down from 101,000 in 1991). Unions may affiliate freely with international organizations and do so actively. Worker rights, including full freedom of association, have the same respect in Greenland and the Faroe Islands as in the rest of Denmark.

b. *The Right to Organize and Bargain Collectively.*—Workers and employers acknowledge each other's right to organize. Collective bargaining is widespread. The law prohibits antiunion discrimination by employers against union members and organizers, and there are mechanisms to resolve disputes. Employers found guilty of antiunion discrimination are required to reinstate workers fired for union activities. In the private sector, salaries, benefits, and working conditions are agreed upon in biennial negotiations between the various employers' associations and the union

counterparts. In the event of a stalemate, the Confederation of Danish Employers' Associations and the LO conduct these negotiations. If the negotiations fail, a national conciliation board mediates, and its proposal is voted on by management and labor. If the proposal is turned down, the Government may force a legislated solution on the parties (usually based upon the mediators' proposal). The agreements, in turn, are used as guidelines by the rest of the labor market, including the public sector. Collective bargaining in the public sector is conducted between the public sector employees' unions and government representatives, led by the Finance Ministry.

Labor relations in Greenland are conducted in the same manner as in Denmark. Working conditions are negotiated through collective bargaining, usually led by the largest Greenlandic union, SIK, which has about 8,000 members, about one-half of the indigenous work force. In disputes, Greenlandic courts are the first recourse, but Danish mediation services or the Danish Labor Court may also be used.

In the Faroes, there are unions but no umbrella labor organization. Labor relations in principle are a matter between management and labor. Between them, they decide on salaries, wages, and terms of employment. Should the parties not be able to reach an agreement, a mediator is called in to resolve the dispute. Faroese legislation regulates conditions of apprenticeship, cost-of-living adjustments to negotiated wages, minimum wages in the fisheries sector, length of the workweek, and annual vacations.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited and does not exist.

d. *Minimum Age for Employment of Children.*—The minimum age for full-time employment is 15. The law prescribes specific limitations on the employment of those between 15 and 18 years of age, and it is enforced by the Agency for Supervision of Labor Standards, an autonomous arm of the Ministry of Labor.

e. *Acceptable Conditions of Work.*—There is no legally mandated national minimum wage, but the lowest wage in any national labor agreement is sufficient for a decent standard of living for a worker and family. The law provides for 5 weeks of paid vacation, and a 37-hour workweek is generally observed. The law prescribes conditions of work, including safety and health; duties of employers, supervisors, and employees; work performance; rest periods and days off; and medical examinations. The Labor Inspection Service ensures compliance with labor legislation. Workers may remove themselves from hazardous situations without jeopardizing their employment, and there are legal protections for workers who file complaints about unsafe or unhealthy conditions.

Similar conditions of work are found in Greenland and the Faroes, except that their workweek is 40 hours. Unemployment benefits in Greenland are either contained in labor contract agreements or come from the general social security system. A general unemployment insurance system in the Faroe Islands was established in August 1992, replacing former unemployment compensation covered by the social security system. Sick pay and maternity pay, as in Denmark, fall under the social security system.

ESTONIA

Estonia is a parliamentary democracy that regained its independence in 1991 after more than 50 years of Soviet occupation. The Constitution, adopted by referendum on June 28, 1992, established a 101-member unicameral legislature (State Assembly), a Prime Minister as Head of Government, and a President as Head of State. Free and fair elections were held in 1992 for the State Assembly and the President.

Estonia maintained that all Russian and Commonwealth of Independent States military forces should have left the country by the end of 1993. Estonia and the Russian Federation negotiated on this issue during 1993 but had not reached agreement on a timetable for the withdrawal of these troops by year's end. While the official conversion of the Soviet militia into the Estonian police preceded the reestablishment of the country's independence by about 6 months, its conversion into a Western-type police force committed in word and deed to procedures and safeguards appropriate to a democratic society is proceeding very slowly. Allegations of excessive use of police force are primarily handled administratively and, when brought to their attention, investigated by the Human Rights Institute.

Estonia is substantially transforming the centrally planned economy it inherited into a market-oriented system. Small and medium-scale privatization is moving to-

ward completion; large-scale privatization began in 1993. The collapse of the trading network that existed in the Soviet Union necessitated finding new sources of fuel and new markets. Approximately two-thirds of exports are now directed to Western markets. There has also been rising unemployment—a matter of concern to employees of state-owned enterprises and to the ethnic Russian community—although overall the level has remained manageable.

The treatment of the substantial ethnic Russian community continued to be a major issue both domestically and in bilateral relations with Russia. Parliament's passage in June of an Alien Registration Law, officially designating all noncitizens—about 500,000 mostly Russian speakers—as aliens, led to renewed criticism from the Russian Federation. It again accused Estonia of "ethnic cleansing" and massive violations of the human rights of the Russian-speaking population (about 38 percent of the total), primarily because they were not automatically granted Estonian citizenship.

The Council of Europe (CE) and the High Commissioner on National Minorities of the Conference on Security and Cooperation in Europe (CSCE) commented on the law, suggesting a number of changes. Parliament adopted almost all of these proposed amendments, thereby substantially improving the original version. While welcoming approval of the amendments, the High Commissioner noted that many difficult problems remained to be solved. A local government election law, permitting noncitizens to vote but not to run for office (see Section 3), proved controversial, as did questions about the implementation of the law on language (see Sections 3 and 5). In answer to the need for increased dialog with the Russian-speaking community, the President organized a roundtable composed of representatives of the Union of Estonian Nationalities, political parties, and the Representative Assembly elected by the Russian-speaking community. At the beginning of 1993, a CSCE long-term mission began operations in Estonia and has been carrying out successfully its mandate of promoting stability, dialog, and understanding between the communities in Estonia.

Another area of concern involved the physical and psychological abuse of prisoners—a set of conditions remaining from the era of Soviet rule that the Government has been slow to rectify.

In May Estonia was admitted to full membership in the Council of Europe.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no known instances of such killing in 1993. There were, however, reports of the death of persons in custody from the use of force by other prisoners.

b. *Disappearance.*—There were no known instances of abductions or disappearances.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Such practices are prohibited by law, but the harsh treatment of prisoners, physical and psychological abuse, overcrowding, and detention under extremely unhealthful conditions that were the rule during the Soviet period continued. There have been unsubstantiated reports of excessive use of force and police brutality during the arrest and questioning of suspects. The conditions of severe overcrowding and idleness, particularly at the Tallinn pretrial detention prison built in 1765, did not change. A Danish Helsinki Watch report issued in early 1993 strongly criticized prison conditions, as well as the severity of sentences received by young offenders. In August jurisdiction over the prison system was transferred to the Ministry of Justice from the Ministry of Internal Affairs. At the request of the Ministry of Justice, CE experts studied Estonian prison conditions in September in order to make recommendations on steps to bring them into accord with CE standards.

At the end of November, the Estonian police were criticized by several parliamentarians and the media for public endangerment and excessive use of force during and after the arrest of the leader of a voluntary paramilitary unit alleged to have information about a businessman missing since September. An official government commission was established to investigate the incident.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution and laws forbid arbitrary arrest, detention, or exile. There were no known instances of Estonian authorities' engaging in such activities. Under the Constitution, warrants issued by a court are required to make arrests. Detainees must be informed promptly of the grounds for the arrest and given immediate access to legal counsel. If a person cannot afford counsel, the State will provide one. A person may be held for 48 hours without formally being charged; further detention requires a court order. A person may be held in pretrial detention for 2 months; this may be extended up to a total of 9 months

by a court order. Police on rare occasions violate these limits. Pretrial detainees account for about 20 percent of the total prison population.

e. *Denial of Fair Public Trial.*—The Constitution establishes a three-tiered court system for the independent judiciary: rural and city courts, district courts, and the state court. The district and state courts are also courts for "constitutional supervision." At the rural and city level, court decisions are based on majority rule, with a judge and two lay judges sitting in judgment. The judicial reform law went into effect on January 1, 1993, but implementation was delayed until September 15 because of the difficulty in filling vacant judgeships.

The Constitution provides that court hearings shall be public but may be closed by the court for specific reasons, such as protection of state or business secrets or of the interests of juveniles. It further provides that defendants may present witnesses and evidence as well as confront and cross-examine government witnesses. Defendants have access to government evidence and enjoy a presumption of innocence.

Estonia continued to overhaul its criminal and civil procedural codes. An interim criminal code that went into effect in June 1992 basically revised the Soviet criminal code, eliminating, for example, political and economic crimes. New draft codes were not completed before the end of 1993.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Estonian law requires a search warrant for search and seizure of property. During the investigative stage, warrants are issued by the procurator upon a showing of probable cause. Once a case has gone to court, warrants are issued by the court. The Constitution guarantees secrecy of the mail, telegrams, telephones, and other means of communication. Police must obtain a court order to intercept a person's communications, and illegally obtained evidence is not admissible in court.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Constitutional guarantees of freedom of speech and press are generally respected, but the media are relatively restrained in practice. While the press and broadcast media criticize the Government, they rarely single out individual officials because of harsh libel laws that put the burden of proof on the media. There is no evidence of punishment or threat of punishment for expressing antigovernment sentiment.

The most widely read papers are Rahva Haal, Postimees, and Molodyozh Estonii. Foreign newspapers and magazines are readily available but are very expensive for most people. The Government still provides most newsprint and printing and distribution facilities. There is no indication that it used this control to influence the print media, although there may be an inherent risk of a chilling effect. The Government is trying to privatize the last remaining government-owned papers. There are two major national Russian-language dailies, Molodyozh Estonii and Estoniya, in addition to several local Russian-language newspapers in northeast and southeast Estonia. The two major dailies receive the same indirect government support that major Estonian language dailies receive: below-market rent on a government-owned press building and cheap printing through a government-controlled printing company.

State broadcast media continue to receive large subsidies, but there are several independent television and radio stations throughout the country. There is one nationwide state television channel. The state television company has reduced its funding of the retransmission of Russian-language channels from Moscow from three to one. There is a state-funded Russian language radio channel on AM, FM, and Russian bands, as well as an independent Russian-language FM station in Tallinn which reaches an estimated 100,000 listeners. No decision on the ultimate fate of the state-funded Russian channel had been made by year's end.

There is complete academic freedom in Estonia. Research is conducted in Estonian, Russian, English, and German. Advanced degree study is almost always in Estonian.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right to assemble freely. Noncitizens are prohibited by the Constitution from joining political parties but may form social groups. Permits for all public gatherings must be obtained 3 weeks prior to the date of the gathering. The authorities have wide discretion to prohibit such gatherings on public safety grounds but seldom exercise it. Numerous mass gatherings and political rallies took place peacefully in 1993 without government interference.

c. *Freedom of Religion.*—Freedom of conscience and of religious proselytism is provided for by law and honored in practice. There were no known instances of discrimination based on religious belief. There is no state church.

In May Parliament passed the Law on Churches and Religious Organizations which requires all religious organizations to have at least 12 members and register with the Interior Ministry and the Board of Religion. Leaders of religious organizations must be Estonian citizens with at least 5 years' residence in Estonia, but this requirement has not led to any complaints.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law permits free movement within the country, and it is honored in practice. It also guarantees the right of foreign travel, emigration, and repatriation for Estonian citizens.

In July Parliament adopted an Alien Registration Law that defines the status of aliens. It provides for the registration of aliens who came to reside in Estonia under Soviet rule and the phasing out of Soviet external and internal passports over a 2-year period. Retired career military officers can obtain residence permits provided they were born prior to January 1, 1930, or their spouses or minor children are Estonian citizens residing in Estonia who are in possession of a permanent residence permit or whose sojourn in Estonia is deemed necessary for the State. The Government maintains, however, that applicants do not have to prove that they cannot obtain Russian citizenship in order to receive aliens' passports. Six retired officers of the Soviet Committee for State Security (KGB) and the State Military Administration (GRU) reportedly faced deportation at the end of 1993 when their residence permits were not extended by a district administrator in Viljandi. They were issued temporary 6-month residence permits on the understanding that they would depart Estonia in the spring of 1993. By the end of 1993, they were still in Estonia, although their status continued to remain unclear.

No restrictions are placed on the right of resident aliens to foreign travel, emigration, or repatriation, and they face no difficulties in returning to Estonia after a trip abroad. Noncitizens, however, may have difficulty in acquiring the necessary documentation to travel abroad. The Russian Government no longer supplies blank ordinary foreign passports of the former Soviet Union to enable the Estonian Government to issue non-Estonian citizens travel documents. Due to their short supply, passports of this type are issued only to those departing Estonia permanently. Ordinary Soviet foreign passports are valid for non-Estonian citizens to return to Estonia only if they bear a stamp from the Citizenship Department, indicating that the holder is authorized to return to the Republic of Estonia until July 12, 1995, or until the expiration date of the residence permit. By July 1995, all resident aliens must possess either passports issued by their country of citizenship or aliens' passports issued by the Estonian Government into which their residence and work permits will be placed. The Government expects to issue aliens' passports in the first half of 1994 to noncitizens resident in Estonia who cannot obtain a passport from their country of citizenship, as well as to stateless people.

Claiming lack of resources, the Government does not accord refugee status or asylum, but there were no reports of any persons seeking asylum in Estonia.

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

Citizens have the right to change their government. In September 1992, they elected their first post-Soviet Parliament in accordance with the Constitution adopted by referendum in June 1992. The 101-member Parliament (Riigikogu or State Assembly), elected by secret ballot in multiparty elections, confirmed the Prime Minister, who put together a coalition Government based on a slim parliamentary majority. The next regular parliamentary elections are scheduled for March 1995.

The Law on Local Elections, passed on May 19, permits noncitizens to vote in local elections but not to run for office. Noncitizen officeholders were not allowed to seek reelection or run in local elections, although in a substantial number of cases the Government made arrangements for accelerated naturalization so that these noncitizen candidates could become citizens before the local elections took place, allowing them to run for office.

In the wake of the political controversy and tension over the Alien Registration Law, the city councils of Narva and Sillamae decided without government approval to conduct referendums on July 17 on whether the cities should become autonomous units within Estonia in which all inhabitants would enjoy equal rights. About 60 percent of the local population voted, and almost all voted for autonomy. The Government did not try to stop the referendums from taking place. Estonia's legal chancellor ruled the referendums unconstitutional and without legal effect, and the State Court subsequently upheld these rulings, which local officials in Narva and Sillamae announced they would respect.

On October 17, new local government councils were elected in cities and parishes by secret ballot in multiparty elections. About 170,000 noncitizens registered to vote

nationwide. There are, however, no nationwide statistics on how many noncitizens actually voted, but turnout was apparently higher than among Estonian citizens.

The issue of citizenship continued to be a central political issue in 1993. Political debate moved from who is to be automatically considered a citizen to naturalization requirements and, specifically, the requirement to know the Estonian language. Parliament spelled out the content of the language requirement and authorized the Government to relax it for persons born before 1930 and those with certain disabilities. The Parliament also waived the language requirement for any applicants among the resident aliens who had registered as citizenship applicants with the Estonian Congress in February 1990. In March Parliament amended the law to apply retroactively so that citizenship is transmitted at birth through either citizen parent; the 1938 law only allowed fathers to pass on citizenship to children.

The Citizenship Law, adopted in February 1992, implemented the 1939 Citizenship Law and also covered naturalization requirements, including, among other things, a 2-year residency requirement, to be followed by a 1-year waiting period, as well as knowledge of the Estonian language. The implementation law provided that the 2-year residency requirement could be met by residency starting on March 30, 1990. Thus, any noncitizen who had resided in Estonia since that date was eligible to apply for Estonian citizenship as of March 30, 1992. The 1-year waiting period would make them eligible for naturalization on March 30, 1993. The law allows the Government to waive requirements for applicants who are ethnic Estonians or who have performed valuable service to Estonia. As of October 15, only 19,316 aliens had applied for and received Estonian citizenship. Some observers attribute the relatively low number thus far to the fact that people need more time to decide what citizenship they wish to pursue.

It is possible that the language requirement was one reason for the low number of ethnic Russians applying for naturalization. The pamphlet outlining the language requirements for citizenship was initially published only in Estonian but has since been made available in Russian. Furthermore, while some enterprises organized free language courses for employees and unemployment offices provided some instruction to those out of work, many people had to finance their own instruction, and some ethnic Russians cited cost as a precluding factor. After an applicant has submitted his citizenship application, he must pass the language examination within 9 months. The applicant is allowed one attempt to pass the examination; retired people generally are allowed two attempts. The applicant who fails must reapply for citizenship, triggering the 1-year waiting period again.

Article 16 of the Citizenship Law Implementation Act provides that applications for naturalization shall not be accepted from "(1) foreign military personnel on active service; (2) persons who have been in the employment of the security and intelligence organizations of the Union of Soviet Socialist Republics; (3) persons who have been convicted of serious criminal offenses against persons or who have a criminal record of repeated convictions for felonies; and (4) persons lacking a legal steady income."

The Alien Registration Law, which went into effect in July, excludes the same categories for residency permits as does the Law on Citizenship for citizenship. The Alien Registration Law, however, provides for a review of those excluded for residency permits, while those excluded from naturalization under the Citizenship Law have no appeal rights.

In July 1992, after they realized that noncitizens would not be permitted to participate in the parliamentary or presidential elections, a dozen moderate Russian politicians formed an organization to "protect the interests and rights of noncitizens." On January 30, 1993, the Russian speakers' Representative Assembly held a congress attended by over 300 delegates and elected a presidium. During debate over the Alien Registration Law, the Government officially registered the Assembly on July 6. The Assembly played an active role in the President's roundtable (see Section 4), and a number of its candidates were voted into local office in the October 17 local elections.

There are no legal impediments to women's participation in government and politics; 12 of 101 members of Parliament and 2 of 14 government ministers are women.

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

The Government does not restrict the formation or functioning of human rights organizations. In response to criticism about the treatment of ethnic minorities, the President established a Human Rights Institute that convened for the first time on December 10, 1992. The purpose of the Institute is to monitor human rights in Estonia and to provide information to the international community. It investigates reports of human rights violations, such as allegations of police abuse. In addition, be-

cause of tensions surrounding the adoption of the Elections Law and the Alien Registration Law in July, the President established a roundtable composed of representatives of the Union of Estonian Nationalities, political parties, and the Russian-speaking population's Representative Assembly.

Because of the Russian Federation's continued allegations of the "massive violation of the human rights" of the Russian-speaking population, Estonia requested the CSCE to establish a mission of long duration in Estonia. The mission, which began operations in February, had not found a pattern of human rights violations or abuses by year's end. It has been actively engaged in helping to alleviate political and social tensions. The mission is approved on a 6-month basis and has already been extended once.

Numerous international and nongovernmental human rights groups visited Estonia in 1993.

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

Discrimination on the basis of race, sex, nationality, religion, skin color, extraction, political or other beliefs, as well as economic or social status or for any other reason, is prohibited by the Constitution.

Women.—Women possess the same legal rights as men and are legally entitled to equal pay for equal work. In practice, men and women tend to get equal pay for equal work, although there are female- and male-dominated professions. Most women carry major household responsibilities in addition to their employment burden. Women make up slightly over one-half of the work force. There has been no organized effort by women's groups or others to make this an issue of public policy.

There is little public discussion of violence against women. Women's rights groups have not been notably active or effective in asserting women's rights.

Children.—Estonia has demonstrated a strong commitment to the rights and welfare of children. Estonia became a party to the U.N. Convention on the Rights of the Child in November 1991, shortly after it was admitted to U.N. membership and adopted its own domestic child protection law, patterned on the U.N. Convention, in June 1992.

During 1993, the welfare of children received increased public attention as economic dislocation tended increasingly to disrupt family life. Social welfare workers at their own initiative established several small safe havens for children. Nongovernmental child welfare societies received and distributed international humanitarian aid to children. In addition, all children under the age of 14 receive monthly government support payments of about $6 (90 Estonian crowns) paid to the parents on behalf of children.

There is no pattern of societal child abuse.

National/Racial/Ethnic Minorities.—In July the President established a roundtable to promote constructive dialog among Estonia's ethnic groups and political parties representing them. A cultural autonomy law for minority groups was adopted by the Parliament on October 26 and declared into law by the President on November 11.

Relationships between Estonians and the large ethnic Russian community remain tense. During the years of Estonia's forcible incorporation into the Soviet Union, large numbers of non-Estonians, predominantly Russians, were brought to Estonia both on a permanent and temporary basis to work as laborers and administrators. These people and their descendants now make up approximately one-third of the total population. About 8 percent of the population of the pre–1940 republic was Russian.

Non-Estonians, especially Russians, continued to allege job, salary, and housing discrimination because of Estonian-language requirements for certain jobs. They are fearful that laws discriminating against them may be adopted. Estonian law makes no distinction on citizenship or other such grounds as to who may enter into business or own property (other than land). All residents of Estonia may participate equally in the privatization of state-owned housing.

Estonian-language training is accessible. Estonian-language requirements of the 1989 language law for those employed in government offices and in the service sector went into effect on February 1, 1993. The language office is authorized to grant extensions—and has done so liberally—to persons who can explain their failure to meet their requisite competence level in 4 years. A separate law covering the language requirement for citizenship was passed in February. It established the proficiency level required. Russian representatives charge that the language requirement was too difficult. The examination fee for either language test—for employment or citizenship—is 15 percent of the monthly minimum wage, although it is waived for the unemployed.

In districts where the language of more than one-half of the population is a language other than Estonian, the inhabitants are entitled to receive official information in that language, and the local government may conduct business in that language. (See also Sections 2.d. and 3 for a discussion of laws on citizenship and aliens.)

People with Disabilities.—There are constitutional protections against discrimination of people with disabilities. While there is no legal discrimination against disabled individuals, little has been done on a societal or governmental level to enable disabled people to participate normally in public life. There is no public access law, and very little has been done voluntarily.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution guarantees the right to form and join freely a union or employee association. The Central Organization of Estonian Trade Unions (EAKL) came into being as a wholly voluntary and purely Estonian organization in 1990 to replace the Estonian branch of the official Soviet labor confederation, the All-Union Central Council of Trade Unions (AUCCTU). Workers were given a choice as to whether or not they wanted to join the EAKL. While in 1990 the AUCCTU claimed to represent 800,000 members in Estonia, in 1992 the EAKL claimed to represent about 500,000 members, organized in 30 unions. In 1993 EAKL's membership dropped to some 330,000, organized in 27 unions. The EAKL explains the drop in membership by the breakup of large government-owned enterprises and privatization. A new Public Service Workers Union was organized in late 1993; it has a membership of some 40,000, most of whom are also EAKL members.

The right to strike is legal, and unions are independent of the Government and political parties. There were no strikes in 1993. There are constitutional and statutory prohibitions against retribution against strikers. Unions may join federations freely and affiliate internationally.

b. *The Right to Organize and Bargain Collectively.*—While Estonian workers now have the legally acquired right to bargain collectively, collective bargaining is still in its infancy. The Government remains by far the biggest employer, with about 70 percent of the work force. According to EAKL leaders, the distinction between management and labor is not widely understood, and few collective bargaining agreements have been concluded between the management and workers of a specific enterprise. The EAKL has, however, concluded framework agreements with producer associations which it hopes will provide the basis for specific labor agreements. The EAKL was also involved with developing Estonia's new Labor Code covering employment contracts, vacation, and occupational safety. The Labor Code prohibits antiunion discrimination, and employees have the right to go to court to enforce their rights. In 1993 a collective bargaining law, a collective dispute resolution law, and a shop steward law were adopted.

No export processing zones have been established.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited by the Constitution and is not known to occur. It is effectively enforced by the Labor Inspections Office.

d. *Minimum Age for Employment of Children.*—According to labor law, the statutory minimum age for employment is 16. Minors aged 13 to 15 may work with written permission of a parent or guardian and the local labor inspector, if working is not dangerous to the minor's health, considered immoral, or interferes with studies, and provided that the type of work is included on a list the Government has prepared. State authorities effectively enforce minimum age laws through inspections.

e. *Acceptable Conditions of Work.*—The Government, after consultations with the EAKL and the Central Producers Union, sets the minimum wage and reviews it monthly. In late 1993, the minimum wage was $23 (300 Estonian crowns) per month. The minimum wage is not sufficient to provide a worker and family a decent standard of living. It has not been increased since October 1992. About 3 percent of the work force receive the minimum wage. The average wage is about three times the minimum.

Under a law adopted by Parliament at the end of the year, the standard workweek was reduced to 40 hours. There is a mandatory 24-hour rest period in the workweek.

According to EAKL sources, legal occupational health and safety standards are satisfactory, but they are extremely difficult to achieve in practice. They are supposed to be enforced by the Labor Inspections Office, the effectiveness of whuch may improve with experience.

The overriding concern of workers during the period of transition to a market economy is to hold on to their jobs and receive adequate pay. Workers have the

right to remove themselves from dangerous work situations without jeopardy to continued employment.

FINLAND

Finland is a constitutional republic and a multiparty, parliamentary democracy. Executive power is vested in the President. The Cabinet, consisting of the Prime Minister and 16 Ministers who are responsible to Parliament, works with the President in governing the country. Legislative power is held by the unicameral Parliament. Judicial power is exercised by an independent judiciary, including the Supreme Court and Supreme Administrative Court.

The security apparatus is controlled by elected officials and supervised by the courts. Finland has a mixed economy with state owned, privately owned, and publicly owned companies. Citizens are free to pursue their legitimate private interests, hold private property, and engage in economic activity without government interference.

During 1993 there were no reported violations in Finland of fundamental human rights. Members of national minorities and women enjoy the same economic and political rights as all other citizens, although occupational segregation by sex is common and leadership positions (in non-elected offices) in both the private and public sectors remain heavily male-dominated. Individuals are free to pursue their religious beliefs.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Killing for political motives by the Government or opposition political organizations does not occur.

b. *Disappearance.*—No cases of disappearances, abduction, or clandestine detention were reported.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Freedom from torture and cruel, inhuman, or degrading treatment or punishment is guaranteed by law and is respected in practice. By law, prisoners must be treated justly with respect for their human dignity and without distinction on the basis of race, sex, language, nationality, religious or political conviction, social position, wealth, or any other grounds.

d. *Arbitrary Arrest, Detention, or Exile.*—Freedom from arbitrary arrest and imprisonment or exile is guaranteed by law and respected in practice. Police may hold a suspect for up to 7 days without charge. The suspect has access to a lawyer during that time. Once arrested, the accused must be given a court hearing within 8 days in a city or within 30 days in rural areas. The state pays legal fees for indigent defendants.

Circumstances surrounding the arrest are subject to judicial review at the time the accused is brought to trial. If found innocent of the crime charged, the accused may apply to the same court for civil damages, and the arrest is deemed invalid.

Bail as such does not exist in Finland. Individuals charged with minor offenses may be released on personal recognizance at the court's discretion. However, those accused of serious crimes must by law remain in custody pending trial, unless this would be unreasonable in view of the nature of the crime or the age of the suspect, or under other exceptional circumstances.

Supervisory personnel from the Ministry of Justice and the Ministry of the Interior as well as the Parliamentary Ombudsman and the Chancellor of Justice have authority to enter prisons and to order the release of prisoners held without charges. Exile has not been used as punishment in Finland and, by law, Finnish citizens cannot be exiled.

e. *Denial of Fair Public Trial.*—The right to fair public trial is guaranteed by law and respected in practice. Finnish citizens and aliens legally residing in Finland have the right to effective counsel. The law provides that charges must be clearly stated and that civilians may not be tried by military courts except in time of war.

The general court system includes municipal courts, courts of appeal, and the Supreme Court. The President appoints Supreme Court justices, who in turn appoint the lower court judges. Judges receive permanent appointments, but are subject to mandatory retirement. They may choose optional retirement at age 63 but must retire at age 70. The judiciary is not subject to political interference.

In addition to the general courts, a presidentially appointed Supreme Administrative Court adjudicates appeals from government decisions on administrative and tax matters. The Court of Impeachment is convened to handle cases of malfeasance by

cabinet ministers or the Chancellor of Justice. Other special courts handle labor matters, water rights, and prisoners' rights. Local courts may decide to conduct a trial behind closed doors in juvenile, matrimonial, and guardianship cases, or when publicity would offend morality or endanger the security of the state. In national security cases, the judge may withhold from the public any or all information pertaining to charges against individuals, verdicts, and sentencing. Sanctions may be imposed if such information is made public. Provisional tribunals, or tribunals established for the express purpose of trying certain, specific cases or for the express purpose of sentencing a certain, specific individual, are prohibited by the Constitution.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The right to privacy and the sanctity of the home, including prohibition of eavesdropping and mail tampering, are guaranteed by law and respected in practice. The police are authorized to conduct wiretapping under certain conditions of suspected criminal activity. Senior police officials, rather than judges, have the authority to issue search warrants; there is no indication that this power is abused. The police are subject by law to judicial scrutiny.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and the press is provided for in the Constitution and respected in practice. No instances of abuse or legal decisions restricting freedom of the press were reported. A law remains on the books allowing the Government to censor films for foreign policy reasons, but has not been applied. Full academic freedom exists.

b. *Freedom of Peaceful Assembly and Association.*—Freedom of peaceful assembly and association is provided for by the Constitution. Public demonstrations require prior notification to the police. The Government encourages voluntary organizations and subsidizes private groups formed to achieve public purposes. These associations are permitted to maintain relations with other international groups.

c. *Freedom of Religion.*—Finland has two state religions: Lutheran and Eastern Orthodox. A special tax supports the state churches. Nonmembers may be exempted from the church tax by changing their census registration from the church-maintained registry (where most people are registered) to the civil registry. Other denominations and religions enjoy complete freedom of worship. Proselytizing is permitted. About 88 percent of the population belongs to the Lutheran Church.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Finns are free to travel within the area of the Nordic countries—Finland, Sweden, Norway, Denmark, and Iceland—without passports and need not apply for exit visas for travel to other countries. No restrictions have been placed on emigration or repatriation. The granting of political asylum is a matter of frequent public debate, especially because of increasing numbers of asylum seekers and the costs of resettlement. In the first 7 months of 1993, 1,230 people applied for asylum, of whom 234 were granted refugee status. Local police issued another 1,600 permits to ex-Yugoslavs who had entered Finland before July 22, 1992. (All of these permits were 1-year renewable residence permits issued on humanitarian grounds. In practice, renewal of temporary permits originally granted on humanitarian grounds is virtually automatic.) After that date, Finland imposed a visa requirement on residents of the former Yugoslavia. The largest groups of asylum seekers in 1993 were from the former Soviet Union, the former Yugoslavia, and Kurds. The Government of Finland states that it grants asylum in accordance with the 1951 United Nations Convention and the 1967 Protocol Relating to the Status of Refugees. Finnish authorities accept relatively small numbers of refugees and asylum seekers, who receive generous assistance once admitted. Finland automatically gives Ingrians (ethnic Finns from Russia) resident status and resettlement assistance.

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

Finland is a multiparty, parliamentary democracy in which all citizens over the age of 18 elect their representatives from among multiple lists of candidates representing a wide spectrum of political ideologies. The country has the longest tradition of women's suffrage in Europe (since 1906) and there are at present 77 women representatives (of a total of 200) in Parliament and 6 female ministers (of a total of 17) in the Cabinet.

Parliamentary and municipal election take place every 4 years, whereas presidential elections are held every 6 years. At present, there are nine political parties in Parliament, of which four form a non-socialist coalition Government, headed by a Center Party Prime Minister.

Legislation passed in 1991 provides for direct presidential elections beginning in 1994.

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

Several organizations in Finland monitor human rights performance; they include the Finnish Red Cross, the government-sponsored Equality Council, the Minorities Rights Group, and the Women's Rights Union. In conjunction with the Swedish-language University in Turku, a Human Rights Institute was founded in 1985 with the stated purpose of conducting human rights research, performing studies, and distributing information on human rights. In September 1993 a Center for the Treatment of Torture Victims was opened in Helsinki. Finland is a member of the UN Human Rights Commission.

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

Indigenous peoples and ethnic minorities Sami (Lapps), who constitute less than one-tenth of 1 percent of the population, benefit from legal provisions protecting minority rights and customs. Sami language and culture are supported financially by the Government. The Sami receive subsidies to enable them to continue their traditional lifestyle, which revolves around reindeer herding. Sami have full political and civil rights and are able to participate in decisions affecting their economic and cultural interests. Swedish is established as a second official language; about 6 percent of the population speaks Swedish as a native language.

Women.—Women enjoy a wide array of social benefits that provide them with considerable economic independence. The government- established Council for Equality coordinates and sponsors legislation to meet the needs of women as workers, mothers, widows, and retirees. In 1985 Parliament passed a comprehensive equal rights bill which mandates equal treatment for women in the workplace, including equal pay for "comparable" jobs. In practice, comparable worth has not been implemented because of the difficulty of establishing criteria, but the Government, employers, unions, and others continue to work on implemention plans. Women's average earnings are 80 percent those of men and women still tend to be segregated in lower paying occupations. While women have individually attained leadership positions in the private and public sectors, in general there are disproportionately fewer women in top management jobs. Industry and finance, the labor movement and some government ministries remain male-dominated. Women are not permitted to serve in the military. Despite the large number of female elected officials, women feel excluded from the innermost circles of political power. The Government's Equality Ombudsman monitors compliance with regulations against sexual discrimination. Of the 114 complaints submitted to the Ombudsman between January 1 and September 15, 1993, 102 had been processed, and violation of the law was established in 29 cases.

The law provides stringent penalties for violence against women; this provision is vigorously enforced by the police and the courts. The Union of Shelter Homes and municipalities maintain about 55 shelters for female, male and child victims of violence in homes all over the country. The annual number of calls to the police relating to domestic violence is no longer centrally compiled, but is estimated at some 10,000 to 12,000 per year. Shelter home officials estimate that the figure is less than half of the number of actual incidents.

Children.—Finland monitors the welfare of its children with extreme care. A tight network of maternity and child welfare clinics provide services to pregnant women and pre-school aged children free of charge.

People with Disabilities.—Legislative measures protect the disabled from discrimination. Statutes requiring accessibility to public places were enacted in the 1970's, but older buildings often lack necessary facilities for the disabled and the new legislation is not retroactive. However, the Government will provide financing for the voluntary retrofitting of older buildings. Equipment for the disabled is not mandatory on public transportation, but the government subsidizes improvements undertaken. Local governments maintain a transport service, which guarantees 18 trips per month for a disabled person. The deaf and the mute are provided with an interpretation service ranging from 120 to 240 hours per year depending on the seriousness of the handicap. The severely disabled are guaranteed public housing.

Section 6. Worker Rights

a. *The Right of Association.*—Trade unions are constitutionally guaranteed the right to organize, assemble peacefully, and strike—rights which are respected in practice in both the public and private sectors. Trade unions enjoy a protected status and play an important role in political and economic life. About 85 to 87 percent

of the work force is organized. In Finland, employers are also organized into collective bargaining associations. A 1-million-member blue-collar confederation, the Central Organization of Finnish Trade Unions (SAK), dominates the trade union movement. Two other central organizations cover white-collar, professional, and technical employees. All trade unions are democratically organized and managed and are independent of the government and of political parties.

The Finnish Constitution guarantees the right to strike and strike actions by Finnish workers were decriminalized in 1922. In 1970 public sector employees were granted the right to strike. Strikes are restricted in certain cases, and cannot be called if a central incomes policy settlement (traditionally negotiated between union federations and central employers' organizations) is in effect. Also, if more than 10 employees are involved in a strike, 2 weeks advance notification of the strike action is required. Trade unions are free to affiliate with and participate in international bodies.

b. *The Right to Organize and Bargain Collectively.*—The right to organize and bargain collectively exists in law and practice and is exercised extensively. Finland is a highly organized society in which over 80 percent of both workers and employers are members of trade unions and employers' collective bargaining associations. With very few exceptions, all collective agreements since 1968 have been based on incomes policy agreements between central employees' and employers' organizations and the state. The central agreement covers the general level of wage and salary increases, other terms of employment, and a "social policy package" which provides for vacation, holidays, sick pay, maternity and paternity leave, travel costs, taxes, rents, etc. Workers are protected against anti-union discrimination and organization is encouraged in all sectors of the economy. Employers are required to reinstate workers if they are fired for union activities; however, this has not been a issue in recent years.

Finland has no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Paragraph 6 of the Finnish Constitution prohibits forced or compulsory labor and is honored in practice.

d. *Minimum Age for Employment of Children.*—Compulsory education is legislated in Finland. Comprehensive school takes 9 years, with school starting at the age of 7 years. It is legal to hire a 15-year old who has completed the mandatory course work, or who has had at least 10 years of schooling. The working hours of a 15-year old may not exceed 9 hours a day or 48 hours a week, and must fall between 8 a.m. and 10 p.m. It is possible to hire a 14-year old, or a person in her or his fourteenth year, if employed in light work during school holidays for a maximum of two-thirds of the holiday period. The working hours of an employee under 15 must not exceed 7 hours a day and 36 hours a week, and must fall between 7 a.m. and 7 p.m.; there must be a 14-hour period without work every 24 hours and a 38-hour period without work every week.

e. *Acceptable Conditions of Work.*—Finland has no legislated minimum wage, although all employers, including non-unionized employers, are required to meet the minimum wages agreed to in collective bargaining agreements in their industrial sector. These minimums suffice to provide a decent standard of living for a worker and family. In 1993 labor and management organizations reached agreement to allow payment of a sub-minimal wage to young workers or the long-term unemployed, on a temporary basis. This category of pay, which was little used in 1993, was authorized for 2 years as of June 15, 1993. The standard legal work week must not exceed 40 hours. Labor laws are enforced by the Government but the well-organized local union leadership also plays a key role in ensuring employer compliance. The Government effectively enforces well-established occupational safety and health standards, and the unions also seek to ensure that workers' safety is protected. In 1993 Finland made its regulations governing worker exposure to dangerous chemicals more stringent in conformity with European Community regulations. These regulations are in the process of implementation.

FRANCE

France is a democratic republic with constitutional provisions for human rights, freely functioning political parties, regular elections, and universal suffrage.

The military and security apparatus consists of the three traditional military services, a 91,000-strong gendarmerie (national police/paramilitary force), and police forces in major cities. These forces are under civilian control and generally are highly professional.

France has a developed and diversified economy and a skilled labor force. It has substantial agricultural resources and a modern industrial system based on a mixture of public and private enterprises.

The authorities generally respect human rights and civil liberties, which are provided for by the 1958 Constitution. Instances of individual wrongdoing by police or other officials are generally investigated and dealt with according to law. Responsibility for encouraging respect for human rights in France and its overseas departments and territories is shared among several senior officials, including the Minister of State for Social and Urban Affairs; the Minister of Foreign Affairs; and the Minister-Delegate for Humanitarian Action and Human Rights.

The Government has consistently condemned and pursued perpetrators of sporadic acts of violence against ethnic and religious minorities and of discrimination against such groups.

In 1993 a lively debate arose over how best to control illegal immigration while preserving fundamental human rights and civil liberties. The final text of the constitutional amendment (ratified in November) to accomplish this reform preserves the basic right to political asylum. However, under its terms the Government will no longer be obligated to review requests from individuals whose applications have already been reviewed and rejected by other European Community members that have signed the intergovernmental Shengen Accord, aimed at promoting the free movement of people among the signatory countries. Some human rights groups, including the French chapter of Amnesty International, criticized the removal of the obligation to consider all requests for political asylum.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—French authorities do not engage in political killing. In instances of extrajudicial killing from excessive use of force, there are well-established means for legal redress. In April there were three instances in which police officers apparently used excessive force in the shootings of three minority suspects, two of which resulted in fatalities. In these cases, one policeman was charged with involuntary manslaughter, one with voluntary manslaughter, and the other remains under investigation. None of these three cases was concluded by year's end.

b. *Disappearance.*—French authorities do not engage in abduction or secret arrests.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture or cruel, inhuman, or degrading treatment or punishment are forbidden by law and are generally prosecuted. In the occasional instances of alleged police brutality, administrative and judicial mechanisms exist for determining guilt and punishing transgressors.

The Council of Europe Commission on the Prevention of Torture released a report in January urging the Government to tighten its procedures to protect those in custody. The study, conducted in 1991 with the Government's cooperation, found that suspects ran a "not inconsiderable risk of being mistreated" while in police detention. According to the report, mistreatment included such abuses as detainees being struck by fists, subjected to psychological pressure, and denied food or medicine. At the same time, the Commission said that it found no indications of serious mistreatment or torture. The report also criticized two prisons, at Nice and Baumettes, for being overcrowded and lacking activity programs. It concluded that prison conditions were inhuman and degrading. The Government responded that, since the report's release, it had reduced overcrowding at both prisons and had opened a new prison near Nice.

d. *Arbitrary Arrest, Detention, or Exile.*—French law provides for freedom from arbitrary arrest and imprisonment. No direct equivalent of habeas corpus exists in the legal system, but cases must be referred to a magistrate for investigation within 4 days; 2 days for drug and terrorism cases.

A Penal Code introduced in 1993 is intended to strengthen the rights of the defendants. Under the Code, suspects are required to be informed of their rights in a language they understand. The Government published an explanatory brochure in eight languages to be given to those in custody. The Code guarantees a suspect the right of immediate access to a physician and access to an attorney within 20 hours, immediately in the case of those below the age of 16. Pretrial confinement in the case of felonies is not limited. This pretrial period can be lengthy, depending upon the seriousness and complexity of the case. Evidence is gathered and assessed by an independent examining judge. Defendants are free to request and present evidence during this investigatory period.

The judiciary plays a determining role in the detention process. French authorities are not reported to have detained any person for political reasons. No provisions for exile exists.

French judicial practice in narcotics cases commonly assesses a "customs fine" in addition to a jail sentence. These fines are based on estimates of the "value" of the contraband and tend to exceed by far any financial assets of the convicted smuggler. Upon conclusion of the mandated jail sentence, a prisoner is not released unless he has paid the fine. Those who cannot pay the fine—the bulk of those affected—are then kept in detention under a legal stipulation that might reasonably be considered arbitrary. The length of the detention is not specific but depends on the whims of customs officials, who use the threat of continued detention to extract the largest possible partial settlement from the detained prisoner and his or her family. The upper limit of such detention is 2 years.

e. *Denial of Fair Public Trial.*—The right to fair public trial is provided by law and respected in practice. The new Penal Code reinforced the presumption of innocence by introducing several major innovations. The concept of indictment, which in France was often incorrectly viewed as synonymous with guilt, was abandoned. Further, should the State determine that there is insufficient evidence to bring charges, a suspect may demand publication of that decision in newspapers or on television.

For misdemeanors, pretrial confinement—which is very rare—is limited normally to 4 months, with extensions in special circumstances of approximately 8 to 12 months. Although all drug-related crimes are technically classified as misdemeanors, those convicted of serious narcotics offenses are subject to penalties otherwise reserved for felonies.

Those found guilty of some drug offenses may be sentenced to up to 20 years' imprisonment. Trials are normally open and public, but provisions exist for the defense to request a closed proceeding. All felonies are tried before juries, and a defendant does not have the right to refuse a jury trial. The press has free access to records of court proceedings, although the prosecutor may not disclose information about cases being tried or investigated.

French law provides for the right of appeal for those convicted of misdemeanors. Those convicted of felonies may appeal to the Court of Cassation only on procedural grounds.

The 1992 Country Report cited a case in which the former National Assembly President was accused of influence peddling in his former capacity as Socialist Party treasurer. The official subsequently filed suit against the judge, claiming that the indictment was politically motivated. That case had not been heard at year's end; the official was reelected to public office.

France has no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—French law provides for freedom from invasion of privacy, and this freedom is respected in practice. The search of a private residence may be carried out by police if there is reason to believe a crime is taking place within. The search may be carried out only between 6 a.m. and 9 p.m., except in special circumstances, such as in drug cases, when the search may be undertaken at any time. Telephone conversations may be monitored by authority of a court order in conjunction with criminal proceedings. However, no court order is required in national security cases.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and press are guaranteed by law and respected in practice. Newspapers and magazines are free of government control and present views ranging across the political spectrum. Under French law, high government officials may seek to sue media representatives for defamation. In practice, this provision is rarely invoked and does not interfere with free expression. There are three state-owned and three private television networks, in addition to private cable channels. Hundreds of private radio stations offer a wide array of independent, uncensored programming in French and several other languages. No censorship of books or other publications occurs. Academic freedom of expression is respected in both public and private academic institutions.

b. *Freedom of Peaceful Assembly and Association.*—Freedom of peaceful assembly and association is widely respected, although—except for a specific reference to trade unions—it is not mentioned in the Constitution. Groups wishing to organize public meetings, protest marches, or demonstrations must declare their intent to do so to local authorities. Normally these authorities raise no objection to either political or nonpolitical gatherings. While the decision to deny permission for a demonstration rests within the discretion of local officials, a denial may be appealed to the Council of State. Private associations, whether political or apolitical, must register with the prefecture in the department in which they are established, but they

do not require the prefecture's authorization to exist. Such registration is considered routine in France. Informal associations, such as those without officers, bylaws, or dues, need not register.

c. *Freedom of Religion.*—All religions are tolerated. Roman Catholics are by far the largest religious group. Separation of church and state is guaranteed by law, although both private and parochial schools receive substantial subsidies from the Ministry of National Education. In keeping with the secular nature of French public school, it is forbidden to wear religious symbols. This law conflicts with the desire of some Muslim girls to wear headscarves, and four girls were denied entry to one school for insisting on wearing the scarves. Some Muslim groups consequently claimed that the girls were being denied the right to practice their religion.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for freedom of internal movement, foreign travel, emigration, and repatriation. All lawful resident aliens, including refugees, may undertake foreign travel and, in most instances, return to France.

France has a long history as a haven for refugees and political asylum seekers. Thus, there was considerable debate concerning a proposed law designed to control illegal immigration. A key element of the law would have permitted France to refuse asylum requests from individuals whose cases had previously been reviewed and found without merit by other European Community signatories of the Schengen Accord. After the Constitutional Court ruled in August that this measure was unconstitutional, the Government decided to initiate a revision that will preserve the basic right of political asylum while bringing the Constitution in line with the Schengen Accord. The revision was adopted by the French Government in November.

In another action reflecting France's growing concern about illegal immigration and asylum abuse, the Government approved a law in May amending France's nationality code. The measure restricts the right of those born in France of non-French parents to claim French citizenship. Previous law provided that citizenship be immediately accorded to those born in France when they turned 18. Under the new law, which applies retroactively to those born before its enactment, applicants will have to apply for citizenship when they are between 16 and 21 years of age. It is expected that the new provision will be largely a bureaucratic formality, except for those applicants who have been convicted of major crimes and could thereby be ruled ineligible for citizenship.

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

French citizens have the right and ability to change their government by peaceful means, not only through the election of the President, the National Assembly, and local officials, but also through amendment of the Constitution by means of national referendum.

While the French do not entirely accept the notion of "indigenous" peoples, an attempt is made to take local traditions into account within the administration of some French overseas territories where distinct ethnic groups have preserved such traditions and customs.

Varying special statutes—applicable to all citizens resident within the respective territories, regardless of ethnic origin—govern the "collective territory" of Mayotte and the territories of French Polynesia, Wallis and Futuna, and New Caledonia. The citizens of these territories determine their legal and political relationships to France by means of referendums.

In spite of differences in their respective administrative statutes—and resulting differences in local government entities—French citizens within the territories participate fully in the political process, electing both deputies and senators to the French Parliament. All French citizens who have reached the age of 18 may vote, except for most convicted criminals, bankrupt persons, and persons certified to be mentally incompetent. These provisions are fully respected in practice.

Within France itself, the Government has over the years granted greater local autonomy to the Basques and to Corsica, while resisting isolated calls for independence.

The French President (who serves as Head of State) is directly elected every 7 years through a system of universal suffrage. France has a bicameral parliamentary system with a National Assembly and a Senate. Representatives to the National Assembly are directly elected every 5 years, unless the Government is dissolved, in which case elections may be called sooner. Senators are elected through a system of indirect elections and serve 9-year terms. Voting is by secret ballot. The Prime Minister (Head of Government) is selected from the parliamentary majority by the President.

France has an open multiparty system. National legislative elections in March replaced the Socialist government, elected in 1988, with a center-right coalition. A wide variety of political parties compete freely in regularly scheduled national and local elections. Many special interest groups—business, labor, veterans, consumer advocates, ecologists, and others—organize freely and regularly support candidates for elective office.

There are no restrictions in law on the participation of women in government and politics. Women are active in all facets of French politics but political and social tradition has resulted in lower percentages of women than men being elected to public office, especially at the national level. In 1993, 3 of 30 cabinet members, 16 of 320 senators, and 35 of 573 deputies in the lower house were women. In an effort to advance women's political prospects, some parties have established quotas to guarantee women a certain number of positions on electoral lists or in party management.

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

A wide variety of local and international human rights organizations operate freely in France. The French National Consultative Commission on Human Rights, which monitors complaints and advises the Government on policies and legislation, is an independent body within the Prime Minister's Office.

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

Statutes ban discrimination based on race, religion, sex, ethnic background, or political opinion.

Women.—The Government strongly condemns and vigorously attempts to prevent violence and abuse against women, and such violence, including wife beating, is prohibited under the Penal Code. In 1992 a law was added to the Code providing penalties of up to 1 year in prison and up to approximately $20,000 in fines for supervisors convicted of sexually harassing employees.

While the law requires that women receive equal pay for equal work, this requirement is not met in many cases. Women's rights groups actively lobby for full implementation of equal rights statutes and seek solutions to the increasingly publicized phenomenon of violence against women.

Children.—The Government devotes a significant portion of its expenditures to children's welfare. In addition to direct expenditures for health and education, it assists families with children through a number of allowances. Some, but not all, allowances are based on family income. There are strict laws against child abuse, particularly when committed by a parent or guardian. Associations exist to help minors seek justice in cases of mistreatment by parents.

Under a law that prohibits harming children, the Government has brought criminal charges against those who perform female genital mutilation, Over the past 10 years, there have been 15 trials involving more than 30 families. In November the Government launched a public information campaign against the practice, which included hanging posters in maternity clinics, doctors' offices, social centers, and public housing that warned female sexual mutilation is punishable by imprisonment.

National/Racial/Ethnic Minorities.—Anti-immigrant sentiment continued to provoke incidents of racism, including occasional attacks by "skinheads", directed at the large Arab/Muslim and black African immigrant communities, as well as at the Jewish population. The Government and a wide spectrum of public opinion have consistently condemned such incidents. The law since 1991 has required that the National Consultative Commission on Human Rights publish an annual report on "The Struggle Against Racism and Xenophobia." According to the latest report, issued in March, that polls indicated that 89 percent of French citizens interviewed believed that racial discrimination was a "fairly" or "very" widespread problem in France. The report also found, however, that the actual number of racial and anti-Semitic attacks had fallen in comparison with the previous year.

In September the Minister of Interior announced the creation of a national organization charged with fighting racism. Coordinated by the Interior Ministry, the group is to include government Cabinet ministers and members of the National Assembly as well as representatives from churches and antiracist organizations. The effort is to include similar organizations at the department level. The Minister of Interior at the same time called for a ban on neo-Nazi and other racist organizations. At year's end, no governmental action had been taken on this recommendation.

Arbitrary identity checks by French police officers of members of minority groups sometimes have a tendency to transform blacks and people from the Maghreb countries into "suspects." While any individual in France is subject to identity checks,

some human rights groups claim that members of minorities are stopped for questioning more frequently than those of nonminorities.

The Government seeks to encourage immigrants to adopt French traditions, laws, and language. Anything that emphasizes cultural and religious differences, e.g., the wearing of headscarves by Muslim schoolgirls (see Section 2.c.) is seen as working against integration and French cultural homogeneity. The French assert the primacy of the French language in the educational system.

Religious Minorities.—A number of Muslim and Jewish graves were desecrated during 1993. Approximately 20 arrests were made.

In February President Mitterrand issued a decree establishing a National Remembrance Day in memory of anti-Semitic persecution committed under the Vichy Government of 1940–44. President Mitterrand resisted calls to issue an apology to French Jews on the grounds that the Vichy regime was not the "true" French government during the war, but he decided this year no longer to lay an Armistice Day wreath at the grave of World War I hero and Vichy leader Marshal Petain. Addressing questions relating to France's Vichy past remains difficult for many government officials and much of French society. Former French police official Rene Bousquet was assassinated on June 8 while awaiting trial for "crimes against humanity." In 1942 Bousquet organized the roundup of more than 12,000 French Jews and their deportation to concentration camps. His assassin was an apparently unbalanced publicity-seeking Frenchman who was arrested shortly thereafter. No Vichy official has yet been tried and condemned in French courts for crimes against humanity, but the courts cleared the way in October for Paul Touvier, a pro-Nazi militia officer accused of ordering the murder of Jewish prisoners in 1944, to stand trial in 1994.

There are approximately 3 million Muslims in France, nearly one third of whom are French citizens. The Government created the Council for the Reflection of Islam in France in 1990 to help integrate Muslims into French society.

People with Disabilities.—A wide range of legislation provides protection for people with disabilities. An extensive program exists to provide special education to those with physical or mental disabilities and to assist those with emotional problems. Financial aid is provided to families with students who need daily care. Handicapped persons over the age of 20 are eligible to receive support payments from the Government as well as reductions in their income tax.

Since 1988 France has mandated that disabled persons make up at least 6 percent of all public and private enterprises with 20 or more employees. The Government will in some cases reimburse employers up to 20 percent of the costs of employing someone who is handicapped. A recent government study found that many firms are not complying with this requirement and recommended strict enforcement mechanisms. In 1991 the Government legislated that new public buildings be made accessible to the physically handicapped. However, the great majority of existing buildings were constructed before that date, and it remains difficult or impossible for people using wheelchairs to enter them.

Section 6. Worker Rights

a. *The Right of Association.*—Freedom of association for all trade unions and workers is provided by the Constitution. Although less than 10 percent (12 to 15 percent for the public sector; 5 to 6 percent for the private sector) of the total work force is unionized, trade unions exercise significant economic and political influence. They do so primarily through professional works councils and legally mandated roles (shared with employers) in administering social institutions. These include social security (health care and most retirement systems), the unemployment insurance system, labor courts, and the Economic and Social Council, a constitutionally manadated consultative body.

Most unions pride themselves on not being aligned with any political party, and all are careful to avoid being stigmatized as government influenced. However, many of the leaders of the General Confederation of Labor (CGT) and its unions belong to the Communist Party.

Tradition prevents union officials from holding office in political parties, but leaders of most non-CGT unions are supporters of the Socialist Party. Supporters of other parties are also active in the labor movement. The unions' international activities are not restricted, and all three world trade union confederations have French affiliates. French workers, including civil servants, are free to strike, with a few exceptions in cases where strikes are determined to be a threat to public safety. Given that one-fourth of the salaried population works for the Government, the numerous public sector strikes receive extensive coverage. Following a 2-week Air France strike in November, the airline was forced to cancel plans to implement a restructuring program that reportedly would have cost 4,000 jobs.

Legal prohibitions exist against retribution toward strikers or strike leaders and are effectively enforced. In fact, the Government last year did not even censure prison guards who struck illegally.

b. *The Right to Organize and Bargain Collectively.*—Workers, including those in the three small export processing zones, have the right to organize and bargain collectively. French law strictly prohibits antiunion discrimination. Amendments added in 1982 require at least annual bargaining in the public and private sector on wages, hours, and working conditions at both plant and industry levels. The 1982 law does not require that negotiations result in a signed contract. Outside mediators, drawn from the upper ranks of the civil service, may impose solutions that are binding unless formally rejected by either side within a week. If no new agreement can be reached, the contract from the previous year remains valid. Over 80 percent of France's private sector work force is covered by collective bargaining agreements negotiated at national or local levels. Trilateral consultations also take place on such subjects as the minimum wage, temporary work, social security, and unemployment benefits. Labor tribunals of worker and employer representatives are available to resolve complaints. Employers found guilty of antiunion discrimination are required to reinstate workers fired for union activities. The law requires that businesses with more than 50 employees have a works council, in which workers are consulted on training, working conditions, profit-sharing, and similar issues. Works councils, which are open to both union and nonunion employees, are elected every 2 years.

Trade union rights, as provided for in the Constitution, extend to France's overseas departments and territories. Social benefits, such as the minimum wage or supplemental retirement payments, may be reduced in the overseas departments and territories to take into account the local economies.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited by law, and this prohibition is effectively enforced. In its 1993 report, however, the International Labor Organization's Committee of Experts questioned the French practice of obliging French prisoners to work for private enterprises at less than the national minimum wage.

d. *Minimum Age for Employment of Children.*—With a few exceptions for those enrolled in recognized apprenticeship programs, children under the age of 16 may not be employed. Generally, work considered arduous or work between the hours of 10 p.m. and 5 a.m. may not be performed by minors under the age of 18. Laws prohibiting child employment are effectively enforced through periodic checks by labor inspectors.

e. *Acceptable Conditions of Work.*—France has an administratively determined minimum wage, revised whenever the cost-of-living index rises 2 percentage points, and it is sufficient to provide a decent standard of living to a worker and family. The wage was administratively adjusted to 34.83 francs in July, approximately $5.90 at the end of the year. The legal workweek is 39 hours. In an effort to increase employment, overtime is restricted to 9 hours per week. The previously discriminatory law prohibiting women from performing arduous or night work, except in certain exempted categories such as hospitals and a few service industries, was revoked in 1992. In this regard, France joined other European Community signatories in denouncing the ILO Convention 89 banning night work for women, and in adhering to the new nondiscriminatory ILO Convention 171 on night work.

The Ministry of Labor has overall responsibility for policing occupational safety and health laws. Standards are generally high and well enforced. Workers have the right to remove themselves from dangerous work situations. To assist the Ministry, the law requires that any enterprise with 50 or more employees have an occupational health and safety committee; 78 percent of all enterprises, covering 80 percent of employees, had such committees as of 1991.

GEORGIA

Two years after declaring its independence from the Union of Soviet Socialist Republics, Georgia continued in 1993 to struggle with severe political instability, internal armed conflict, economic ruin, and runaway crime. Symptoms of anarchy appeared, and aspects of Georgia's effort to consolidate democracy were set aside.

The national Parliament was elected in nationwide elections in 1992; Eduard Shevardnadze was elected Chairman of that Parliament in the same elections. A November 1992 law established the Chairman of Parliament as Head of State. The Chairman subsequently named a Prime Minister and Cabinet of Ministers. That Cabinet, and other executive branch officials, report to Shevardnadze.

Mounting public criticism culminated in a change of government in August-September which led to a confrontation between Shevardnadze and the Parliament over the latter's right to confirm ministerial appointees. Shevardnadze suddenly resigned on September 14 but within 24 hours agreed to return if Parliament declared a state of emergency and suspended its own activities for 2 months, which it agreed to do to avoid further crisis. The state of emergency banned demonstrations and limited freedom of the press.

The continuation of the armed conflict in Abkhazia, a breakaway region of Georgia, was a major factor in the general deterioration of the country's political and economic stability. The Russian Government brokered a cease-fire accord in late July but made little apparent effort to hold the separatists to the agreement. The uneven implementation of the cease-fire conditions gave the Abkhaz separatists a clear military advantage, which they used in a major September offensive. This offensive, in which volunteer Russian Federation combatants reportedly participated in far greater numbers than Abkhazians, captured the capital, Sukhumi, and the remaining Georgian-held cities. The separatist forces committed widespread atrocities against the Georgian civilian population, killing many women, children, and elderly, capturing some as hostages and torturing others (see Sections 1.a. and 1.g.).

Meanwhile, armed Zviadists, supporters of former president Zviad Gamsakhurdia, continued acts of banditry during the year and succeeded in late summer in seizing control of additional cities and blocking rail lines. The former president himself returned to Georgia in September, and the long-simmering conflict boiled over into civil war. After initial losses, government forces recaptured most of the territory seized, including the key port town of Poti.

The Government unsuccessfully tried to eliminate paramilitary forces in favor of establishing a single unified army. The regular army, however, totals only a few thousand men, poorly armed, trained, and equipped. The National Guard, once the largest armed force, was integrated into the Army during 1993. The most prominent and best equipped paramilitary group, the Mkhedrioni, led by Djaba Ioseliani, was the principal armed defender of Shevardnadze's Government during the civil war with Gamsakhurdia. The members of the "Kommandatura," organizations created to enforce the state of emergency, were the principal enforcers and often included members of the Mkhedrioni. All these forces, including the police on a less frequent basis, committed human rights abuses during the year, including using their powers to repress the opposition and rob and intimidate the population. The Intelligence and Information Service, later renamed the Ministry of Security, a successor to the Committee for State Security or KGB, is active in internal security and antiterrorist affairs. It also engaged in abuses, including the intimidation of opposition figures and repression of their viewpoints.

Georgia's multiple conflicts helped fuel a continuing downward spiral in the economy. When Russia cut off a supply of cash rubles in the spring, Georgia began printing its own "coupons." Hyperinflation followed, poverty spread dramatically, and bread lines lengthened. Industrial production came to a near standstill, as transport lines ceased functioning and trade with ex-Soviet republics diminished.

The armed conflicts with Abkhazians and Zviadists brought forth allegations of human rights violations on all sides, including the killing of prisoners and civilians and looting of villages. Law enforcement officials were credibly reported to have carried out arrests without warrants, physically abused detainees, and exceeded the legal time limits on pretrial detention without filing charges. Freedoms of speech and press, and of assembly and association, were severely curtailed, especially for Zviadists, and the state of emergency imposed censorship not only on military subjects but also on political discourse.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—In the war in Abkhazia, Georgian military or paramilitary units were credibly reported to have killed some prisoners. Abkhazian separatists killed members of the Georgian Government in Sukhumi after capturing that city. They tortured and killed the Georgian Prime Minister of Abkhazia after taking him prisoner in late September and killed many working-level officials. They also killed large numbers of Georgian civilians who remained behind in Abkhaz-seized territory. It is credibly reported that volunteers from the Russian Federation fighting with the separatists carried out many of the killings.

Zviadists shot to death a senior officer of the Georgian air force in October in Mengrelia, when he traveled to the area for preagreed negotiations. Zviadist forces also executed a Georgian journalist captured in Mengrelia during the height of the civil war.

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b. *Disappearance.*—Many Georgians caught in Abkhazia when the separatists launched their September offensive are unaccounted for. Over 1,000 people are still reported missing. Many are presumed to have been killed.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Members of the police, paramilitary groups, the intelligence service, and the armed forces have been credibly accused of routinely beating detainees in order to extort information or force confessions. Some senior government officials attempted to reform the practices of these organizations, but stiff resistance limited their effectiveness. No perpetrators of abuses within the official community are known to have been prosecuted or punished for their actions.

Law enforcement officials were credibly reported to have frequently beaten detainees, arrested despite an apparent lack of evidence linking them to a specific crime, in order to extort payments from prisoners' families to effect their release. In one case, officials severely beat a man accused of robbery and demanded that he pay them a sum equivalent to the value of the goods stolen, although there was no evidence to substantiate their allegations of criminal activity. They are credibly reported to have tortured the victim by hanging him by his arms for extended periods.

Physical abuse directed at political detainees continued in 1993. Several Zviadists arrested in connection with terrorist acts committed or allegedly planned in 1992 claimed they were subjected to physical abuse in 1993. In some instances, the perpetrators of the abuse were already convicted prisoners with whom the detainees had been placed in violation of prison regulations. The Zviadists alleged that these prisoners were acting as proxies for the Government. In one case, a convicted murderer who beat an elderly Zviadist was tried and convicted for the attack. In other instances, detainees told a parliamentary human rights committee that officials had beaten them. According to the committee chairman, their claims were probably valid.

After the outbreak of civil war in October in western Georgia, there were widespread arrests of Zviadists. An elderly Zviadist newspaper editor, Irakli Gotsiridze, subjected earlier to intimidation (see Section 2.a.), was arrested without a warrant and held at the Tbilisi Kommandatura. (Normally a military post, the Kommandatura was used to hold political prisoners after the state of emergency was declared.) Members of the paramilitary or armed forces beat him so severely that he suffered damage to his ribs and lungs. Despite repeated requests, the Government delayed access to the editor for over 30 days after the beating and failed to provide him with proper medical care.

Paramilitary or armed forces members on October 13 detained another supporter of the ex-president, Tamaz Kaladze, who had earlier headed a petition campaign calling for Shevardnadze's resignation, and severely beat him. Eyewitnesses who saw him soon after his detention reported that he had severe bruising on his neck, blood coming from his ears, swollen face and eyes, and complained of severe pain in his kidneys. Kaladze was also beaten on the balls of his feet, given electrical shocks, and nearly suffocated when guards held a plastic bag over his head. Kaladze was eventually released, after a total of 38 days in jail; Gotsiridze was released after 36 days.

It is also credibly reported that members of the Kommandatura staged fake executions to terrorize the prisoners.

Prison conditions declined, along with the general economic and political situation. In general, prison administrators did not receive enough money to provide prisoners' meals in accordance with Soviet-era regulations. Meals were often Spartan as a result, although in some places of detention prisoners' relatives were permitted to bring them food. Conditions in many places of detention other than the prisons can be extremely primitive, with no bathing facilities, no place to lie down, and no toilet.

Medical care for prisoners also suffered from the shortage of funding and breakdown of governmental operations and authority. At least one prisoner died in custody in 1993 when authorities were unable to move him to a hospital for several days because of gasoline shortages and a lack of police escorts.

d. *Arbitrary Arrest, Detention, or Exile.*—Soviet-era legislation and practices with regard to arrest and detention remain largely unreformed, and such legal protections as exist are often ignored in practice. Under existing law, an arrest order issued by a procurator is required for arrests. If a person is caught in the act of committing a crime, he may legally be detained without a warrant. However, the law requires the detaining officer to inform a procurator of the detention immediately and to obtain an arrest order as soon as possible. A person may be legally detained for 72 hours without an arrest order, but the procurator must issue either an arrest order or an order for the prisoner's release upon expiration of that period. If held

over for further investigation, a detainee must be formally charged with a crime within 10 days. There is no bail.

The normal period of permissible pretrial detention is considered to be 2 months, but that period may be legally extended twice, up to a total of 6 months, by the Deputy Procurator General. The Procurator General may extend pretrial detention up to a maximum of 1 year. A detainee may ask the procurator to determine if his detention is legal. A detainee has the right to demand immediate access to a lawyer and to refuse a statement in the absence of counsel. The detaining officer must inform the detainee of those rights and must notify his family of the detainee's location as soon as possible.

A detainee's family may ask to see him, but the investigator handling the case may refuse access if he believes it would hamper the investigation. Once the investigation is finished and the investigative results have been forwarded formally to a court pending trial, family members are allowed to visit their detained relatives only to discuss a possible change of attorneys. The presence of an attorney is mandatory during interrogation of a minor or of an individual accused of a capital crime. The presence of a teacher or a parent is also obligatory during questioning of a minor.

In practice, law enforcement personnel and paramilitary groups that often act on behalf of the Government often ignored these legal protections. Authorities frequently detained people arbitrarily and exceeded time limits for detention and filing charges. People do not always have access to a lawyer or do not hire a lawyer because they are not informed of their rights. In a characteristic case, the investigator handling the case of a Zviadist scientist detained and beaten in October said that the case was still being investigated and no formal charges had been filed, so an attorney was not yet needed. Families are often not notified of the whereabouts of their detained relatives. Instances of such abuses involve both politically motivated detentions and those for criminal offenses.

The Soviet-era administrative code permits administrative detention without a warrant for several kinds of violations, including participating in an illegal demonstration and curfew violation. The law on the state of emergency passed by the current Parliament is the legal basis for administrative violations and sentencing during the state of emergency. Either a senior Interior Ministry official or an administrative judge must confirm the detention. In the former case, materials must be sent to a judge within 3 hours, who must then decide the case within 24 hours. There is no formal trial in administrative cases. Although the judge should consult with the accused, he is not required to consult with witnesses nor make a lawyer available if the defendant requests one. The maximum sentence is 15 days.

Under legislation establishing a state of emergency in September, the Ministry of the Interior retained the right to confirm the validity of detentions, a right shared by the city "kommandants". The kommandants are, under the state of emergency, responsible for law and order in the city, and their authority supersedes that of all other law enforcement bodies. The Government abuses the administrative law system, using it to extend politically motivated detentions. Under the state of emergency in effect from early fall through the end of the year, the kommandants and senior Ministry of Internal Affairs officials in Tbilisi legally assumed authority to confirm administrative law detentions. This has contributed to the abuse of the administrative violation system for politically motivated detentions. Aside from the fact that an independent judge does not review the case, defendants are not always told what they have been charged with and to what term they have been sentenced and are sometimes not released on time even if sentenced. Even when a state of emergency was not in effect, the administrative system was sometimes used as a mechanism for short-term politically motivated detentions. When a number of Zviadist sympathizers were detained in Tbilisi in October after the civil war began, administrative violations were often cited, incredibly, as the reason for those detentions.

Arbitrary detentions of Zviadists occurred throughout the year. On one such occasion, all the leaders of the Zviadist "Roundtable" organization were arrested as they held a meeting. They were released hours later. When the civil war broke out, Tbilisi authorities arbitrarily detained a large number of known Zviadist sympathizers.

Government paramilitary groups, including the Mkhedrioni, were responsible for serious abuses of the legally established system of protections. The Mkhedrioni appeared to operate with impunity in intimidating and detaining Zviadists or suspected Zviadists without legal sanction, though such actions appeared to lessen throughout the course of the year. When the Mkhedrioni detained persons, they would sometimes bring them to a jail facility belonging to an official agency of the Government. They would sometimes simply bring individuals to their staff head-

quarters, question them, and release them. At times, those detained would be turned over to regular law enforcement personnel. Police officials also frequently brought Zviadists in for questioning in a practice that appeared to amount to direct intimidation of political activities. This pattern reached its height during the civil war with Gamsakhurdia's supporters. The Mkhedrioni also participated in the increasingly common practice of detaining persons for ransom, and they did so in western Georgia when they were deployed there for the civil war. For their part, Zviadist forces also arbitrarily detained a senior official of the Tbilisi Government when he passed through Mengrelia while fleeing the fall of Sukhumi. He was held for several weeks before being released.

The Government states that all detained members of the political opposition were terrorists or had committed specified violations. However, the detentions of many Zviadists after the civil war flared up in late September were often tacitly acknowledged to be preventive detentions. Zviadist forces contend, credibly, that many people were detained in 1993 solely for political reasons, usually for short periods, and some were detained several times.

Law enforcement personnel, members of the paramilitary, and kommandatura workers often arbitrarily detained people for the purpose of extorting payments from them or their families. Detainees were usually released after such payments were made. The paramilitary, Kommandatura, army, National Guard members, and, at times, police engaged in robbery, intimidation, and even murder for personal gain.

e. *Denial of Fair Public Trial.*—Political instability and weaknesses in the judicial system sometimes infringed on the right to a fair trial. Georgia's legal structure is a hybrid of laws from Georgia's brief period of pre-Soviet independence, the Soviet era, the Gamsakhurdia presidency, and the State Council period. The court system consists of district courts, a city court for Tbilisi, and the Supreme Court of the Republic. The two autonomous republics within Georgia each have their own supreme court, theoretically subordinate to the Georgia Supreme Court.

In theory, Georgian citizens are by law guaranteed the right to a fair public trial at which defendants have the right to be present. They have the right to an attorney immediately after arrest, at public expense if needed. They are entitled to confront prosecution witnesses and present witnesses and evidence on their behalf. There is a presumption of innocence, and defendants have the right to appeal to either the procuracy or the Supreme Court.

In practice, the judiciary is vulnerable to political or other forms of influence, particularly at the local level. Certain supervisory rights exercised by the procuracy further limit the independence of the judiciary. As part of the Soviet-era system still in effect in Georgia, the procuracy has the right to suggest that the Supreme Court review one of its own decisions. By contrast, the judiciary has little influence over the procuracy. Some members of the judiciary engage in corrupt practices, including taking bribes and being influenced by instructions received from individuals both inside and ouside the Government. The practice cometimes referred to as "telephone justice," i.e., that an official calls a judge and tells him how to resolve a case, continued in 1993. The societywide fragmentation of authority and collapse of order in 1993 presented judges with an increasing number of power- or weapon-wielding figures outside government who demanded, often successfully, certain outcomes in the cases under their jurisdiction.

It is difficult to estimate the number of political prisoners detained during the course of the year, though their numbers probably exceeded 100. By year's end it appeared all had been released. In 1993 the Government brought to trial over 40 persons, all of them Zviadists, accused of terrorist acts or plotting to commit such acts in 1992. One case ended with the conviction of all 20 defendants in the "Kvareli" trial, in which those captured from an armed Zviadist group established in eastern Georgia in 1992 were tried. The court threw out several charges brought by the Government; most defendants were convicted of banditry, and some of conspiracy to commit terrorist acts and diversions. Another trial convicted three persons of banditry, terrorism, and kidnaping for the 1992 kidnaping of government official Sandro Kavsadze. The maximum sentence received by any defendant was 15 years. Another trial just under way as the year closed is examining charges against approximately 20 persons charged in connection with 1992 car bombings targeting Mkhedrioni leaders and with other alleged terrorist plots. Though Zviadists claim that those detained in the above cases are political prisoners, the Government denies that accusation, noting it has solid evidence supporting the charges. The Zviadist claim at this point does not appear to be valid. The Zviadists also claim that some of the defendants were repeatedly pressured to sign statements or confessions. That claim is likely valid.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—A warrant issued by a prosecutor is required legally for a search, but entry into homes

without judicial sanction by both paramilitary forces and law enforcement representatives is common. Government intelligence agencies are widely believed to monitor telephone conversations, but it is difficult to determine how general the practice is.

It is widely believed that the appointment of a new security minister sympathetic to Moscow signaled the beginning of a closer cooperation between the Committee for State Security (KGB) and Georgian intelligence. By law, there is supposed to be legislative oversight of the intelligence service; however, the oversight is completely ineffective.

The jamming of radio and television broadcasts is no longer practiced, and receipt of foreign publications is unimpeded.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.—The armed conflict in Abkhazia wreaked havoc for most of the year. The separatists violated a short-lived cease-fire in March, and fighting between Georgia and the Abkhazians continued until the Russians brokered a cease-fire in July. The Russian Government made little apparent effort to hold the separatists to that agreement, however, and its uneven implementation gave the Abkhaz separatists a clear military advantage. They exploited that in a major September offensive to seize control over all of Abkhazia, with the subsequent human tragedy that unfolded.

Even before their offensive, Abkhaz forces had waged a documented campaign of indiscriminate warfare that included repeated heavy shelling and aerial bombardment of civilian-populated areas of Sukhumi in which hundreds of noncombatants were killed. Georgian forces also shelled opposing civilian areas, though on a much more limited scale. Russian military forces are reported also to have shelled Georgian civilian areas in response to Georgian shelling of Abkhaz positions located together with Russian military positions.

The separatists launched a reign of terror against the majority Georgian population, although other nationalities also suffered. Chechens and other north Caucasians from the Russian Federation joined local Abkhaz troops in the commission of atrocities. The summary execution of Georgian troops and civilians in the captured areas triggered a massive flight of displaced persons which international relief organizations roughly estimated at 230,000–250,000 people. The Abkhazians shot down four aircraft, two of them civilian flights, during the last days of their successful siege of Sukhumi. They also shot at, and barely missed, an aircraft carrying a team of Georgian officials engaged in formal negotiations with the Abkhazians. The entire Georgian population (47 percent versus 17 percent Abkhazians, prior to the September offensive) and most of the rest of the non-Abkhazians fled from Abkhazia as the result of the activities of the Abkhaz separatists.

Those fleeing Abkhazia made highly credible claims of atrocities, including the killing of civilians without regard to age or sex. Corpses recovered from Abkhaz-held territory showed signs of extensive torture. The ethnic Georgian Prime Minister of Abkhazia, Dzhuli Shartava (see Section 1.a.), was one such victim: his body was covered with severe bruising; his arms, legs, hands, and feet had been broken; his nose had been mutilated; his ears cut off; and his kneecaps shot before death—reportedly for "refusing to kneel." An elderly Russian woman, resident in Abkhazia for 35 years before fleeing her village on September 16, reported that separatist forces seized nine villagers after they took control of the area and killed them all. She saw the body of her 30-year-old male neighbor, which showed evidence of massive beating; splinters had been inserted under his nails, and his skull had been crushed.

The Abkhazians also accused the Georgians of human rights violations, including an "ethnic cleansing" campaign. There is little evidence to support allegations of ethnic cleansing, although it is probable that some ethnic Abkhazians were forced to move from Georgian-held territory in isolated instances.

Both sides were charged with occasionally killing injured soldiers captured on the battlefield. One injured Abkhaz soldier disappeared from the Sukhumi hospital where he was being treated; it is likely Georgian forces killed him. While specific incidents are difficult to confirm, these charges are probably accurate.

Conflict between Zviadists and the Tbilisi Government erupted into open civil war during the summer. Zviadists seized cities controlling rail and road lines to the port of Poti just before the Abkhazian separatists launched their successful offensive on Sukhumi. They captured Poti after the fall of Sukhumi, as well as a series of other towns, but lost most of their captured territory as a result of a government counter-offensive in October.

Both sides in this struggle accused the other of abusing prisoners and engaging in banditry and looting from civilians wherever they were deployed. The accusations are credible. Members of the National Guard and Mkhedrioni engaged in many forms of criminal activity, sometimes stealing cars, robbing homes, and looting the countryside.

The Zviadist armed forces, for their part, also stole cars, exacted "customs" fees from those traveling through their territory, hijacked railroad freight, and stole large stores of humanitarian aid after capturing Poti.

One government fighter captured by Zviadist forces reported after his release several days later that they had beaten and tortured him and several of his fellow prisoners while in detention. He appeared on television at the time, his face showing obvious signs of severe beating. Georgian officials claim many other prisoners suffered similar treatment. In October the Zviadists executed a captured Georgian journalist covering the war in Mengrelia, along with three government troops captured at the same time.

Peacekeeping forces succeeded in separating the combatants in South Ossetia, and the cease-fire was essentially observed. However, isolated killings of both civilians and peacekeeping troops occurred. Many Ossetian displaced persons returned to Tskhinvali, but Georgian displaced persons were still afraid to return, as Georgian authorities and peacekeeping forces in practice had been unable to guarantee their security. Ethnic Ossetians who fled to Ossetia from other regions of Georgia during the height of the conflict also had not been able to return to their homes.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedoms of speech and press were curtailed in 1993, particularly for supporters of the former president and especially after the imposition of the state of emergency in September. The emergency legislation called on the various law enforcement organs to "control" media reporting on military activities and antigovernment information. A committee, headed by paramilitary chief Djaba Ioseliani, indicated that formal censorship of military information would be complemented by extensive review of material published and broadcast and "recommendations" to individual journalists on improving their work.

As the civil war flared in mid-October, Shevardnadze announced that it would be necessary to close some newspapers and cancel some television programs, and increased restrictions on the media followed. Radio and television access was limited for some non-Zviadist opposition elements. Opposition parties Charter 91 and the National Independent Party (NIP) both claimed they were denied access to television air time formerly given freely. Some opposition politicians credibly claimed the restrictions were aimed at muting public criticism of Shevardnadze's decision to take Georgia into the Commonwealth of Independent States.

Following the state of emergency, only three newspapers, all official, continued publishing without interruption. The single government-run printing office prevented all independent newspapers from publishing for a short period for "technical reasons." Restrictions targeted Zviadist publications, although other independent organs also came under attack. The Zviadist newspaper Iberia Specter, after putting up with various restrictions, was closed down by the Government in early fall. Authorities justified the closing by claiming the Specter published calls for the violent overthrow of the Shevardnadze Government. Nevertheless, the Government has not been able to prove its claims as yet. The paper's editor, Irakli Gotsiridze, was also harassed personally. Unidentified assailants twice fired shots through the windows of his apartment. The police have not identified the perpetrators. Gotsiridze was arrested and severely beaten in October when he went to a police station to complain about the arrests of some colleagues (see Section 1.c.). The staff of the Zviadist newspaper Samreklo also claimed that its chief editor was threatened and that shots were fired at his apartment. He fled Tbilisi as a result.

Editors of non-Zviadist independent papers Seven Days and Droni asserted they also were subject to severe repression. Seven Days reported that the Mkhedrioni detained one of its journalists for 2 days and seized her notes in August when she passed through Mengrelia on the way back from Abkhazia. On September 17, 10 armed and masked men ransacked the newspaper's offices, destroying the computers and beating up 4 men. The attack came just after the newspaper criticized the appointment of a National Democratic Party (NDP) leader as a Cabinet member. The Seven Days' staff claimed that NDP members had done the ransacking in retaliation, citing a number of private and public statements by NDP leaders that lent credence to that claim. After the ransacking, Droni published a short story criticizing the incident as inconsistent with democracy. Their chief editor stated that a senior NDP official immediately threatened that bodily harm would come to her if she were not more careful in the future. NDP senior officials refuted the accusations against their party.

Another Zviadist newspaper, Free Georgia, continued to struggle in 1993 against a 1992 order that closed it down. The judge who issued the order explained his action as a temporary measure intended to get the paper's editorial staff to come to his chambers to discuss the case so it could come to trial. Though members of the

editorial staff eventually met with him to discuss the case, they represented themselves as "individuals" and declined to accept responsibility in the case. The procuracy initiated the case by sending a notification to the Supreme Court suggesting it examine the banning of the paper because of published material that provoked the 1992 coup atempt. The procuracy, however, failed to provide supporting materials to the Court. The judge's actions appear to have been sincere, but the legal reasoning behind the order closing the paper apppears questionable.

The newspaper's editor continued to push unsuccessfully for its reinstatement. She was subsequently fired from her teaching job at the university. The university's administrators claimed her dismissal was due to her repeated failure to show up for classes. The Zviadists claimed that her dismissal was based on her political views and that she was absent only for a few months when whe was forced to flee to Moscow because of threats against her.

Self-censorship continued to be widespread in the Georgian media throughout the year. While some political party newspapers criticized government policies, most avoided open opposition, particularly direct criticism of Shevardnadze, often focusing on the crisis situation instead. Fear of retaliation by paramilitary groups also played a role.

The broadcast media are affected by the same kinds of psychological and physical barriers to freedom of expression as the print media. The second television channel—nominally, but not fully independent in practice—continues to operate since its establishment in 1992. However, efforts to control the media in October included restrictions on the second channel's programming. The official television channel and radio station engaged in self-censorship.

Freedom of speech and press were also limited in the autonomous Republic of Ajara, where voices critical of that republic's leadership found little opportunity to voice their opinions in public forums. An opposition newspaper was ransacked and banned.

b. *Freedom of Peaceful Assembly and Association.*—The right to peaceful assembly was limited in 1993, and, following the state of emergency in September, demonstrations were legally prohibited. The only demonstration attempted in Tbilisi was prevented by government troops.

Legislation in effect prior to the state of emergency required that demonstration organizers notify city authorities of an impending demonstration 2 days in advance; permits were not required, but the authorities had the right to determine if the suggested location was acceptable. Zviadists refused to comply with the law's provisions requiring registration in advance. In the first half of the year, the authorities often responded to Zviadist defiance by using extensive manpower to prevent demonstrations in Tbilisi from taking place.

When demonstrations occurred, government forces usually dispersed them with force and detained some demonstrators. The dispersals often involved beatings. Zviadists claimed that demonstration participants were also sometimes followed as they left demonstrations and beaten or threatened. A demonstration dispersed on April 5 involved both beatings and threats. A demonstration dispersed on April 14 also allegedly involved some beatings. A massive police and nonuniform presence blocked a May 26 (Independence Day) demonstration from ever getting under way.

In Tbilisi, the authorities did permit some unregistered Zviadist demonstrations to take place. On April 9, a day of national mourning for the Georgians commemorating a Soviet armed attack on peaceful demonstrators, the Zviadists were allowed to stage a large rally and march in the center of Tbilisi. In midsummer, the Zviadists were also allowed to stage two rallies in a large Tbilisi park. When government officials were partially in control of parts of Mengrelia, they permitted demonstrations to take place there unimpeded. Demonstrations in Poti also were generally staged without interference.

With some exceptions, freedom of association was generally observed in 1993. Organizations are legally required to register with the Government. Several Zviadist organizations did not attempt to register officially but were not forced to disband. The leaders of the non-Zviadist opposition political party, Citizens League, formed originally in 1989, claimed they were harassed and that their members were intimidated from conducting a program of activities. The Communist Party is banned. Some individuals claim that the Government occasionally erects bureaucratic obstacles to the registration of unfavored organizations, but there is no evidence to suggest that any serious impediments exist, although the Zviadist organizations have avoided testing the bounds.

c. *Freedom of Religion.*—Freedom of religion and of worship was widely observed in 1993. The Government abandoned the emphasis given during Gamsakhurdia's rule on the primacy of the Georgian nationality and the Georgian Orthodox religion. However, representatives of the Georgian Catholic Church are still trying to recover

possession of churches which they first lost during the Soviet-era repression of religion and which were subsequently given to the Georgian Orthodox Church during the Gamsakhurdia period. The Government's Commission on Inter-Ethnic Relations and Human Rights recommended that two churches be returned to the Catholics; thus far it appears that none has been offically turned over. Local officials have shown some resistance to community efforts to construct new mosques in predominantly Muslim areas, although that resistance appears to be lessening and does not appear to have been based on directives from the authorities. The Jewish community experienced no government interference in practicing its religion. Although religious groups, missionaries, and foreign clergy would be required to register in order to benefit from government benefits and recognition, there appeared to be no requirement for them to do so.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The old Soviet system of registering residency remains in place, although its enforcement is uneven. If a person were arrested and were discovered to be nonresident in an area, that persons might be forced to leave. However, the authorities and law enforcement personnel do not routinely check people's documents to determine who is a legal resident. People can (and do) live for extended periods somewhere other than where they are registered.

Both foreign and internal travel, as well as emigration, are unrestricted, although there are practical problems with traveling in the areas of conflict.

The Abkhaz separatists' seizure of control over all Abkhazia in late September, as well as the terror and human rights abuses that accompanied that seizure, caused a massive flow of displaced persons, including virtually every ethnic Georgian. There are an estimated 230,000 to 250,000 displaced persons in Georgia, and there has been no sign that the separatists would allow the displaced persons to return to their homes.

The Government provided assistance in facilitating the emigration of Jewish Georgians to Israel.

There is continuing controversy over the desire of former residents, primarily Muslims, of the Mskheti region—deported from Georgia in 1944 by Stalin—to return to that area. Over 200,000 Mskhetians now living in central Asian republics and parts of Russia face significant popular opposition to their return, and the Government has been reluctant to take a formal position. Although some very small-scale programs have led to the return of some Mskhetians, the Government is clearly hesitant to permit the return of most of them, possibly fearing additional discord and problems resulting from attempts to resettle them. In south Ossetia, many Ossetian displaced persons returned to Tskhinvali, but Georgian displaced persons remain afraid to return. Ossetian displaced persons from other areas in Georgia for the most part have also not been able to return to their homes.

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

Georgia's Parliament and Parliament Chairman Eduard Shevardnadze, who is head of the executive branch, were elected in nationwide elections conducted in October 1992. Those elections were judged by international observers to have been free and fair, although widespread technical violations were reported, and some regions not under Tbilisi's control chose not to participate in the polling. Deputies were elected according to a mixture of direct elections in individual districts and party lists voted on in larger regions. According to the election law promulgated before those elections, deputies and the chairman were elected for 3-year terms.

Parliament's ability to function was limited in 1993. Tensions with its Chairman, Shevardnadze, increased during the year as the latter became increasingly disdainful of the legislature's ineffectiveness. Tensions between the legislature and the Cabinet of Ministers also grew, with each accusing the other of responsibility for the nation's problems. The tensions between Shevardnadze and Parliament came to a head just before the crises in Abkhazia and Mengrelia peaked in September. Shevardnadze suddenly resigned his post in early September after parliamentary member and Mkhedrioni chief Dzhaba Ioseliani criticized his plan to introduce a state of emergency. Shevardnadze came back into office a day later, buoyed by massive popular demand and on the condition that Parliament approve a nationwide state of emergency and then suspend itself for 2 months. Parliament, enjoying little popular support, agreed to do so.

The Abkhaz war prevented the functioning of the elected parliament in that republic. Policies of the leadership of the autonomous Republic of Ajara prevented that republic's parliament from functioning effectively; it did not meet in plenary in 1993. South Ossetian separatists scheduled elections for December, though the Georgian Government does not recognize an autonomous status for that region. The

elections did not take place, probably due to internal differences among South Ossetian leaders.

Minorities and women are less represented in the new Parliament than they were in the Gamsakhurdia-era parliament or in the Soviet-era supreme soviet. The participation of women in politics is generally limited, partly by longstanding cultural traditions and partly in response to a perception that women were frequently ex-president Gamsakhurdia's most fervent supporters.

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

Among domestic human rights groups, the All-Georgian Association for Human Rights, founded in 1990, claims about 300 members. The Association has not met with overt official restrictions, but the Government has at times been uncooperative. For instance, the association has not been able to gain permission to visit prisoners. The organization has also not been able to get articles on human rights violations against Zviadists published in the official or non-Zviadist independent press. In October two members of the association were arrested for several days. Members of the pro-Zviad Helsinki Union's Commission on Human Rights were sometimes detained for short periods. These detentions appeared to be for political reasons.

A government Commission on Interethnic Relations and Human Rights was formed soon after Shevardnadze's return in 1992. The Commission had limited influence on the behavior of the procuracy, National Guard, Interior Ministry, and paramilitary groups. Commission members do not have any statutory right to demand visits with detainees and are thus dependent on law enforcement officials' goodwill to obtain eyewitness information on alleged abuses. On several occasions, however, Commission members succeeded in gaining access to prisoners and in rectifying abuses in both the detention process and elsewhere in the Government.

The Government welcomed the visits of international organizations. A permanent mission of the Conference on Security and Cooperation in Europe (CSCE) to Georgia is still operating after its establishment in late 1992. The CSCE Chairman-in-office, Swedish Foreign Minister Af Ugglas, visited Georgia in October and traveled to south Ossetia. A permanent U.N. Mission to Georgia continues to function and expand. A U.N. special mission to examine human rights violations in the Abkhaz conflict came to Georgia, also in October. The United Nations conducted a seminar for Georgian human rights workers in April. Two Helsinki Watch missions visited Georgia to study human rights problems.

The members of the permanent International Committee of the Red Cross (ICRC) mission in Georgia were permitted by both sides to travel freely throughout the conflict zone in Abkhazia. Both sides generally allowed the ICRC access to prisoners, although it is likely they did not get to meet with all of them.

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

There are no legal or constitutional prohibitions against discrimination. Georgia's constitutional situation is extremely vague. A new constitution is being drafted; for now the country operates on a mixture of the Soviet-era constitution and the 1921 constitution.

Women.—Government concern about the status of and discrimination against women is minimal. Georgian society generally shares this low-level concern. There is no perceptible women's movement, nor are there academic programs in women's studies. There is a widely accepted stereotype that the majority of Gamsakhurdia's supporters are somewhat irrational women. This image has had a negative impact on the viability of women's involvement in Georgian politics.

Women's access to educational resources is unimpeded, but women are found mostly in traditional occupations where their labor is usually low-paid and often part-time. The more traditional women's fields are considered to be the arts, languages, and social sciences. Careers that involve technical skills, applied sciences, or supposedly "more complex" reasoning are heavily male-dominated. This disproportion is generally explained by the students as due to the financial prospects in a field. Men are expected to choose a field in which they can support themselves and their families, women a field that will enrich them personally but not take away too much from family life.

Statistics on violence against women are not available. According to sociologists and legal specialists, however, incidents of rape and domestic violence are relatively rare in Georgia. However, the societywide upsurge in all forms of crime, including violent crime, appears to have resulted in an increase of violent crime against women, including rape.

Children.—The severe economic crisis that gripped Georgia throughout 1993 meant in essence that government expenditures for the welfare of any group within society were inadequate to meet its needs. Although spending on children's welfare within the context of total government resources reflected, in relative terms, an adequate commitment to that vulnerable group, children, like adults, suffered as a result of the Government's inability to increase spending levels to compensate for hyperinflation.

There are no children's rights advocacy groups. Neither are there juvenile or family courts in Georgia.

National/Racial/Ethnic Minorities.—Government advocacy of the supremacy of the Georgian nationality, language, and religion ceased with Gamsakhurdia's departure from power. The nationalistic feelings that it aroused in the population, however, appear to have lingered and have been compounded by the poor economy. Non-Georgians experience harassment, usually because of competition for scarce resources. As one Georgian human rights activist described it, there are three castes of non-Georgians. Jews are in the highest caste, Russians and Armenians in the second caste, and Azeris in the third. The lower the caste, the more frequent the problems. Local police are sometimes indifferent to requests for assistance from non-Georgians. Local officials sometimes also engage in discrimination against non-Georgians. However, central authorities, when notified of complaints of harassment or other forms of discrimination, usually tried to rectify the situation.

The Georgian Government provides funding for ethnic schools, and the teaching of non-Georgian languages is freely permitted. In Azeri-populated areas, where Georgian is not the primary language, the wider availability of Azeri-language schools and the poor quality of Georgian-language instruction have produced graduates who face limited professional opportunities in Georgia because of their poor command of the language.

People with Disabilities.—Statistics on the treatment of individuals with disabilities are unavailable. There is no legislative or otherwise mandated provision of accessibility for the disabled. The law on labor does include one section on people with disabilities, which includes the provision of numerous special discounts and favorable social policies for those with disabilities, especially disabled veterans. Severe discrimination against the disabled does not exist, though individual cases of discrimination probably do occur on a limited basis.

Section 6. Worker Rights

a. *The Right of Association.*—The Labor Code and other Soviet-era legislation allow workers and employees to freely form unions and associations operating on their own charters. In order to acquire legal status, unions and associations must register with the Ministry of Justice.

A single Georgian Confederation of Trade Unions (GCTU) includes about 30 different sectoral unions. There are no legal requirements that a union join the GCTU. However, no significant unions operate outside its framework. Membership in the GCTU is declining rapidly, due to lack of worker interest.

Strikes are not legally permitted under the state of emergency; they are permitted at other times. However, at year's end, the Government was considering legislation that would permit them. In practice, the authorities allowed strikes to occur unimpeded. For example, when miners went on strike in the town of Tkibuli, the Government allowed the strikers to receive two-thirds of their regular pay. The draft bill under consideration would also prohibit any type of management retribution against striking workers.

In general, the extreme economic crisis gripping the country throughout the year kept Georgian workers away from the picket line. There were only a handful of strikes, and these almost always took place at individual enterprises. Tbilisi's metro workers went on a short "warning strike" in September, demanding higher wages. The resulting public outrage, largely due to the fact that metro workers were earning considerably more than the average Georgian, deterred the employees from carrying out their threat of longer strikes.

There are no legal prohibitions against affiliation and participation in international labor bodies. Georgia is not a member of the International Labor Organization (ILO).

b. *The Right to Organize and Bargain Collectively.*—The Soviet-era Labor Code allows for collective bargaining, and it is freely practiced. The Government is becoming less involved in negotiations between management and workers, even in cases concerning state-owned enterprises, and has largely restricted itself to enforcing the minimum wage.

The Labor Code prohibits antiunion discrimination by employers against union members. According to the Code, employers may be prosecuted for antiunion dis-

crimination, and, if found guilty, would be required to reinstate the employees and pay them back wages. The Department of Labor Inspections within the Ministry of Labor investigates complaints, although their extremely small staff (about 11 members) did not allow for effective investigations in 1993.

There are no export processing zones in Georgia.

c. *Prohibition of Forced or Compulsory Labor.*—The Labor Code prohibits forced or compulsory labor and provides for sanctions against violators. Violations are rare, and the Department of Labor Inspection investigates charges.

d. *Minimum Age for Employment of Children.*—According to the Labor Code, the minimum age for employment of children is 14 years. Between 14 and 16 years, total hours worked during the week may not exceed 30 hours. The minimum age is widely respected, and officials know of no sectors where the rule is violated. Because of the inadequate resources of the Department of Labor Inspection, enforcement of this provision is often left up to the unions themselves.

e. *Acceptable Conditions of Work.*—A nationally mandated minimum wage applies only to the government sector. Private sector employers are free to bargain on any wage, and a private contract specifying a wage lower than the minimum (for government workers) is not prohibited. The minimum wage rate is adjusted every month for inflation, although in practice the hyperinflation of 1993 means the minimum wage met only a fraction of basic consumer needs. In mid-September, the minimum wage was about $0.75 (9,200 coupons) per month.

The Labor Code contains provisions for a 41-hour workweek. Before Parliament adjourned in September, it was considering legislation establishing a standard 40-hour workweek. The Department of Labor Inspections investigates complaints of violations. There is a 24-hour rest period in the week.

The Government has not addressed the issue of occupational safety and health standards. In general, workers may obtain higher wages for hazardous work, and, according to the Labor Code, may refuse to work when such work might endanger their lives. Nevertheless, labor experts consider these provisions inadequate safeguards for worker well-being.

GERMANY

The Federal Republic of Germany (FRG) is a constitutional federal republic and a parliamentary democracy. The head of the Federal Government, the Chancellor, is elected by the Bundestag, the lower house of Parliament. The powers of the Chancellor and of the Parliament, which are substantial, are set down in the Basic Law, Germany's Constitution. Governmental authority is also divided between national and state (Land) governments. The states enjoy significant autonomy, especially in matters relating to law enforcement and the courts, culture and education, the environment, and social assistance.

The police system is organized essentially at the state level and operates under the direction of state governments. Police forces, in the vast majority of cases, are well-trained, disciplined, and careful in respecting citizens' rights. Police in eastern states, almost exclusively holdovers from the former German Democratic Republic (GDR), are still undergoing a difficult transition to a complex new legal system and different police methods. For example, a 6-month investigation of last year's Rostock riots resulted in the dismissal of the Land Interior Minister (who refused to accept any criticism of his conduct or police actions). A western German was appointed to replace him. The Mayor of Rostock announced his resignation in November 1993 after the City Parliament produced a report critical of his actions during the disturbances. Police in the Hessian city of Fulda came under heavy criticism in August when they failed to prevent an illegal right-wing demonstration marking the suicide of Nazi war criminal Rudolf Hess while simultaneously detaining a group of left-wing counter-demonstrators outside the city. In contrast, police forces in the eastern states of Thuringia, Saxony-Anhalt, and Brandenburg, who had in previous years been criticized for their failure to deter right-wing extremists, received praise for their success in thwarting illegal right-wing demonstrations on the anniversaries of both Hess's suicide and 1992's Rostock asylum home attacks. Improved police training and law enforcement methods, as well as new preemptive measures, contributed to the police's successes.

Despite a decline in economic output and rising unemployment in 1993, Germany's industrial economy afforded its residents a high standard of living. In eastern Germany, the number of registered jobless reached almost 1.2 million by the end of the year, a rate of over 15 percent, as adjustment to the market economy continued. These figures did not reflect the substantial number of underemployed

workers, persons enrolled in temporary work or training programs, or those forced into early retirement, which would swell the proportion to perhaps one-third of the work force. Women continue to suffer disproportionately from unemployment in Eastern Germany. Unemployment also worsened in the west as the jobless rate there rose to 8.1 percent, with some 2.5 million without jobs. Most observers forecast a return to modest economic growth in 1994, but saw little hope for relief on the employment front in the near term. Germany's leadership began a discussion of some of the structural issues which were perceived to contribute to economic stagnation and unemployment, such as inappropriate fiscal, regulatory, and social policies.

The Basic Law, adopted in 1949, rests firmly on the principles of liberty, equality, and the free exercise of individual rights. In practice, these human rights are protected in almost all cases; further, protection against racial and ethnic intolerance is provided for under law. However, incidents of violence and harassment directed at foreigners, particularly non-Europeans, continued in 1993 and occurred throughout Germany. According to the German Federal Police, 5,681 anti-foreigner incidents (1,341 of which were violent) occurred during the first 11 months of 1993, compared to 5,306 during the first 11 months of 1992. The Federal Office for the Protection of the Constitution recorded 1,699 instances of violence committed by right-wing extremists (against foreigners and others) in the first 11 months of 1993, compared to 2,584 during all of 1992. Federal authorities recorded 267 antiforeigner motivated arson attacks through November 30, including the May 29 firebombing of a Turkish home in the town of Solingen which killed five persons. As of November 30, right-wing violence had claimed a total of 19 lives. To a large degree, these attacks were perpetrated by alienated youths, many of them "skinheads", and a small core of neo-Nazis. All the major parties and all of the leading representatives of the Federal Republic denounced the violence, and there was widespread acknowledgment that police willingness and ability to deal with such violence has notably improved.

In the wake of criticism over lenient treatment of perpetrators of antiforeigner violence, judges began to levy heavier sentences in cases where defendants were motivated by right-wing hatred. Critics continued to maintain, however, that the judicial system failed to treat rightist perpetrators as severely as leftists had been treated during previous decades' political violence. Government officials recommended new legislation designed to enhance law enforcement authorities' abilities to cope with right-wing violence. There was also extensive debate about changing citizenship and naturalization laws to enable second and third generation non-Germans to attain citizenship more easily. Some of the actions taken by the Government to address antiforeigner violence—such as the banning of certain neo-Nazi organizations, the investigation of extremist political parties, and the censoring of right-wing rock music, books, and symbols—raised legal and human rights concerns (see Section 2.).

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Politically motivated killing by the Government or by mainstream political organizations is unknown. For the second year in a row, there were no assassinations by the left-wing terrorist Red Army Faction (RAF). A bungled police action to arrest two suspected RAF terrorists, however, resulted in the death of a policeman as well as one of the suspects. The RAF suspect was killed by a point-blank shot to his head, and witnesses gave contradictory statements. The Government investigated allegations that this shooting was a deliberate, extrajudicial execution, and responsible senior officials, including the Interior Minister and the acting head of the Federal Police, resigned due to the mismanagement of the affair, while the Prosecutor-General was fired. Although questions continued to be raised in the press and elsewhere about who killed the RAF member, two of three independently commissioned reports concluded that the suspected terrorist used his own weapon to kill himself. Swiss police forensics investigators also concluded that the suspect was killed by his own weapon, and probably by his own hand. After reviewing these independent reports, the public prosecutor investigating the case concluded that the RAF terrorist, with the intent to commit suicide, shot himself in the head following the shootout with police authorities.

In a few instances, police in Berlin and the eastern states were accused of mistreating foreigners taken into custody. In one of the most egregious cases covered in the press, an officer in the Saxony-Anhalt town of Stassfurt fatally shot an unarmed Romanian asylum seeker in January as the latter fled from guards inside a detention center. The victim was being held because he was unable to provide police with identity papers. The officer responsible was immediately suspended, but

no charges were filed against him as a result of the ensuing internal investigation. The fact that the State Prosecutor's Office did not publicly announce the incident until over 2 weeks later led to charges of a cover-up. The internal investigation concluded that no action needed to be taken against the officer, and at year's end the Saxony-Anhalt State Prosecutor's office was considering whether or not to press charges. Three murders also occurred in Germany among rival foreign political factions (e.g., Iranians, Kurds and Turks, and Serbs and Croats). The FRG pressed charges in these cases.

b. *Disappearance.*—Governmental or police authorities do not abduct, secretly arrest, or otherwise illegally detain persons.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There was no indication that police authorities engaged in these practices. However, as noted in Section 1.a., there were a few reports of police abuse of foreigners taken into custody. As of September 30, 16 Berlin police officers had been charged with racially motivated physical mistreatment of foreigners. Thus far, the Berlin Prosecutor's Office has investigated four cases, dismissing charges in each instance either because of clear evidence of innocence or because of insufficient proof of guilt. Investigations of the remaining 12 cases were underway or pending at year's end. In August 700 Vietnamese demonstrated in eastern Berlin to protest alleged mistreatment of former GDR contract workers and alleged illegal search and seizure practices by Berlin authorities. A lawsuit filed by a 14-year-old Turkish Kurd boy, who alleged he was injured during a 1992 arrest in Bremen, was dropped by the prosecutor. The plaintiff appealed the decision.

d. *Arbitrary Arrest, Detention, or Exile.*—Unless caught in the act of committing a crime, no person may be arrested except on the basis of an arrest warrant issued by a competent judicial authority. Any person detained by the police must be brought before a judge and charged no later than the day following the day of apprehension. The court must then issue an arrest warrant with stated reasons for detention or order the person's release.

There is no preventive detention. A suspect may be held in custody for up to 24 hours while awaiting a formal charge if there is evidence that he might seek to flee the country to avoid prosecution. German law allows the right of free access to legal counsel to be restricted only if evidence exists that contact with a specific attorney is being used to promote unlawful activity. Only judges may decide on the validity of any deprivation of liberty. Bail bond exists but is seldom employed. There is no exile.

e. *Denial of Fair Public Trial.*—Trials are public. The Basic Law assures due process and prohibits double jeopardy. The judiciary is free of both government interference and intimidation by terrorists. There are no political prisoners. The court system, largely specialized, has five components: "ordinary" (criminal and civil cases); labor (disputes between employers and unions); administrative (administrative law); "social" (social security); and fiscal (taxation). The Federal Constitutional Court is the supreme court.

In the states formerly a part of the German Democratic Republic (GDR), there has been substantial progress in reforming the courts to meet western German standards. One remaining area of weakness concerns a shortage of qualified judges in the eastern states. Many experienced judges were disqualified for reasons relating to their political and judicial conduct under the GDR, and many judges had to be brought in from the west (see Section 2 b.). Virtually all significant Justice Ministry officials and 70 percent of all judges and prosecutors in the eastern states are now from western Germany. Faced with severe personnel shortages, large case backlogs, and deep-reaching reorganization, eastern Germany's legal apparatus was slow to prosecute cases of extremist violence dating from the spate of right-wing attacks in late 1992 and continuing extremist activity in 1993. For example, of the roughly 200 arrests stemming from the Rostock riots—the largest single incident of right-wing violence in 1992—only about 40 people had faced trial by year's end. Of these, all but three were found guilty, mostly of arson, disturbing the peace, and attempted assault. Several initial charges of attempted manslaughter brought against participants in the Rostock asylum home attacks were reduced to arson, disturbing the peace, and attempted assault. The most severe sentence meted out to an individual connected with the riots—3 years in prison—was handed down for arson and aggravated breach of the public peace. Six persons received prison sentences of up to 3 years. Other convictions resulted in sentences of probation or juvenile detention.

Sentences for acts of right-wing violence, such as those meted out in the Rostock trials, elicited widespread criticism that the legal system was too lenient with right-wing extremists. In part due to such criticism, as 1993 progressed, prosecutors increasingly sought convictions for attempted murder or attempted manslaughter in

cases where right-wing arson attacks or individual assaults resulted, or could have resulted, in bodily injury to foreigners. When successful, convictions led to sentences of from 4 to 8 years. However, convictions and sentences varied greatly from state to state and from judge to judge.

Germany's Juvenile Penal Code mandates more lenient sentencing and an emphasis on rehabilitation for criminals 21 years old or younger. The vast majority of perpetrators of right-wing crimes are adolescents who fall into this category, some as young as 12 to 14 years of age. German authorities are debating whether to lower the age for adult sentencing to 18, in part in an effort to stiffen punishments for right-wing offenders.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The inviolability of the home is ensured by the Basic Law and respected in practice. Prior to forcible entry by police into a home, a warrant must be issued by a judge or, in an emergency, by a public prosecutor. Electronic surveillance or monitoring of mail may be undertaken only after authorization by a court order. Membership in political parties is completely voluntary. Coercive population control and forced resettlement are unknown.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The provisions of the Basic Law, an independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and press. Criticism of the Government is unrestricted. The media are not censored. In an effort to combat right-wing violence, the Government conducted a sweeping crackdown on the right-wing rock music industry. This action included the raiding of homes and offices of industry personnel and the seizing of recordings. The Government outlawed the sale, manufacture, and distribution of materials of at least five neo-Nazi rock bands whose songs advocate violence and racism. There is no general censorship of foreign or domestic books, although Nazi propaganda is illegal. Certain Nazi and neo-Nazi insignia, slogans, and salutes are prohibited.

Newspapers and magazines are privately owned. Radio and television networks and stations function, for the most part, as corporations under special public laws. They are governed by independent boards made up of representatives of churches, political parties, and other organizations.

Academic freedom is effectively guaranteed.

b. *Freedom of Peaceful Assembly and Association.*—The rights of assembly and association are fully respected, as is the right to demonstrate. Organizers of street demonstrations are required to obtain police permits beforehand and may be asked to pay a deposit to cover the repair of any damage to public facilities. Such police permits are routinely granted. When demonstrators have not obtained the required permits, police have exercised restraint, showing concern ultimately only for the continued functioning of public facilities and for the safety of the general public.

Membership in nongovernmental organizations of all types, including political parties, is generally open. Parties found to be "fundamentally antidemocratic" may, however, be outlawed. Under this constitutionally based provision, the Federal Constitutional Court in the 1950's declared both a neo-Nazi and a Communist party to be illegal, a ban still in effect. In 1993 several extremist parties continued to be under observation, i.e., subject to telephone taps, infiltration by undercover agents, and document searches, by the Office for the Protection of the Constitution (BFV, the internal security service). In order to conduct such monitoring, law enforcement authorities must obtain authorization from a judge to install telephone taps, and search warrants are required for document searches. In September, the Government asked the Federal Constitutional Court to ban the far-right Free German Workers' Party on grounds of threatening the democratic order. Four far-right political organizations, which did not enjoy legal status aspolitical parties, were banned in November and December 1992 on grounds of "endangering or attempting to overthrow the free and democratic constitutional order" or "directing efforts damaging to the idea of international understanding (Voelkerverstaendigung)." The BFV reported that 43,000 people belonged to far-right organizations in 1993, of whom some 6,400 were considered violence-prone.

In accordance with the German Unification Treaty's provision that previous collaboration with the former GDR secret police is incompatible with state service, background checks of all upper-level civil servants from eastern Germany are conducted. Eastern German judges and prosecutors are now investigated to determine whether they collaborated with the Stasi secret police in the GDR or were responsible for politically motivated trials or sentences. Commissions within the state ministries of justice then conduct hearings during which examinees are shown any damaging information and given the opportunity to respond. Decisions of the commis-

sions can be appealed in court. A federal law was passed after German unification providing for similar background checks of eastern German lawyers and notaries. The checks are conducted by state ministries of justice as well as by lawyers chambers. Examinees receive a hearing, and can appeal a negative decision in court.

c. *Freedom of Religion.*—The full practice of religion is allowed. Almost 50 different churches and religious denominations exist, but most of the population belongs to the Catholic or Protestant churches. Together with the small Jewish community, these churches hold a special legal status as corporate bodies under public law, giving them, for instance, the right to participate in a state-administered church tax system. The rest of the population either practices no religion or belongs to small independent Christian churches or other faiths, such as Islam. The Government subsidizes church-affiliated schools and provides religious instruction in schools and universities for those belonging to the Protestant, Catholic, and Jewish faiths.

Members of the Church of Scientology have complained of harassment, including being fired from jobs and being expelled (or not permitted to join) political parties solely because of their affiliation with Scientology. Scientologists have successfully taken such grievances to court.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—German citizens are free to move anywhere within the country and to leave and return at any time.

The Basic Law guarantees ethnic Germans automatic German citizenship and the right to legal residence without restrictions. The number of such ethnic Germans coming from eastern Europe and the former Soviet Union to settle in Germany in 1993 showed a continued decrease from the all-time high 2 years before. Through November 1993, 191,845 ethnic Germans had registered to resettle in Germany. This total included 181,167 from the countries of the former Soviet Union, 5,228 from Poland, and 5,190 from Romania.

Immigrants who are not ethnic Germans can acquire citizenship if they meet certain requirements: legal residence in Germany for at least 10 years (5 years for those married to Germans); renunciation of all other citizenships; and a basic knowledge of German (along with some other minor requirements). German citizenship is not granted automatically; application is necessary. Legal long-term residents often opt not to apply. They receive the same social benefits as do German citizens and, after 10 years of legal residency, are automatically entitled to permanent residency. Representatives of the Turkish, and of the Sinti and Roma Gypsy communities, have criticized the citizenship policy as unjust and discriminatory. The Government at year's end was considering whether or not to liberalize the naturalization law.

The right to asylum for foreigners who are politically persecuted is guaranteed under the Basic Law. A record 438,191 asylum seekers entered the FRG in 1992. During the first 6 months of 1993, before a new, more restrictive asylum law took effect, another 244,718 applications for asylum were filed. During the first 4 months following implementation of the new asylum law, applications dropped to 47,795. The Government provides food, clothing, and shelter to asylum seekers during processing of their applications, often a matter of several months or more. As the influx of foreigners steadily increased, placing a heavy burden on an economy already severely strained by the financial costs of reunification, domestic political pressure to restrict the asylum law became overwhelming.

On May 26, the Parliament approved a constitutional amendment reforming the asylum process; it went into effect on July 1. The new law greatly restricted the circumstances under which an individual could qualify for political asylum. Persons originating directly from countries presumed free of persecution ("safe third countries") would not normally be able to claim political asylum. Such applicants would, however, have the right to request an administrative review of their applications while still in Germany. Persons entering Germany via European Union (EU) countries or through identified "safe third countries" also would not be eligible to apply for asylum while in Germany. The new law permits the Government to identify "safe countries of origin" based on criteria such as human rights reports and German Embassy reporting. Adherence to the 1951 Geneva Convention Relating to the Status of Refugees and its 1967 Protocol is not a criterion for "safe country of origin" status. Countries designated as "safe third countries," however, must be signatories of the Geneva Convention and Protocol.

Opponents of the new law argued that few third countries could be universally termed "safe," and that the law, in failing to allow applicants to rebut the "safe third country" presumption, would prohibit legitimate asylum seekers from entering Germany. The U.N. High Commissioner for Refugees has expressed concerns about the "safe country" concept, and the language is being reviewed by the Federal Con-

stitutional Court. Legal recourse against a negative decision by the authorities on an asylum application also was limited by the new law. Critics questioned too the quality of the hearings allowed for individuals appealing the "safe country of origin" presumption, given the short time (48 hours) allotted for review of these cases. Immediately after the new law went into effect, 14 asylum applicants appealed their deportation orders to the Constitutional Court. Several were granted temporary stays of deportation pending further review of their cases.

Two months after implementation of the new asylum law, the number of asylum applications had fallen by one-half. Processing had already been accelerated following the introduction of new, automated procedures in April. A second law passed in conjunction with the new asylum law, which reduced the share of welfare benefits provided to asylum seekers to 75 percent of that generally allotted to German citizens, was partially responsible for the drop in applications. Exceptions are made in such instances as large families with small children. Vouchers and hot meals replaced the reduced cash payments made to asylum seekers, lessening the appeal of a stint as an asylum seeker in Germany.

Short of the right to vote, those granted formal asylum status enjoy full civil rights. While approximately 5 percent of the asylum seekers succeed in their requests for political asylum, denial of political asylum does not automatically result in deportation. The majority of applicants who are rejected are typically allowed to remain in the country for other humanitarian reasons, especially those from the former Yugoslavia. Deportation of illegal immigrants has, however, became more common due to the new asylum law as well as an agreement signed with Romania in late 1992 arranging the return of Romanian asylum seekers, primarily Gypsies, whose applications had been turned down.

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

Under the Basic Law, the Government is chosen by the people through orderly elections based on universal suffrage. The lower house of Parliament, the Bundestag, which chooses the Chancellor, is elected through a mixture of direct constituency candidates and party lists. The upper house, the Bundesrat, is composed of delegations from state governments. New political parties are free to form and enter the political process, but the Basic Law and the state constitutions stipulate that parties must receive at least 5 percent of the national vote (or win at least three directly-elected seats in federal elections) in order to be represented in the federal and state parliaments. Although party discipline plays an important role, voting on issues in the Bundestag is ultimately a matter of individual decision.

Women are entitled by law to full participation in political life, and all parties have expressed commitment to encourage their greater participation. The Greens require that women comprise half of the party's elected officials. The Social Democratic Party (SPD) requires that women comprise 40 percent of all party committees and governing bodies by the end of 1994. Presently, 37.7 percent of the SPD's Executive Committee members are women. The party has mandated that 33.3 percent of SPD candidates running for office in the 1994 Bundestag elections be women. The Hesse state government has passed laws requiring that 50 percent of all public sector job openings be filled by women. Effective January 1994, the law applies to nearly 400,000 positions. Within the German Government, the Federal Cabinet Minister for Women and Youth is responsible for furthering women's interests in both the public and private spheres. Women comprise 21 percent of the current Bundestag membership, and its president is a woman.

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

Private nongovernmental human rights organizations operated freely and without harassment in all of Germany, as did international organizations.

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

Denying access to shelter, employment, health care, and education on the basis of race, religion, disability, sex, ethnic background, political opinion, or citizenship is illegal.

Women.—Women generally enjoy full and equal protection under the law, including property and inheritance rights. Young women experience difficulties in gaining access to training in some traditionally male fields, but recent court rulings and government pilot programs helped break down some of these attitudinal and institutional barriers. Women's rights groups are active in combatting pay inequities, sexual harassment, and violence against women.

Salaries for women in the private sector tend to be lower than salaries for men in similar jobs. The Government, through its Labor Ministry, acknowledged the existence of unequal, sex-differentiated pay scales in the private sector as a violation of the constitutional prohibition against discrimination on the basis of sex. Several decisions by the National Labor Court in recent years were in favor of women who initiated litigation to redress pay inequities.

The issue of equal pay for equal work is addressed also in the private sector in collective bargaining between unions and firms.

In May the Federal Constitutional Court declared abortion to be unconstitutional, ruling that abortion violated the constitutionally guaranteed right to life. The Court also declared, however, that first-trimester abortions would not be subject to prosecution, provided that the woman received counseling beforehand and a doctor performed the procedure. The Court also limited the types of abortions for which government assistance could be provided to cases of rape, danger to the life of the mother, or grave deformation of the fetus. The ruling struck down a "compromise" abortion bill passed by the Parliament in 1992 in an attempt to reconcile the former GDR's liberal abortion laws with the strictly regulated abortion policies of the west. The 1992 law, which permitted abortions during the first trimester after mandatory counseling, did not go into effect owing to a temporary injunction issued by the Constitutional Court at the request of the Christian Democrats and their Bavarian counterpart, the Christian Social Union. Thus, the "divided" abortion law, whereby eastern German women had a legal right to abortion without restriction during the first trimester, and abortion in the western part of Germany was permitted only on medical grounds or in case of extreme economic difficulty, had remained in effect until the May 1993 court ruling.

The unemployment rate for women in the eastern states continued to be high relative to men, with women comprising nearly 65 percent of all unemployed workers. Prior to German unification, women in the then-GDR worked primarily in the health, social work, education, and retail sectors, as well as in light industry. Firms in these sectors were among the first to go bankrupt or be dismantled in the transition from a command to a market economy. As of August, women's unemployment in eastern Germany stood at 21.7 percent while the comparable figure for men was 11 percent.

Violence against women, including wife beating, is not condoned in law or in practice. Interim statistics for reported incidents of rape for the first 6 months of 1993 showed an increase of about 100 cases over last year's figure of 2,406. The women's movement has urged public discussion of the problem and tougher penalties for crimes against women. In recent years, the Federal Ministry for Women and Youth commissioned a number of studies to investigate such topics as violence against women and sexual harassment. One study concluded that most women are unsure of their legal options in cases of sexual harrassment and often fail to come forward because of the taboo nature of the topic. The study recommended that legal counseling for victims of sexual harassment should be widely publicized and more readily available. The study also advocated special training programs for those working in public employment offices.

Children.—While there is no widespread abuse of human rights of children in Germany, the Government recognizes that violence against children is a problem. The Ministry for Women and Youth, releasing its 1992 child abuse statistics in August 1993, cited 16,442 reported incidents of sexual abuse and 1,732 reports of other physical abuse. Government officials believe that the number of unreported cases may be 10 to 20 times higher. Approximately 75 percent of sexual abuse against children is committed by family members, one-third by the child's biological father. Based on these figures, the Ministry for Women and Youth pledged to continue a public awareness campaign initiated in 1992 which seeks to sensitize people to the problem, above all by making them more familiar with its dimensions and symptoms, and by teaching them to recognize appeals for help. According to the Ministry, counseling and assistance in the area of child abuse have been expanded in recent years, in part reflecting the emphasis (as set forth in the Child and Youth Protection Law) placed on prevention.

National/Racial/Ethnic Minorities.—Incidents reflecting intolerance of foreign, religious, and ethnic minorities occurred in both western and eastern Germany. Foreigners, particularly Romanians, Gypsies, Turks, Poles, and non-Europeans, continued to be harassed or attacked mainly by right-wing extremists during 1993. Incidents of antiforeigner violence in the first 9 months of 1993 increased by 36 percent over 1992. The 1.9 million people of Turkish origin in Germany comprise the largest ethnic minority. They have been among the primary victims of right-wing violence and other acts directed against foreigners.

In May a 16-year-old boy firebombed the home of a Turkish family in Solingen, killing five of the inhabitants and wounding three. Following the arson attack, thousands demonstrated to protest xenophobia and right-wing extremism. Chancellor Kohl expressed outrage and dismay over the murders, calling for severe handling of the perpetrator. President von Weizsaecker was present at a memorial service in Cologne for the Solingen victims, although Chancellor Kohl did not attend.

Noncitizen residents of Germany are prohibited from holding most civil service jobs, which include teaching and police posts. Their rights to own property are also limited and they are subject to restrictive quotas in universities. Turkish organizations complain that such restrictions limit their members' economic opportunities and ability to integrate into German society.

Some people of Turkish origin in Germany felt that government institutions, especially the police, were unresponsive to their needs, though most admitted that city and regional "Foreigners' Commissioners" were concerned and helpful, if perhaps understaffed. Some Turks also alleged that not enough was done to prevent recurrences of violence in Solingen or elsewhere. Many Turks think that they and other Muslims are discriminated against on religious as well as ethnic grounds. Some also pointed out that after the attack at Solingen the press turned for comment, not to a spokesperson of from the Turkish community, but to a leader of the Jewish community. Turks also complained about a perceived lack of high-level political commitment to foreigners. They criticized Chancellor Kohl's refusal to take part in the Solingen memorial services, a refusal some saw as a politically motivated effort to cultivate the right wing. President von Weizsaecker, on the other hand, was generally credited for his frankness and concern about the integration of foreigners.

The Solingen attack prompted a new wave of "copy-cat" violence, causing government authorities to review measures put into place after the Moelln incident. These measures included personnel reinforcement in certain law enforcement bodies; banning of four neo-Nazi organizations (the Deutsche Alternative, the Deutscher Kameradschaftsbund, the Nationale Offensive, and the Nationalistische Front); increased electronic and open-source surveillance of other right-wing groups, augmented protection of asylum homes, and an outreach program to troubled youth. On the federal level, no concrete changes have as yet been made as a result of the review. Individual local governments have, however, taken some additional action. For example, the city of Solingen augmented police protection of homes belonging to foreigners and developed after-school programs for troubled youth.

In the eastern states, antiforeigner crimes attributable to right-wing extremists dropped below 1992 levels in incidence and severity, although on a per capita basis, antiforeigner violence was more prevalent in the east than in the west. There still were incidents of arson attacks against asylum homes and assaults against individual non-Germans. Protracted mob sieges of asylum facilities, however, did not recur in 1993. On the other hand, the incidence of desecration of Jewish and Russian cemeteries, as well as vandalism at concentration camp memorials, rose (see below).

Although most acts of violence were, as in the past, committed independently by small groups with widely divergent ideologies, a new trend, evident in both eastern and western states, pointed toward greater coordination among small, previously more diffuse neo-Nazi groups. In western Germany, right-wing attacks also were more often violent than in previous years, as extremists sought to imitate the 1992 Moelln firebombing.

In addition to condemning the violence, the Government recommended tougher anticrime legislation and law-enforcement measures as well as measures aimed at the societal roots of extremist violence and growing crime rates. Although better trained, more experienced, and better versed in federal Germany's legal system than in previous years, eastern German police have not yet achieved western German standards of effectiveness and efficiency. However, police in eastern Germany showed greater success in combatting right-wing violence in 1993, in part due to the efforts of special law enforcement task forces created in many states to target right-wing crimes. Though there were no cases in 1993 of eastern police inaction in the face of mob violence against asylum homes (as occurred in 1992 in Rostock and Eisenhuettenstadt) the eastern police continued to face criticism for failing to prevent ongoing incidents of small-scale right-wing violence and illegal neo-Nazi public gatherings.

In one widely reported incident, for example, police in Buetzee in Brandenburg did nothing to halt an illegal demonstration of approximately 200 organized neo-Nazis from all over Germany, some dressed in outfits closely resembling uniforms of the Schutzstaffel (SS), Hitler's elite guard. (It is illegal to wear SS uniforms in Germany. The question of when a uniform closely enough resembles an SS uniform to be considered one is a matter of individual court interpretation, although a uniform which uses SS insignias or swastikas is clearly illegal.) That same day, police

in Prieros, in the same state, stood by as nearly 800 "skinheads" gathered at the deputy mayor's home yelling outlawed Nazi slogans.

In response to accusations of inaction and ineptitude, eastern law enforcement and Interior Ministry officials argued that legal prohibitions against surveillance and covert intelligence gathering, such as phone tapping, limited their ability to preempt extremist attacks. Police also contended that they could not guard every asylum home and cemetery and that there was little they could do to stop small-scale "hit and run" attacks against asylum homes or individual non-Germans. In the battle against extremist violence, governments in the eastern states increasingly called on the Federal Government to ban right-wing organizations they considered guilty of anticonstitutional activities. State governments can legally outlaw only organizations active solely within their state, but if the activities of a right-wing group cross state lines, the Federal Government assumes jurisdiction.

In early November, in a verdict that aroused public criticism for perceived leniency, a judge in Dresden sentenced three defendants found guilty of killing Mozambican laborer Jorge Gomodai. Gomodai died from injuries sustained after being thrown from a tram by juvenile skinheads on March 31, 1991. One youth was sentenced to 2½ years in prison, while the two others were given probation and fines. Although the court was criticized in the press for the perceived leniency of these sentences, they were in fact higher than the prosecutor had sought in light of the fact that all three were juveniles at the time of the assault and no "intent to kill" could be proven. The court decided on higher penalties than usual after hearing that the main defendant had beaten up a passer-by the night before the Mozambican was killed.

The two neo-Nazis charged with the firebombing in Moelln in November 1992—which killed three Turkish citizens—were found guilty and given maximum sentences on December 8, 1993. One attacker received a life sentence, with parole possible after 15 years, while the other, who was a minor at the time of the attack, got 10 years. Many saw the verdict as a signal that courts will move vigorously against right-wing attacks. The defense said that it would appeal to the Constitutional Court.

Extremists continued to target the Sinti and Roma Gypsy populations. (In addition to asylum-seekers, there are 70,000 Sinti and Roma resident in Germany). Sinti and Roma leaders accused the Government of discriminatory behavior in failing to recognize Gypsies as a national minority. Some human rights groups and journalists also argued that the November 1992 German-Romanian agreement allowing for relatively simple deportation of unqualified Romanian asylum applicants (of whom 60 percent are Gypsies) singled out Gypsies.

The Government of Brandenburg was accused of violating the constitutionally protected rights of the state's Slavic Sorb minority population because of its April decision to allow the eventual demolition and relocation of the small village of Horno in order to make way for brown coal mining. Sorb activists accused the Government of ignoring a provision in the state constitution guaranteeing the protection and continuation of ethnic Sorb settlements. The Government held that Horno was not a Sorb settlement (but rather a village of 360 residents in which some Sorbs lived) and that the policy affected the entire region, not only the Sorbs.

State governments in eastern Germany introduced several model social and educational programs designed to counteract the root causes of xenophobia and intolerance, in addition to their efforts to reinvigorate law enforcement measures to crack down on violent manifestations of extremism. Thus far, however, financially strapped eastern governments have made available only limited funds for such projects.

Religious Minorities.—A total of 482 anti-Jewish incidents were recorded during the first 10 months of 1993, including 5 cases of assault. Jewish monuments were vandalized and at least 45 Jewish cemeteries were desecrated. There were several incidents of politically motivated vandalism of the memorial at the former Sachsenhausen Concentration Camp. In September over two dozen gravestones were painted with anti-Semitic and Nazi graffiti in the Jewish cemetery in Wriezen. Although the Government condemned such anti-Semitic attacks, Jewish leaders and others felt that the response was inadequate and criticized what they perceived to be the Government's slow reaction to xenophobic violence and insensitivity to the Jewish community.

People with Disabilities.—According to German law, anyone who is physically or mentally disabled is entitled to seek help in order to avert, eliminate, or improve the disability, prevent a deterioration of the condition, or alleviate its consequences and to secure a place in society, particularly in the workplace, according to his or her abilities. Laws providing for the disabled are respected in practice. The German social system provides for medical treatment and therapy for the disabled, as well

as sickness, maintenance, and disability allowances equal to 80 percent of lost normal income. The Government offers vocational training programs for the disabled as well as integration grants for employers who hire disabled individuals. Severely disabled persons may be granted special benefits, including tax breaks, free public transport, special parking facilities, and exemption from radio and television license fees.

The Federal Government has provided guidelines for "barrier-free" construction of public buildings, recommending the installation of wheelchair ramps, automatic and extra-wide doorways, suitable restroom areas, and the like. Federal authorities have also provided guidelines for city streets and sidewalks, suggesting that states mandate handicapped parking spaces in public lots, low curbs at crosswalks, and audio signals at crosswalk lights. While it is up to the individual states to incorporate these guidelines into state building codes, handicapped-access facilities are standard throughout Germany.

Section 6. Worker Rights

a. *The Right of Association.*—The right of workers to associate freely, choose representatives, determine programs and policies to represent members' interests, and publicize views is recognized and freely exercised. Thirty-nine percent of the total eligible labor force belongs to unions. The German Trade Union Federation (DGB) represents 85 percent of organized workers in both eastern and western Germany and actively participates in various international and European trade union organizations. The unions are independent of government and the political parties, although most union leaders are politically active and some serve as Members of Parliament representing either the principal opposition party or the largest party in the governing coalition. There is no restriction on the number of unions, and small parallel unions operate alongside the dominant DGB federation.

The right to strike is guaranteed by law, except for civil servants (including teachers) and personnel in sensitive positions, such as members of the armed forces, and in 1993 was most notably exercised by eastern German metal workers. International Labor Organization (ILO) bodies in 1993 remained critical of the Government's broad definition of "essential services" which prevents teachers from legally striking. Sanctions imposed on teachers who struck in Hesse in 1989 and the replacement of striking postal workers by civil servants in an earlier incident were the specific cases that provoked complaints to the ILO. In the case of the postal workers, the Federal Labor Court in July 1993 agreed with the ILO, stating the Government may not require civil servants to do the work of those engaged in a legal strike.

b. *The Right to Organize and Bargain Collectively.*—The right to organize and bargain collectively is guaranteed by the Basic Law and is widely practiced. No government mechanism to promote voluntary worker-employer negotiations is required because of a well-developed system of autonomous contract negotiations, now extended to the eastern states. There is a two-tiered bargaining system whereby basic wages and working conditions are established at the industry level and then adapted to the circumstances prevailing in particular enterprises through local negotiations. In 1993 there continued to be reports that some firms in eastern Germany either refused to join or withdrew from employers' associations and then bargained independently with workers. Some large firms in the west also withdrew at least a portion of their workers from the jurisdiction of the employers' associations, complaining of a lack of flexibility in the system of centralized negotiations. A characteristic of German industrial relations is the legally mandated system of works councils that provides a permanent forum for continuing selective worker participation in the management of the enterprise. Workers are fully protected against antiunion discrimination and can be reinstated if they can prove they were fired for union activity.

Germany has no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is barred by the Basic Law and is nonexistent in practice.

d. *Minimum Age for Employment of Children.*—Federal law generally prohibits the employment of children under age 15, with a few exceptions: children aged 13 and 14 may do farm work for up to 3 hours per day or may deliver newspapers for up to 2 hours per day; children aged 3 through 14 may take part in cultural performances under stringent conditions with regard to number of hours, time of day, and form of activity. The Federal Labor Ministry effectively enforces the law through its Factory Inspection Bureau.

e. *Acceptable Conditions of Work.*—There is no legislated or administratively determined minimum wage rate. Wages and salaries are set either by collective bargaining agreements between industrial unions and employer federations or by individual contract. These agreements, which cover about 90 percent of all wage and

salary earners, set minimum pay rates and are legally enforceable. These minimum wage levels provide an adequate standard of living for workers and their families. The number of hours of work per week is regulated by contracts which directly or indirectly affect 80 percent of the working population. The average workweek for industrial workers in the western part of Germany is 37.6 hours, and in the eastern states, about 40 hours.

Germany has an extensive system of laws and regulations on occupational safety and health and incorporates a growing body of European Union-wide standards into its own legislation. This system includes the right to refuse to perform dangerous or unhealthy work without jeopardizing employment. For each occupation, there is a comprehensive system of worker insurance carriers that enforce requirements for safety in the workplace. This system has been extended into the eastern states, where lax occupational health and safety standards and conditions under the Communist regime created serious long-term problems. The Federal Labor Ministry and its counterparts in the states effectively enforce occupational safety and health standards through a comprehensive network of government structures, including the Federal Institute for Work Safety. At the local level, professional and trade associations—self- governing public law corporations with delegates from the employers and from the unions—oversee the prevention of workplace accidents as well as worker safety.

GREECE

Greece is a constitutional republic and parliamentary democracy. In free and fair national parliamentary elections in October, the Panhellenic Socialist Movement (PASOK) won a comfortable majority, and its leader, Andreas Papandreou, became Prime Minister. The defeated New Democracy Party of former Prime Minister Constantine Mitsotakis assumed the role of the opposition. President Constantine Karamanlis, the largely ceremonial Head of State, was chosen by Parliament in April 1990.

The police and security services are subject to a broad variety of legal and constitutional restraints. The Greek Parliament, a vigorous free press, the judiciary, committees and deputies of the European Parliament, and Greek and international human rights organizations monitor their activities. These institutions and groups brought to light cases of improper activities and pressed the Government to put a stop to such activities.

The National Intelligence Service in an internal report (which was leaked to the press in August) pointed to non-Greek Orthodox persons and organizations as potentially dangerous to Greece and monitored their activities and maintained dossiers on them. The Mitsotakis Government stated that the report had been immediately withdrawn and that it did not represent its position (see Section 2.c.).

The Greek economy has a very large state sector with a strong tradition of patronage. To promote further economic development, Greece relies heavily on the European Community (EC) for subsidies and loans. Political polarization and opposition from labor unions and other groups hamper government efforts to reduce the budget deficit and strengthen the private sector.

The Constitution protects, and the authorities generally respect, fundamental human rights. There continued to be reports, investigated and mostly denied by the Government, of Greek border guards and military personnel abusing Albanian illegal aliens, resulting in the deaths of at least four Albanians. A bilateral dispute with Albania in June and July led to mass roundups of Albanians working in Greece—most but not all of them illegally—and their summary expulsion to Albania.

Other human rights problems in 1993 included prosecution of persons who dissented on sensitive foreign policy and minority issues or who "insulted authority," restrictions on religious practice, discrimination against Gypsies, and continued use of Article 19 of the Citizenship Code to revoke the citizenship of Greek citizens who are not ethnic Greeks, despite assurance by senior government officials in 1991 that Article 19 would be repealed.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Neither government forces nor legal opposition groups engaged in political killing. In contrast to previous years, no lethal terrorist attacks occurred in 1993. However, during 1993 there were allegations that Greek border guards and military personnel killed several Albanians who had

illegally entered Greece. The Army is conducting an investigation to determine whether to court-martial a soldier who fatally shot an Albanian immigrant on February 27. In another case three Albanians reportedly fell over a cliff to their deaths when a Greek border patrol fired at them during a night chase through rugged terrain.

As a result of the investigation into the case of accused drug dealer Suleyman Akyar, who was reportedly beaten to death in January 1991 while in official custody, the prosecutor proposed that three police officers be charged with using excessive force leading to death, a felony. The three police officers were subsequently exonerated, however, and the official cause of death was ruled to be pneumonia.

A German citizen, Ramon Joachim Schulz, died in a prison in Crete in August under questionable circumstances. The official cause of death was listed as a heart attack, but there was strong evidence that he had suffered a severe beating while in detention. The Ministry of Justice opened a further investigation into the case at the request of the German Government.

b. *Disappearance.*—Amnesty International (AI) reported the disappearance of two ethnic Greeks with Albanian citizenship who were detained by police in Zagora on March 4 and never seen again.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution specifically forbids torture, and a 1984 law makes the use of torture an offense punishable by a sentence of from 3 years to life imprisonment. This law has never been invoked. Although reports of police abuse declined in 1993, defense attorneys and other sources continued to report that the police beat detainees in the initial arrest and investigative phase in order to extract information and confession, and then held detainees in harsh conditions in holding cells. Allegations persisted that police and military personnel beat and otherwise abused illegal Albanian aliens in the process of deporting them, including credible reports of such beatings during the mass expulsions in July (see Section 2.d.).

AI issued a report in 1992 describing incidents occurring in 1990 and 1991 in which police and prison guards allegedly tortured or ill-treated individuals or groups of people in their custody. An appendix, summarizing cases raised with the Greek authorities since 1986, included 54 alleged victims in 1991. According to the report, methods of ill-treatment included punching, kicking, and beating with sticks, clubs, or truncheons. Beating on the soles of the feet was also reported. The Government conducted its own internal reviews and reported in 1993 that police and guards in most instances had been exonerated.

Although concluding that most AI allegations were groundless, the Minister of Public Order, in public statements in 1992 about terrorism, acknowledged shortcomings in police discipline and promised corrective action. In further conversations about the AI report in September 1993, senior police officials stressed that they had instituted training programs to ensure that proper procedures are followed and that the human rights of detainees are respected. They said that the Ministry had ordered police commanders to carry out serious investigations of reports of abuse, to inspect regularly conditions in police holding cells, and to punish officers who break the law.

In March a five-member delegation of the Council of Europe's (COE) Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, assisted by four professional consultants and COE staff, visited over 20 prisons, police stations, and hospitals. The Committee's confidential report to the Government was in preparation at year's end.

The Ministry of Justice acknowledged that conditions in many prisons are deplorable. Most prisons are severely overcrowded, particularly the Korydallos prison near Athens, and medical care is inadequate. There were relatively few reports of physical abuse in Greek prisons. According to one credible report, two Albanian prisoners who attempted to escape from a prison on the island of Kos were beaten severely after their recapture. An official of the Ministry of Justice said the case was under investigation.

Prison conditions for conscientious objectors, in both civilian and military prisons, have given rise to special concern in recent years. The then minister of national defense acknowledged in a press interview in July that living conditions in the Avlona military prison, where most conscientious objectors formerly were held, were "objectionable and inadmissible." Investigations and visits by deputies of the European Parliament and other groups resulted in much adverse publicity. To begin correcting the situation, the Government transferred about 200 prisoners to the military prison at Sindos, which houses only conscientious objectors and where conditions are far better.

However, Sindos prison has a maximum capacity of only 300 prisoners, whereas the number of imprisoned conscientious objectors normally ranges between 350 and

400. As of October, about 35 conscientious objectors were still being held at Avlona, and over 90 were in Kassandra agricultural prison, which consists of a central unit and several outlying stations.

A Belgian human rights group which visited parts of the Kassandra prison reported in 1992 that in one station the dormitory was a stable; it was cold and virtually unheated in winter with holes throughout the building. The group also reported abominable sanitary conditions, poor food, and limited and belated medical care of poor quality. The Ministry of Justice acknowledged that conditions at Kassandra prison remain unsatisfactory but claimed that many conscientious objectors sought a transfer to Kassandra despite its bad conditions in order to be able to work and thereby reduce the length of their sentences. The Ministry said it was instituting a similar system of reduced sentences in exchange for work at the Sindos prison, although the Jehovah's Witnesses reported in October that work was available at Sindos for only 65 of the 200 conscientious objectors imprisoned there.

About 75 conscientious objectors are also held at the Kassevetia Volos agricultural prison. The same Belgian human rights group described conditions at this prison as far better. The conscientious objectors at Kassevetia Volos themselves described food and sanitary conditions, as well as medical facilities, as satisfactory.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution requires judicial warrants for all arrests except during the actual commission of a crime. The legal system protects against arbitrary arrest orders. Police must bring a person arrested on the basis of a warrant or while committing a crime before an examining magistrate within 24 hours. The magistrate must issue a detention warrant or order the release of the detainee within 3 days, unless special circumstances require a 2-day extension of this time limit.

Defendants brought to court before the end of the day following the commission of a charged offense may be tried immediately, under a "speedy procedure." Although legal safeguards, including representation by counsel, apply in speedy procedure cases, the short period of time may inhibit the defendant's ability to present an adequate defense. Defendants may ask for a delay to provide time to prepare their defense, but the court is not obliged to grant it. The effective maximum duration of pretrial detention is 18 months for felonies and 9 months for misdemeanors. A panel of judges may grant release pending trial, with or without bail. A person convicted of a misdemeanor and sentenced to 2 years or less may, at the court's discretion, pay a fine in lieu of being imprisoned.

Despite these legal safeguards, both AI and the Lawyers Committee for Human Rights (LCHR) reported that actual practice frequently deviates from prescribed norms. For example, lawyers informed AI that the police frequently interrogated suspects as witnesses, because witnesses do not have the right to legal representation during police questioning. Statements made to the police in these circumstances may be used against these persons in court if they are later charged and brought to trial. AI and the LCHR also reported that detainees are frequently not informed of their rights and that access to a lawyer is denied until after interrogation, which allegedly in some cases included torture or ill-treatment and the signing of a statement.

Exile is unconstitutional. However, Greek citizens not of ethnic Greek origin who travel outside the country may be deprived of their citizenship and refused readmittance to the country under Article 19 of the Citizenship Code (see Section 2.d.).

e. *Denial of Fair Public Trial.*—The judicial system is characterized by three levels of courts, appointed judges, an examining magistrate system, trial by judicial panel, and the right of appeal by both prosecution and defense. The Constitution provides for the independence of the judiciary, but there are credible charges that judges sometimes allow political criteria, including the desire to obtain promotion, to influence their judgments.

The Constitution provides for public trials, and trial court sessions are open to the public, unless the court decides that privacy is required to protect victims and witnesses or national security matters. The latter provision is not abused. The defendant enjoys the presumption of innocence, the standard of proof of guilt beyond a reasonable doubt, the right to present evidence and witnesses, the right of access to the prosecution's evidence, the right to cross-examine witnesses, and the right to counsel. Lawyers are provided to defendants who are not able to afford legal counsel.

The antiterrorism law, enacted in 1990, which also covers murder, kidnaping, and some other crimes, foreshortens trial procedures and provides for mandatory life sentences for these crimes. The new Government announced its intention to repeal this law. Parliament voted to repeal it on December 9.

There are no political prisoners in Greece. As noted above, however, there are at any given time from 350 to 400 persons imprisoned for refusing, mainly on religious grounds, to perform military service as Greek law requires (see Section 2.c.).

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits invasion of privacy and searches without warrants, and the law permits monitoring personal communications only under strict judicial controls. Judicial warrants showing probable cause are required for home searches, and there are limits on conducting such searches at night. However, the variety of persons and groups subjected to government surveillance in 1993 raised questions about safeguards. Targets included human rights monitors, non-Orthodox religious groups, and members of minority groups who meet with members of the diplomatic community. In one case, the security forces interrogated the family of a controversial academic who writes independently on such topics.

In September, however, prosecutors indicted several persons, including a retired general who had served as national security advisor to the president of the New Democracy Party (the president of the party was also Prime Minister of Greece for part of the period in question) on charges of wiretapping political opponents from 1989 to 1991. A Greek human rights monitor charged that a newspaper article, based apparently on a leaked police report of surveillance carried out against him and a visiting international human rights delegation, contained information that could only have been obtained by monitoring his telephone calls.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and press is provided for in the Constitution and generally respected in practice, but there are significant exceptions. Some legal restrictions on free speech remain in force and have been invoked the last 2 years in five cases (see details below) concerning the politically sensitive topics of relations with the former Yugoslav republic of Macedonia and the question of ethnic minorities within Greece. On these so-called national issues, under the previous government, the authorities gave clear evidence of their intolerance of political dissent; the charges the prosecutors brought in court were based on what the defendants said or wrote, not on violent acts or other criminal behavior. In the main, however, Greece enjoys a tradition of outspoken public discourse and a vigorous free press. Satirical and opposition newspapers do not hesitate to launch scathing and vituperative attacks on the highest state authorities.

The new Prime Minister, in his initial policy statement in Parliament, announced his Government's intention, as a matter of immediate priority, to repeal the laws that restrict freedom of speech and press. The law that Parliament approved on December 9 repealed the antiterrorism law and the provision in the Criminal Code that forbade "insulting authority," and it definitively ended prosecutions of "offenses committed by or through the press." As a result of these changes, a number of trials concerning restrictions on freedom of speech initiated under the previous government were terminated.

The Constitution allows for seizure (though not prior restraint), by order of the public prosecutor, of publications that insult the President, offend religious beliefs, contain obscene articles, advocate violent overthrow of the political system, or disclose military and defense information. Seizures are rare, however, and did not occur in 1993.

However, several Penal Code restrictions have been used to restrict free speech and press. Article 141 of the Penal Code forbids "exposing the friendly relations of the Greek State with foreign states to danger of disturbance"; Article 181, repealed in December, forbade "insulting authority." Article 191 of the Code prohibits "spreading false information and rumors liable to create concern and fear among citizens and cause disturbances in the country's international relations and inciting citizens to rivalry and division, leading to disturbance of the peace." People were arrested for distributing leaflets or booklets denouncing government policy on Macedonia and asserting the existence and mistreatment in Greece of Macedonian and other minorities.

In January 1992, a court sentenced six members of an organization to 6½ months' imprisonment for putting up posters which read: "No to Patriots. Recognize Slav-Macedonia." They appealed their conviction, and the appeals court set a date to hear the case in December 1995. In April 1992, police in Athens arrested four students for distributing a leaflet entitled, "The Neighboring Peoples Are Not Our Enemies. No to Nationalism and War." The leaflet opposed the Government's domestic policy regarding Greece's ethnic minorities. A court sentenced them in May to a fine and 19 months in jail. The charges were dropped due to the lifting, as noted above, of restrictions on freedom of speech and press.

In May 1992, police arrested five members of a Trotskyite group for distributing a book about "working class" perspectives on Balkan issues, denouncing the rise of Greek nationalism and asserting the existence of a Macedonian minority in Greece. A court acquitted them on May 7, 1993, after a week-long trial. The public prosecutor's office appealed the unanimous verdict, but the charges may be dropped due to the new law that ends prosecution of offenses "committed by or through the press." This is the only known case of the prosecution appealing an acquittal on such charges.

In December 1992, a court convicted a 17-year-old high school student on charges of attempting to incite citizens to divisions among themselves, disturbing the peace, and carrying a weapon. He distributed a leaflet that decried excessive nationalism on the Macedonian issue and referred to Alexander the Great as a "war criminal." The court sentenced him to a year in jail. An international human rights organization noted that he was accused of carrying an iron bar but stated that "it was not found, and no evidence was produced in court to corroborate the weapons charge." The student remains free pending appeal which is scheduled for November 1995.

In March 1993, a court convicted two minoritiy activists from Greek Macedonia for saying that they "feel Macedonian" and for claiming the existence of a Macedonian minority of 1 million in Greece. This claim conflicts with official government policy, which denies the existence of any minorities other than the Muslim minority recognized in the 1923 Treaty of Lausanne. The court sentenced them to 5 months in prison and a small fine. Both were free on appeal when the charges were dropped due to the changes in law discussed above.

Police in September 1992 charged a leader of the Athens bus drivers' union with "insulting authority" because of remarks he made that questioned the independence of the Greek courts. The charges were dropped when Article 181 was repealed.

In October 1992, three journalists with the newspaper O Locos were sentenced to jail terms of from 8 to 18 months, which could be satisfied by paying a fine, for insulting authority by suggesting that the Supreme Court improperly accepted guidance from the Government. The journalists remained free on appeal; the prosecution of this case was terminated when Article 181 was repealed.

On April 2, the publisher of the left-of-center Athens daily Ethnos and one of the paper's journalists were convicted of insulting authority for a column written by the journalist and published in the newspaper which stated that not all Thracians had pure Greek blood. (Western Thrace is home to a substantial ethnic Turkish population.) They were sentenced to 7 months' imprisonment but are free pending appeal. Charges are expected to be dropped due to the repeal of Article 181.

The antiterrorism law includes a section authorizing the Supreme Court prosecutor to prohibit publicizing specific statements by terrorist groups (specifically, groups acting in concert to commit certain serious felonies, including murder). In September 1992, six publishers and editors went on trial for violating this law in Athens. The court convicted one defendant and sentenced him to a fine and 6 months in jail (which may be satisfied by paying another fine). He appealed his conviction. Prosecution in all six cases ended with the December repeal of the antiterrorism law.

The 1975 Constitution says the State exercises "immediate control" over radio and television. An independent, government-appointed body with the authority to enact rules governing private broadcasting established procedural regulations for radio several years ago. In 1993 it did so for television as well, issuing licenses to six private stations. The Government has not instituted any policy for dealing with the large number of private radio and television stations that are operating without licenses.

The only government effort to control an unlicensed station occurred just prior to the October elections when the government television station jammed the signal of a new, opposition-oriented television station. However, when the Council of State ruled that this was illegal, the former government ceased the jamming. State-run stations tend to emphasize the Government's views and positions but also report objectively on other parties' programs and positions. In June the governing board of ET, the state-owned television and radio network, resigned in a move widely seen by the press as a government effort to take full control of state-owned broadcast media prior to the fall elections. The board, which resigned, had criticized government officials for attempting to run ET and was considered politically independent.

Throughout much of western Thrace, Turkish-language satellite television broadcasts are available to those with access to satellite ground stations. The mayors of two major towns in the region set up two such ground stations for their Turkish-speaking constituents. Fifteen Turkish-language publications—10 weekly newspapers and 5 monthly magazines—are published and circulate locally in Thrace,

while newspapers and other periodicals from Turkey are distributed only privately in small numbers when brought in by taxis and travelers.

Academic freedoms are protected by democratically chosen faculty organizations, though such groups tend to be politicized. It is widely believed that those who engage in public dissent, even in scholarly publications, on sensitive issues like Macedonia and minorities will find it very difficult to pursue an academic career since all universities are state institutions.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly. Police permits are routinely issued for public demonstrations, and there were no reports that the permit requirement was abused.

The Constitution provides for the right of association, which is generally respected. In 1991 a "Macedonian Cultural Center" in Florina, organized by Greeks of Slavic descent, lost an appeal of a lower court decision denying it registration because of the use in its title of the word "Macedonian," which the court held would cause "confusion." Government policy holds that Greek citizens of Slavic descent who identify themselves as Macedonians do not constitute a minority (see Section 5). The decision was appealed to the Supreme Court, which has not yet heard the case.

Greek authorities, while recognizing a Muslim minority, do not recognize separately an ethnic Turkish minority (see Section 5).

c. *Freedom of Religion.*—The Constitution provides for freedom of religious conscience, but it also limits religious practice by prohibiting proselytizing. It establishes the Greek Orthodox Church, to which perhaps 95 percent of the population at least nominally adhere, as the "prevailing" religion but prohibits discrimination against religious minorities. The Greek Orthodox Church wields significant influence through its relationship with the Ministry of Education and Religion.

Theoretically, Greek law prohibits proselytism by anyone, but it apparently is not applied to those spreading the Orthodox faith. The Mormons, who have an active missionary program in Greece, report only occasional harassment by local police. In June, however, police arrested four Mormons in Thessaloniki for proselytizing and jailed them overnight. The following day, the court found them not guilty and released them immediately.

The Greek Jehovah's Witnesses organization reported that, as of late June, police had arrested 24 members for proselytizing. Police had detained, warned, and harangued others but released them within a few hours. Of those formally arrested for proselytism, 17 were tried and 4 were convicted and sentenced to between 10 and 15 months' imprisonment plus fines. The courts postponed the trials of the others charged with proselytism. All Jehovah's Witnesses were free while they appealed their sentences. They also had the option of paying a fine of less than $10 per day in lieu of serving their sentences.

In May the European Court of Human Rights ruled that the 1986 conviction for proselytism of Minos Kokkinakis, a Greek Jehovah's Witness, violated the European Convention on Human Rights. The Court overturned his conviction and 4-month sentence. It ordered the Government to pay him 400,000 drachmas (about $1,818) in damages and 2,789,500 drachmas (about $12,700) in costs and expenses. The Government paid the money within the time limit specified by the Court.

All Greek men, irrespective of religion, are subject to the military draft; the law does not provide for nonmilitary alternative service. (Noncombatant alternative military service has been available since 1977, but the Defense Ministry said in 1992 that no one had ever requested that option.) The courts sentence conscientious objectors, almost all Jehovah's Witnesses, to prison, usually for 4 years (the normal term of military service is from 15 to 23 months), for refusal to perform any kind of military service. As noted in Section 1.c., as of October about 400 conscientious objectors were in Greek prisons. The European Parliament, in a human rights resolution of March 11, 1993, stated that it "condemns, in particular, the practice in Greece which treats conscientious objectors as criminals and condemns them to long periods of imprisonment in military prisons."

The previous government considered introducing nonmilitary alternative service in 1988 and 1991. However, it claimed it found no legal way to do so without amending the Constitution, which declares that "every Greek capable of bearing arms is obliged to contribute to the defense of the fatherland as provided by law." It relied on the legal counsel of an advisory legal body.

In its March 1993 report on conscientious objectors in Greece, AI asserted that this legal body was not an independent authority and its impartiality was not guaranteed; its opinions were not binding on the Government or the courts; and the Minister of Defense was under no procedural obligation to consult it. AI cited other legal counsel and referred to the constitutional provision that "freedom of religious conscience is inviolable."

Traditionally, Jehovah's Witnesses ministers were not granted the exemption from military service accorded under Greek law to clergy of "known religions" and thus served prison sentences for refusing military service. Since 1990–91, the Council of State, the Supreme Court dealing with civil and adminstrative matters whose opinions are binding on the Government, has ruled that the Jehovah's Witnesses were a "known religion" and has ordered the release of ministers who had refused induction. However, the recruiting service of the armed forces regarded these rulings as applying only to individual appellants, not as binding precedents for subsequent Jehovah's Witnesses' ministers who were called up. It thus continued to rely, in the first instance, on the opinion of the Ministry of Education and Religions, which in turn accepted the view of the Greek Orthodox Church that the Jehovah's Witnesses are not a "known religion." As a consequence, for the past few years, ministers of the Jehovah's Witnesses have been called up for military service and prosecuted for refusal; only after conviction could they appeal to the Council of State for exemptions as ministers of a "known religion." In practice, these ministers have spent periods of a few months to over a year in jail while appealing their cases to the Council of State.

The situation appears to have improved in 1993. The first Jehovah's Witnesses minister called up was able, on an informal basis, to obtain a stay of his induction date until his appeal could be heard. A second such case was pending as the previous government was leaving office in mid-October. The Ministry of Defense confirmed that the Ministry informally has sought to suspend such callups for 2 months to allow for appeals to the Council of State. It is not clear that this informal arrangement will provide enough time to prevent future imprisonment of ministers.

Each house of worship in Greece requires the local Orthodox bishop's permission to open and operate. It is not uncommon for such permission to be delayed or even, at times, withheld, though some denominations are able to open and operate churches in the guise of cultural centers. However, in 1993 a court sentenced three Jehovah's Witnesses to 1 month each for operating a house of worship without permission. After losing appeals to the Supreme Court over the closure of two houses of worship, the Jehovah's Witnesses appealed to the European Court of Human Rights, seeking to overturn both the particular decisions of the Greek courts and the law requiring permission of the local Orthodox bishop for a non-Orthodox denomination or religion to open a house of worship.

Several denominations report difficulties in getting residence permits for foreign members of their faiths who come to Greece to perform missionary or charity work. One denomination filed a suit in court to obtain the permits. Some denominations are also considering bringing only nationals of other EC countries to work in Greece, rather than Americans or other foreigners, since EC regulations would facilitate their ability to stay and work in the country.

Mosques and other Muslim religious institutions operate in western Thrace, where most Greek citizens of the Muslim faith reside. Some Muslims claim that Greek law weakens the financial autonomy of the "wakfs," community funds used for maintaining mosques and for charitable works, by placing the wakfs under the administration of appointed muftis (Islamic judges and religious leaders). The Treaty of Lausanne contains language allowing minorities to control their charitable institutions.

In accordance with a 1990 presidential decree, the State appoints the three muftis in Greece, all resident in western Thrace. According to government policy, muftis must be appointed because, in addition to their religious duties, they perform judicial functions in many civil and domestic matters, for which the State pays them. The selection process includes formal consultations with local Muslim leaders. The Muslim minority is divided on the mufti selection issue. Some Muslims accept the authority of the appointed muftis while others insist on their right to elect the muftis who will serve their communities. In February four muftis from Turkey were expelled for preaching in western Thrace without the permission of the Greek Government or the muftis appointed by it.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution protects freedom of movement within the country, foreign travel, and emigration. Ethnic Greeks intending to emigrate, and emigrants who return to Greece, experience no discrimination with respect to freedom of movement. However, Article 19 of the Greek Citizenship Code distinguishes between Greek citizens who are ethnic Greeks and those who are not. Greek citizens who are not ethnic Greeks may be deprived of citizenship if it is determined that they left Greece with the apparent intent not to return. However, immigrants who are ethnic Greeks are normally recognized as Greek citizens and accorded full rights, despite years or even generations of absence from Greece. Most Article 19 cases involve primarily ethnic Turks from western Thrace.

The Interior Ministry initiates proceedings under Article 19 on the basis of reports by local authorities in Greece or by Greek embassies or consulates abroad. It holds a hearing at which the affected person is not present, nor is the affected person notified of the hearing. Those who lose Greek citizenship as a result of such hearings sometimes learn of this loss only when they seek to reenter Greece. According to the Foreign Ministry, 123 persons lost Greek citizenship under Article 19 in 1993; 3 of them have filed administrative appeals which are still pending.

Despite the repeated assurances since 1991 of the previous government's senior officials that Article 19 would be abolished, the previous government did not introduce the requisite legislation in Parliament. The new Government has not yet stated its intentions.

Persons who lose their Greek citizenship under Article 19 have the right of "administrative appeal" to the Interior Ministry and may also appeal to the Greek Council of State and to the Council of Europe. Leaders of the Turkish-origin Greek community complain that the time and expense involved tend to discourage such appeals.

Greece maintains a restricted military zone along its northern border with Bulgaria, in areas where many Pomaks (Muslims who speak a Bulgarian dialect) reside. Since entry into the zone is strictly controlled, even for local inhabitants, some residents of the area complain that their freedom of movement is restricted. Foreign diplomats are allowed into the zone only under escort and with special authorization.

Greece frequently offers temporary asylum, though rarely permanent resettlement, to a growing number of refugees from Eastern Europe, Africa, and the Middle East. Greece is increasingly a transit country for economic migrants. Increasing numbers of Pakistanis and Iraqi Chaldeans and Kurds are attempting to enter Greece illegally. Through June, Greece had received requests from 595 persons for asylum status. It granted such status to 53 persons and denied it to 909 persons (a number of whom had applied prior to 1993).

Although a party to the 1951 Convention Relating to the Status of Refugees, Greece reserved on the provision that would allow refugees to work. Refugees may not enter the Greek labor market but may be self-employed. A recently enacted Greek law, which lacks as yet the necessary implementing decree, would provide some professional rehabilitation and accommodations for refugees. Several United Nations and Greek organizations assist refugees with shelter, food, medical care, education, and legal counseling, but the funding and level of assistance of these agencies is very limited.

Ethnic Greek immigrants, such as those who have come from the former Soviet Union since 1986 and those rescued from the civil war in Georgia, normally qualify for immediate citizenship and special assistance from the Government. The 1,000 ethnic Greeks from Georgia were resettled in western Thrace, raising concerns among the ethnic Turkish minority that they would lose jobs to the newcomers. Permanent resettlement in Greece is not usually available for nonethnic Greek refugees.

Chams, ethnic Albanians who were deported from northern Greece in the late 1940's, have requested reinstatement of their Greek citizenship and property confiscated at that time. The Government expressed a willingness to discuss compensation for property but does not recognize their alleged historic claim to citizenship.

Following the Albanian Government's expulsion of a senior cleric of the Greek Orthodox Church, accused of meddling in Albanian internal affairs, a charge denied by both the Greek Government and the cleric, Greece responded with mass roundups and summary expulsions of Albanians working in Greece, most of them illegaly. Credible reports suggest at least 10,000 were expelled. (Other reports say as many as 25,000.) Greek security forces reportedly beat some Albanians and gave them no chance to take their possessions with them. There were also unconfirmed allegations that some had money taken from them during the process of expulsion.

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

Greece is a multiparty democracy in which the Constitution guarantees full political rights for all citizens. (See Section 5 for allegations of limitations on the ability of some Gypsies to vote.) Members of the unicameral 300-seat Parliament are elected to maximum 4-year terms by secret ballot.

The government headed by Prime Minister Constantine Mitsotakis, leader of the New Democratic Party, lost its majority in Parliament in September and called new elections in October. The opposition Panhellenic Socialist Movement (PASOK) won the free and fair elections and formed a new Government headed by Prime Minister Andreas Papandreou. The transition was prompt, smooth, and orderly. Parliament

elects the President for a 5-year term. Universal suffrage for those over age 18 is compulsory and enforced by fines and administrative penalties. Opposition parties function freely and have broad access to the media.

Under a 1990 electoral law, no candidate may be elected whose party does not receive 3 percent or more of the nationwide vote. This law also applies to independent candidates. As a result, neither of Greece's former independent Muslim members of Parliament, both of whom proclaim their Turkish ethnic identity, was reelected to Parliament in 1993. A third Muslim running as a member of PASOK resigned from the party when it demanded he stop identifying himself as an ethnic Turk. In the province of Rodopi, the Muslim independent candidate received more votes than any other parliamentary candidate and yet could not be seated because he did not receive 3 percent of the total national vote. Although there was no lack of Muslim candidates in the ranks of the major parties in 1993 (10 altogether), no Muslim was elected. In the October national elections in Greece, a "Macedonian" independent parliamentary candidate from Florina received 369 votes out of a total of 44,855 votes cast in the district.

There are no legal restrictions on the participation of women in government or politics. Women's representation at the higher levels of Greek political life is increasing but remains low. The head of the Communist party is a woman. Women hold 3 of the 45 ministerial and deputy ministerial seats in the Government that took office in October. Women are represented, though not yet widely, in the leadership of the two largest parties (New Democracy and PASOK).

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

Domestic human rights organizations are allowed to operate, although the Government monitors their activities and may or may not cooperate with them. The Government did not obstruct human rights organizations' visits and investigations, although a delegation from Helsinki Watch did not come to a scheduled meeting in June with a deputy foreign minister once it became clear that a Greek associate of the delegation would be excluded from it. The Greek security services monitored the activities of the Helsinki Watch delegation and its Greek associates. Another international human rights group said that the Government was not forthcoming with information about cases of alleged police abuse of detainees the group raised.

The Government, in principle, respects the right of foreign diplomats to meet with Greek officials and other citizens, including critics of official policy, and such contacts normally take place without adverse reaction. Occasionally, however, senior government officials make known their unhappiness over such meetings, particularly with activist members of minority groups or communities. It is also clear that the security services closely monitor such contacts.

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

Women.—There are broad constitutional and legal protections for women, including equal pay for equal work. The General Secretariat for Equality of the Sexes, an independent government agency, charged that the law was not consistently enforced. Official statistics show that the average wages of women in manufacturing establishments are 47 percent lower than those of men in comparable positions, and wages of women in wholesale trade are 24 percent lower that those of men in comparable positions. Women are gradually entering traditionally male-dominated occupations, including the higher echelons of business. The General Secretariat for Equality of the Sexes coordinates efforts to remove barriers. Women's groups say that women in public service face a "glass ceiling" when considered for promotion. The Government elected in October listed progress on women's issues as a high priority. Muslim women in western Thrace have the option of Islamic or civil marriage and Islamic or civil jurisdiction in domestic disputes.

There is a strong cultural bias against reporting cases of rape, incest, or wife beating, and police and local authorities generally do not intervene in domestic conflicts. Women's groups have identified violence against women as a significant problem. As a result of pressure from these groups, a Center for Battered Women, run by the General Secretariat for Equality of the Sexes, started operating in Athens at the beginning of 1993. It is apparently the only such center in the country. It received 250 women in 1993.

The highly cohesive Greek society and family structure tolerate a high degree of verbal confrontation but do not tolerate violence. The level of physical violence, whether resulting from domestic conflict or common crime, is remarkably low. However, verbal abuse of women in Greece is common. The General Secretariat for Equality of the Sexes claims that the courts are lenient when dealing with wife-

beating cases, but the Secretariat expects that to change due to the increasing number of women who are entering the judiciary.

Children.—Greece has legislation protecting children from all forms of maltreatment perpetrated by parents or others responsible for their care. However, there is a strong cultural bias against reporting cases of domestic violence. The State undertakes preventive and treatment programs for abused children and for children deprived of their family environment, ensuring that alternative family care or institutional placement is made available to them. However, children's rights advocacy groups claim that protection of high-risk children in state residential care centers is inadequate and of low quality.

Immunization and vaccination of children against tetanus, measles, whooping cough, and other children's diseases is mandatory, free of charge, and provided for by specific legislation. Polio and neonatal tetanus have been eradicated. The mortality rate for children under 5 years of age, which was 64 per thousand in 1980, dropped to 11 per thousand in 1990. However, access of Gypsy children and illegal migrants to free state services, such as education and medical care, is very low, primarily due to their itinerant lifestyle.

National/Racial/Ethnic Minorities.—There are communities in Greece which identify themselves as Turks, Pomaks, Vlachs, Gypsies, and Macedonians. Many are fully integrated into Greek society. Of these, ethnic Turks form the largest group. The only minority Greece formally recognizes is a "Muslim minority," which is referred to in the 1923 Treaty of Lausanne. The Government insists on the use of this rubric to refer to several different ethnic communities, most of which adhere to the Muslim faith. The Muslim minority is comprised primarily of ethnic Turks or Turkish speakers in western Thrace, which the Government estimates at roughly 120,000 persons. In addition to people of Turkish origin, it includes Pomaks (Muslims who speak a language akin to Bulgarian) and Gypsies. Many Greek Muslims, including Pomaks, identify themselves as Turks and say that the Muslim minority as a whole has a Turkish cultural consciousness. The use of the word "tourkos" ("Turk") is prohibited in titles of organizations, though individuals may legally call themselves "tourkos." To most Greeks, the word "tourkos" connotes Turkish citizenship and loyalties, and many object to its use by Greek citizens of Turkish origin. Use of a similar adjective, "tourkoyennis" (of Turkish descent/affiliation/ethnicity), however, is allowed (see also Section 2.b.).

Northern Greece is home to an indeterminate number (estimates range from under 10,000 to 50,000 or more) of Greek citizens who are descended from Slavs. Some still speak a Slavic dialect that some call Macedonian, particularly in the Florina district, where there is a substantial slavophone population. A small number of them consider themselves to be members of a distinct ethnic group which they identify as Macedonian, and assert their right to minority status. One activist who identified himself as Macedonian was subject to a punitive job transfer in his civil service career as a result of his activism. Organizations of self-identified Slavic Macedonians are not allowed to use the word "Macedonian" in their names. In 1991 the Thessaloniki appellate court upheld a ban against a cultural center in Florina on these grounds (see Section 2.b.). That organization appealed to the Supreme Court, which has not yet ruled on the case. Individual citizens are free to speak the Slavic dialect in public and perform Slavic dances and music openly. However, some Greeks of Slavic descent reportedly do not proclaim themselves Macedonian for fear of losing their jobs in the public sector or being penalized, e.g., through a punitive job transfer.

The Secretariat for Adult Education (a government agency) estimates the number of Gypsies in Greece is between 120,000 and 150,000. Gypsies (both Christian and Muslim) are scattered throughout the country. Most Greek Gypsies are at least nominally Greek Orthodox, with Greek names, who speak Romany at home but Greek in public transactions. In western Thrace, Gypsies tend to be Muslim, with Turkish names and some knowledge of the Turkish language. The Government estimates the Muslim Gypsy population to be 22,000. The official government policy is to encourage Gypsies to assimilate. For those who do not, illiteracy, poverty, crime, and social prejudice continue to be significant problems. Some municipalities attempt to prevent settlement by Gypsies, refusing to register them as citizens. (All Greek citizens are required to be registered in a municipality.) Without such registration, Gypsies are not allowed to vote, cannot obtain papers required to start a business, and are excluded from a range of government services.

Some Muslims also live on Greek islands near the Turkish coast or in Athens and other industrial areas. Muslim villages usually elect Muslim-dominated local governments. In Komotini and Xanthi, both Muslims and non-Muslims hold seats on the town councils.

Employment of Muslims in the public sector is much lower than the Muslim share of the population. Some ethnic Turks claim that they are hired only in small numbers for lower level public sector employment and rarely, or not at all, at higher levels. The Government cites their lack of fluency in Greek, as well as the need for a university degree for high-level positions, as factors limiting the number of Muslims eligible for public employment.

Public offices in Thrace do their business in Greek; the courts provide interpreters as needed. In the Komotini district in Thrace, where many members of the Muslim minority live, the office of the district governor ("nomarch") has interpreters available.

The Treaty of Lausanne guarantees the Muslim minority the right to Turkish-language education, with a reciprocal entitlement for the Greek minority in Istanbul. Western Thrace has both Koranic and secular Turkish-language schools. Government disputes with Turkey over teachers and textbooks caused these secular schools serious problems in obtaining sufficient numbers and quality of faculty and teaching materials. Over 9,000 Muslim children attend Turkish-language primary schools. Around 650 attend Turkish-language secondary schools, and approximately 1,000 attend Greek-language secondary schools. Many Muslims reportedly go to high school in Turkey due to the limited number of places in the Turkish-language secondary schools, which are assigned by lottery. Very few graduates of the Muslim secondary school system attend Greek universities.

To address some of these problems, the Greek Government issued new Turkish-language elementary texts, prepared in Greece, on a variety of subjects in early 1993. Texts on mathematics, science, and other subjects were also received from the Turkish Government. The Greek Government reviewed their content in time for the beginning of the school year in September. It accepted 14 science and mathematics texts, returned 2 texts for requested changes, and rejected 2 others. However, some Turkish-origin Greeks object to having their schools use teaching materials prepared in Greece and say the texts violate a 1968 Greek-Turkish educational protocol. In the wake of unlawful seizures of these texts by Turkish activists, two activists received sentences of 21 months in prison and one received 15 months, but all had their convictions reversed on appeal; six persons were sentenced to 17 months in jail but are free pending their appeal; and one was acquitted in his original trial.

Some Turkish-origin Greeks complain that it is difficult to obtain permission to bring in teachers from Turkey or to hire Turkish-speaking teachers locally, particularly for the secular Turkish-language middle schools in Xanthi and Komotini. Under the 1968 educational protocol, Greece and Turkey may annually exchange up to 35 teachers each to serve, respectively, in Istanbul and western Thrace. In 1992 Greece sent 16 teachers to Istanbul and admitted 16 of the 35 high school teachers whom Turkey nominated to teach in Thrace. The Foreign Ministry reports that the 16 teachers from Turkey took part in February in a 1-week "Muslim" teachers' strike to protest the Turkish-language elementary textbooks that had been produced in Greece. Negotiations for a Greek-Turkish teacher exchange for the 1993–94 school year are reportedly still under way.

Religious Minorities.—Leaders of various non-Orthodox religious groups assert that their members face discrimination in reaching senior rank in government service, particularly in the security services. They allege that to avoid this glass ceiling some members of their faiths resort to declaring themselves Orthodox. Senior government officials, when questioned about such allegations of discrimination, deny that it exists and point to certain persons not of the Orthodox faith who have had successful careers in government service. There appears to be no scholarly research on this issue.

A number of Jehovah's Witnesses reported difficulties in employment. An accountant who had earlier been imprisoned as a conscientious objector passed his accountancy examination, but the appropriate regulatory board did not certify him because he had a conviction on his record. He took a factory job while awaiting the outcome of his 1989 appeal to the Council of State.

Several fully certified Jehovah's Witnesses teachers have also faced difficulties in gaining employment in recent years. In one well-documented case that began in 1991, a middle-ranking official of the Ministry of Education, in a memorandum to a local educational official on the issuance of a teaching permit to a member of the Jehovah's Witnesses or the Baha'i religion, stated that according to the Ministry's "legal consultants . . . it was not permissible to endorse the appointment to Greek schools of educators who do not believe in the Greek Orthodox religion." The local official in turn wrote the applicant, who wished to teach in a private school, that he could not have a teaching permit in accordance with the "attached document issued by the Ministry of Education and Religion."

A public school principal was demoted to teacher, and another Jehovah's Witness was denied permission to open a private school. As a result of such difficulties, a total of six Jehovah's Witnesses have appeals pending with the Council of State.

The European Parliament adopted a resolution on January 21 which, inter alia, criticized the decision of the Greek Government to require that Greek citizens declare their religion on the bilingual identity cards that allow Greeks to travel freely within the European Community. The resolution ascribed the decision to "pressure from the Orthodox clergy in particular" and referred to the "concern this decision has aroused among the Catholic and Jewish religious minorities." The resolution stated that the Parliament "disapproves of the . . . decision," termed it "a constraint on individual freedom" and called on the "Greek Government to revoke this decision." The Government in May sought the authority to drop this requirement, but the Parliament refused to grant it.

A sharp political controversy erupted in August when an opposition newspaper obtained a copy of, and printed excerpts from, an internal report of the National Intelligence Service about the dangers to Greece allegedly posed by non-Orthodox denominations. The report argued that "any Greek who is not Greek Orthodox is not a genuine, incorruptible, pure Greek," and that the leaders and adherents of non-Orthodox organizations are characterized for the most part as having a "lessened national conscience." The report suggested that "the State must take appropriate measures," specifically recommending steps to ensure that the "radio and television channels which are under the control of religious heretics will not be permitted to operate."

The report claimed "the Vatican has not renounced . . . its firm aspirations toward a Latinization of the Greek people" and also evinced strong suspicions of Protestants, Pentecostals, and Jehovah's Witnesses; a companion report leaked to the press showed that the Intelligence Service was keeping them under surveillance and maintaining dossiers on their activities. The Conference of Catholic Bishops issued a strong letter of protest to the Prime Minister, denouncing the report's slurs on patriotic but non-Orthodox Greeks and asking that he disown the report of the Intelligence Service and the tactics it recommended.

The former government replied that the report was undertaken by a low-ranking functionary, that it was withdrawn immediately when it came to the attention of higher authorities, and that it did not represent the official position of the Government. However, the press, both secular and Catholic, published a facsimile of a letter of commendation from the then director of the National Intelligence Service to the author of the report, stating that it was "thorough, detailed, and well documented."

People with Disabilities.—Greece has specific legislation mandating hiring of disabled persons in public and private enterprises employing more than 50 persons. However, the law is inadequately enforced, particularly in the private sector. The law provides that disabled persons should comprise 3 percent of staff in private enterprises. In the civil service, 5 percent of administrative staff and 80 percent of telephone operator positions are reserved for disabled persons.

Physical access for disabled persons to all kinds of private and public buildings is provided by the construction code, but the law is poorly enforced. In 1993 the Government started replacing old city buses with new ones with stairs specially designed for the disabled.

Greece has special centers, both government-funded and privately funded, for handicapped and disabled children and adults, which provide education and training designed to help them achieve self-reliance and lead a full life in society. However, the number of such centers as well as the total number of disabled persons in Greece is not available. The Ministry of Health, Welfare, and Social Security and children's rights advocacy groups cite statistics showing a 93-percent increase of budgetary funds for welfare during the 1990–92 period, a 53-percent increase in the number of disabled persons who attended vocational training programs, and a 28-percent increase in allowances to disabled persons.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution, and subsequent legislation passed in 1987 and 1992, provide for the right of association. All workers, with the exception of the military and the police, have the right to form or join unions.

Approximately 35 percent of Greek workers (nearly 1.5 million persons) were organized in unions in 1993. Unions receive most of their funding from a Ministry of Labor organization, the Workers' Hearth, which distributes mandatory contributions from employees and employers. Only the five most powerful public sector unions have dues-withholding provisions in their contracts, in addition to receiving Workers' Hearth subsidies. The International Labor Organization's (ILO) Committee of

Experts acknowledged in 1993 that Act No. 1915 of 1990 seems to give effect to ILO recommendations that the Government end its financial interference in trade union affairs and in the collection of union dues.

Over 4,000 unions are grouped into regional and sectoral federations and two umbrella confederations, one for civil servants and one for private sector employees. Unions are highly politicized, and there are party-affiliated factions within the labor confederations, but they are not controlled by political parties or the Government in day-to-day operations. There are no restrictions on who may serve as a union official. Greek unions maintain a variety of international affiliations and are free to join federations and confederations.

Legislation passed in 1990 mandates a skeleton staff during strikes affecting public services, such as electricity, transportation, communications, and banking. During strikes in June and July, skeleton staffs did not completely ensure that essential services continued uninterrupted; however, there were no repercussions against the unions. The previous government's 1992 lawsuit against the electric company workers' union, filed under the skeleton staff provision, is still pending in the courts. In 1993 the ILO's Committee of Experts requested the Government to guarantee that workers' organizations participate in defining the minimum services to be maintained in the event of a strike.

More than 200 strikes occurred in 1993, including a number in July and August by public utility workers protesting privatization legislation. While numerous, electric company strikes did not prove as disruptive as in the past. However, bus strikes in December and January in opposition to government moves to deprivatize the Athens bus system proved extremely disruptive and were marred by violence. As of January 4, 1994, the dispute between the Government and bus drivers had not been resolved. Major legal restrictions on strikes include a mandatory period of notice, which is 96 hours for public utilities and 24 hours for the private sector. Public corporations, including utility companies, state-owned banks, the postal service, Olympic Airways and the railroads are also required to maintain a skeleton staff during strikes. The size of the skeleton staff is determined by the Min'stry of Labor in conjunction with the management of the particular public corporation.

The courts have the power to declare strikes illegal, although such decisions are seldom enforced. Unions complain, however, that this judicial power serves as a deterrent to some of their membership from participating in strikes. The courts declared a majority of the strikes illegal for a variety of reasons, without any repercussions. The Government may also declare "civil mobilization" of workers in case of danger to national security, life, or property, or the social and economic life of the country. The ILO Committee of Experts has criticized this power as violating the standards of ILO Convention 29 on forced labor. The Government did not resort to civil mobilization during 1993.

Two ILO bodies expressed hope in 1993 that counterinflationary legislation passed in 1992, suspending collective bargaining and wage increases in the public sector for the duration of the year, had lapsed. In response to union complaints that most labor disputes ended in compulsory arbitration, legislative remedies were enacted in 1989 providing for mediation procedures, with compulsory arbitration as a last resort. The legislation establishing a national mediation, reconciliation, and arbitration organization went into effect in January 1992 and applies to the public sector and public corporations (the military and civil service excluded). However, a government decree in early 1993 setting limits to wage and salary increases for public enterprises diminished the scope of the organization and was the basis for a complaint lodged with the ILO by the Confederation of Greek Labor (GSEE) for violation of ILO Conventions 98 and 87. The complaint is still pending with the ILO.

b. *The Right to Organize and Bargain Collectively.*—Legislation passed in 1955 and amended in 1990 ensures the right to organize and bargain collectively in the private sector and in public corporations. These rights are respected in practice. There are no restrictions on collective bargaining for private sector employees. Civil servants, who have no formal system of collective bargaining, collectively negotiate their demands with the Office of the Minister to the Prime Minister, with which the final decision rests.

Antiunion discrimination is prohibited. The Labor Inspectorate or the courts investigate and work to resolve complaints of discrimination against union members or organizers. Court rulings have mandated the reinstatement of improperly fired union organizers.

Greece has no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited by the Constitution and is not practiced. The Ministry of Justice enforces this prohibition.

d. *Minimum Age for Employment of Children.*—The minimum age for employment in the industrial sector is 15, with higher limits for certain activities. The minimum age is 12 in family businesses, theaters, and the cinema. These age limits are enforced by occasional Labor Inspectorate spot checks and are generally respected. However, families engaged in agriculture, food service, or merchandising often have younger family members assisting them, at least part-time. Education is free and compulsory for all children through the ninth grade.

e. *Acceptable Conditions of Work.*—Collective bargaining between the GSEE and the employers' association determines a nationwide minimum wage. The Ministry of Labor routinely ratifies this minimum wage, which has the force of law and applies to all Greek workers. The minimum wage is sufficient for a decent standard of living for a worker and family. The minimum daily wage is approximately $19; the minimum monthly salary is approximately $430.

The maximum legal workweek is 40 hours in the private sector and 37½ hours in the public sector. A law that took effect in 1992 significantly extended legal operating hours for retail establishments, provided that the average workweek did not exceed the legal maximum over a period of time. The law provides for at least one 24-hour rest period per week, mandates paid vacation of 1 month per year, and sets limits on overtime.

Legislation provides for minimum standards of occupational health and safety. Although the GSEE characterizes health and safety legislation as satisfactory, it charges that enforcement, the responsibility of the Labor Inspectorate, is inadequate. In 1992 GSEE cited statistics indicating a fairly high number of job-related accidents over the past two decades. Inadequate inspection, failure to enforce regulations, outdated industrial plant and equipment, and poor safety training of employees contribute to the accident rate. Workers do not have the legal right to remove themselves from situations they believe endanger their health. They have the right, however, to lodge a complaint with the Labor Inspectorate, and inspectors are prohibited from divulging the name of the worker who lodged the complaint. Inspectors have the right to close down machinery or a process for a period of up to 5 days if they see a safety or health hazard they believe represents an imminent danger to the workers.

HUNGARY

Hungary is a parliamentary democracy with a freely elected legislature. Prime Minister Jozsef Antall headed a coalition government formed after the 1990 national elections until his death in December 1993. He was succeeded as Prime Minister by Peter Boross.

The state internal and external security services report directly to a minister without portfolio. The police are controlled by and are responsive to the Interior Minister.

Transition to a market economy has proven harder than expected despite some successes. Hungary has attracted more than half the region's foreign investment; three-fourths of its trade turnover is with advanced industrial countries, and the private sector provides about half of the gross domestic product. But privatization has been slow; living standards have fallen for most of the population, a fourth of which lives at or below the poverty line. Hungary's per capita debt remains Europe's highest, and unemployment shows little prospect of falling below the 12- to 13-percent range.

Human rights and civil liberties are provided for in the Constitution and generally respected in practice. The print media continued to flourish, with a high degree of independence and variety of opinion. Parliament's continued failure to pass a broadcast bill during 1993 left the broadcast media still dominated by the state-owned Hungarian television and Hungarian radio, which were susceptible to increased pressure from the Government.

"Skinheads" perpetrated physical attacks on Gypsies, Africans, and Arabs. Although the overall number of assaults dropped for the first time since 1991, this was probably due to the dramatic decrease in the number of foreign students in Hungary and some increased police attention to the problem. There were also reports of police abuses against Gypsies, reflecting significant prejudice against the Gypsy population.

The Government has only marginally improved upon its initial lackadaisical response to the significant increase in racial incidents in post-Communist Hungary. In 1993 the Supreme Court decided that the section of the law that deals with racially motivated crimes is not applicable to skinhead attacks on foreigners, Gypsies,

or other members of ethnic minorities. Instead, those few skinhead attacks that reach the courts are treated as simple hooliganism.

Parliament passed a law in July granting special rights to certain ethnic minorities living in Hungary. The law outlines general goals, permitting collective rights and some local autonomy for specified ethnic groups, although the actual effects of the law remained unclear.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There was no evidence that political or other extrajudicial killings occurred.

Judicial proceedings continue in the case of a park ranger who killed two Gypsies, with the defense attorney attempting to demonstrate that the ranger is mentally handicapped. The two surviving Gypsies involved in the event were fined for stealing pears.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—No known instances of torture occurred. Nongovernmental human rights groups and the press, however, regularly carried reports of police abuse against Gypsies and abusive treatment of conscripts within the armed services.

Degrading treatment was reported in the case of an Ethiopian student accused of murdering his Ethiopian girlfriend. The student, who was eventually acquitted, spent more than a year in custody, during which time he claimed he was subject to abusive treatment. The student still walks with a limp from an infection which developed on his leg and which did not receive timely or adequate treatment while he was in custody.

d. *Arbitrary Arrest, Detention, or Exile.*—Upon arrest, suspects must be informed of the charges against them and may be held for a maximum of 72 hours before charges must be filed. It is a requirement, followed in practice, that persons be allowed access to counsel from the moment they are suspects undergoing questioning and throughout all subsequent proceedings.

The authorities must specifically provide counsel when a person is mentally handicapped, juvenile, or unable to afford counsel. There is no bail system; however, depending upon the nature of the crime, the accused may be released upon his or her own recognizance. Pretrial detention is based on a warrant issued by a judge and is limited to 1 year while criminal investigations are in progress, after which the accused must be brought to trial or released. There were no known instances of incommunicado detention.

There is no exile.

e. *Denial of Fair Public Trial.*—Under the Constitution the courts are responsible for the administration of justice, with the Supreme Court exercising policy control over the operations and judicature of all courts. There are three levels of courts in the current system. Original jurisdiction in most matters rests with the local courts. Appeals of their rulings may be made to county courts or to the Budapest municipal court, all of which also have original jurisdiction in some matters. The highest level of appeal is the Supreme Court, whose decisions on nonconstitutional issues are binding. There is no jury system; hence, judges are the final arbiters. In the case of military trials, appeals also may be addressed to the Supreme Court.

The Constitutional Court is charged with reviewing the constitutionality of laws and statutes brought before it for review. The Court's 10 members are elected by Parliament to a 9-year term which may be renewed. (According to the law, the Constitutional Court is to be composed of 15 members; 10 have been elected to date, and the remaining 5 are scheduled to be seated by 1995.) No judge or member of the Supreme Court or the Constitutional Court may belong to a political party or engage in political activity.

The right to a fair public trial is provided for by law and respected in practice. However, Gypsies and other minorities are reportedly not treated by the authorities in the same way as the majority of Hungarians. In some cases, judges may agree to a closed trial if it is for the protection of the accused or the crime victim, such as in some rape cases. This is also true for military trials, which follow civil law and may be closed if state, service, or moral grounds justify a closed trial. In all cases, sentencing must take place publicly. Defendants are entitled to counsel during all phases of criminal proceedings and are presumed innocent unless proven guilty. Judicial proceedings are generally investigative rather than adversarial in nature. The judicial system has been criticized for what human rights monitors and others have characterized as extraordinarily lenient sentences handed down to

skinheads convicted of violent assaults on members of minority groups (see Section 5).

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Under current law, search warrants may be issued independently by the prosecutor's office when there is probable cause. House searches must be carried out in the presence of two witnesses. A written inventory of items removed from the premises must be prepared. These provisions are observed in practice.

According to the law, only the Minister of Justice has the authority to approve wiretapping for national security reasons and for legitimate criminal investigations.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech is provided for in the Constitution and is generally respected in practice. Although the Government exerts some control over at least three Budapest dailies, the print media enjoy considerable freedom. The electronic media, however, are subject to increasing political pressure.

Parliament's continued failure to enact a broadcast bill meant that there were no institutional safeguards to protect the independence of radio and television, and Hungarian Radio (MR) and Hungarian Television (MTV) continued to enjoy near monopoly status. Despite the lack of media legislation, the Government plans to issue up to 103 local television and radio licenses beginning in 1994, ending the frequency moratorium in effect since 1989. Critics charge that the licenses will be issued by government bureaucrats susceptible to political manipulation rather than by an impartial commission or body.

Besides MTV and MR, there is one private, commercial national radio; two private, commercial regional radios in Budapest; a national, commercial FM radio owned by MR; and a national AM commercial radio jointly owned by MR and a private concern. There are no private commercial television stations, though one private television production company places 2 hours of programming per day on MTV. One private television station was allowed to broadcast on the Budapest wireless cable channel for 3 days during the Christmas holidays, but the frequency has not yet been permanently allocated. It is estimated that over half of Hungarian households now have access to satellite television, cable, or both.

In January the presidents of MTV and MR resigned their posts, citing an edict that went into effect on January 1, moving budgetary control of the state media from MTV and MR to the office of the Prime Minister. They were joined by human rights groups in pointing out that, without a broadcast bill, press freedom at MTV and MR depended on the good faith of the Government. Indeed, some MTV programs were canceled in 1993 for political reasons. Personnel changes were made in senior positions, giving progovernment journalists more influence, and the program mix at both MTV and MR was changed to present a more progovernment profile. Following several unsuccessful attempts by the Prime Minister in 1992 to remove Elemer Hankiss, the then president of MTV, the Government initiated a lawsuit against Hankiss, charging him with mismanagement. Suspicions that the Government's action was politically motivated seemed to be confirmed when the lawsuit against Hankiss was dropped after he resigned. Criminal investigations into allegations that two of his advisors were guilty of financial malfeasance were dropped for lack of evidence.

In another prominent case, MTV fired Andras Bano, editor in chief of "Esti Egyenleg," an evening news program which maintained considerable independence from the Government, and which the Government often claimed favored the opposition. Bano was accused by MTV Acting President Gabor Nahlik of doctoring a videotape so that it appeared skinheads forced President of the Republic Arpad Goncz from the podium at a ceremony on October 23, 1992. Nahlik's assertion was that the skinheads were not present when the President began to speak. Bano maintained that the tape was not doctored. A diplomatic officer who was present at the rally confirmed that a large number of skinheads were among the crowd loudly heckling the President.

Bano was initially suspended for his alleged doctoring of the tape. Two of his associates were also suspended in relation to the case. "Esti Egyenleg" then went off the air when its staff protested Bano's suspension. Despite claims that he had "proof," Nahlik never produced conclusive evidence that the tapes had been doctored. Nevertheless, in December a three-person MTV disciplinary panel—chaired by Nahlik himself—fired Bano. However, the chief investigator in the case also resigned, saying that it had become clear to him that the intent of the investigation was not to determine the facts of the case but only to build a case against Bano. "Esti Egyenleg" remains off the air as of the end of the year, leaving MTV with one news program, "Hirado," which is considered to be progovernment.

In March, by majority vote, Parliament created a cultural foundation that assesses a 1-percent tax on newspaper revenue and up to a 20-percent tax on publications the Ministry of Culture deems violent or pornographic. The foundation may distribute the money for cultural purposes to appropriate applicants. The print media objected to this, since the law gives the foundation (and hence, they say, the Government) the right to distribute the money to applicants who meet its political criteria.

The 1991 case against the weekly Szent Korona for incitement of anti-Semitic feelings was concluded with a fine for inciting ethnic hatred.

In May the President signed a law banning the wearing and dissemination of the swastika, SS badge, arrow-cross (the symbol of the Hungarian Fascists), the hammer and sickle, and the five-pointed red star. Official symbols of states are exempted, as are the use of such symbols for educational, scientific, artistic, or historical purposes.

In a case involving charges of insulting the Government brought by Prime Minister Antall against Laszlo Lengyel, a well-respected political commentator, an appeals court found Lengyel guilty and sentenced him to 1 year's probation with a $750 fine suspended. Lengyel, who called the Hungarian Government corrupt in the course of an economics lecture in the town of Veszprem, plans to appeal the case to the European Court of Human Rights in Strasbourg, saying he should face no penalty whatsoever for his remarks.

b. *Freedom of Peaceful Assembly and Association.*—Peaceful public gatherings are essentially unrestricted. In general, no permits are required for assembly, except in cases when a public gathering is planned near sensitive installations such as military facilities, embassies, and key government buildings.

Police may sometimes alter or revoke permits, but there is no evidence that this freedom is abused. Several mass demonstrations reflecting diverse political views took place in 1993.

Any 10 or more persons may form an association, provided that it does not commit criminal offenses or disturb the rights of others. Associations with charters and elected officers must register with the courts.

c. *Freedom of Religion.*—Approximately 65 percent of Hungarians are Roman Catholic; members of other faiths practice their religion freely. Religious groups may and do maintain international contacts. There is no officially preferred religion, but only officially approved churches receive state subsidies. The Government distributed nearly $33 million in state subsidies among 36 churches.

Four small churches—the Jehovah's Witnesses, the Community of Krishna Believers, the Unifying Church, and the Church of Scientology—branded as "socially destructive" during parliamentary debate, were not included in the list of subsidized churches but are allowed to function.

Legislation is being drafted, however, that would seriously restrict religious freedom. The draft proposal would give the courts the right to deny registration as a church for a group whose teachings the court determines would offend "generally accepted moral values." In order to be registered, churches would also be required to have 10,000 members (as opposed to the current 100), although churches that have existed in Hungary more than 100 years would be exempt.

Religious orders and schools have regained property confiscated by the Communist regime. In some small towns where government schools were transferred to the Catholic Church, parents who do not want their children to receive a religious education had little alternative. Even among many Catholic parents, there is a strong preference for secular education, and parents in some cases were successful in blocking the transfer of schools to the Church. In towns where there is only a church school, the state provides subsidized bus transportation to the nearest secular school.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no restrictions on the movement of Hungarian nationals within or outside Hungary, including on the rights of emigration and repatriation. Emigration may be delayed, but not denied, for those who have significant court-assessed debts or who possess state secrets. Foreign students from countries not having a visa waiver agreement with Hungary must obtain exit visas every time they leave the country. Foreign minor children may not be allowed to travel to third countries without a parent or legal guardian or the permission of the country of the child's nationality.

The fighting in the former Yugoslavia resulted in a continued flow of refugees into Hungary. While 8,500 refugees are registered within Hungary, the Government estimates that over 30,000 more are unregistered. Most of the refugees are in private housing, with only 3,200 housed in refugee camps.

Hungary is a signatory to the 1951 Convention Relating to the Status of Refugees and to the 1967 Protocol, with a caveat that it will grant refugee status only to European nationals. Prospective refugees who seek only to transit to Western Europe are encouraged to return to their countries of departure.

Local and international human rights organizations have accused the Government of detaining aliens in unacceptable conditions for excessively lengthy periods at the detention center at Kerepestarcsa, which is operated by the police. Aliens who have entered illegally, mostly non-European, are kept at the center pending their deportation or their qualification for resettlement in a third country by the local office of the United Nations High Commissioner for Refugees (UNHCR). While the police seek the timely deportation of detainees who do not qualify for refugee status, a lack of funds and the detainees' lack of proper documentation, such as passports, often result in lengthy stays. UNHCR reports that conditions at the camp have improved moderately in the last year.

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

Hungarians aged 18 and over have the right to change their government through national and local elections required to be held at least every 4 years. The Parliament's 386 members are elected through a complex voting procedure for individuals and party lists.

Currently, Hungary has a center-right coalition government, formed by the Hungarian Democratic Forum, the Christian Democratic People's Party, and a group of independent smallholders' parties. The Free Democrats, the Alliance of Young Democrats, the Hungarian Socialist Party, and various independent members of Parliament, sometimes joined by Istvan Csurka's breakaway Justice and Life Party, constitute an active opposition in Parliament. Several parties have been formed recently; however, only those that attract at least 5 percent in the 1994 elections may be represented in Parliament.

There are no legal impediments to women's participation in government or the political process, but there is reluctance to break from the women's traditional role in the home and responsibility for the family; 27 of 386 parliamentary deputies are women, and there are few women in leadership positions in the Government or the political parties. Several minorities, including Germans, Gypsies, Croats, and Slovaks, are represented in Parliament as members of one party or another.

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

Several human rights organizations operate in Hungary without government restriction or interference, including the Hungarian Helsinki Committee, the Wallenberg Association for Minority Rights, the Hungarian Human Rights League, and the Martin Luther King Organization, which was formed by the foreign and Hungarian student community in response to the growing incidence of racially motivated attacks. A new legal nongovernmental organization, the Bureau for Minorities, is being organized, and a 25-member parliamentary Committee for Human, Minority, and Religious Rights also considers human rights issues.

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

Women.—Legally, women have the same rights as men, including identical inheritance and property rights. While there is no overt discrimination against women, the number of women in middle or upper managerial positions is low. Women are heavily represented in the judiciary and in medicine and teaching, which are among the lower paid professions.

Women's rights groups, still in their infancy, have not had a major impact on societal attitudes. Groups, such as the Feminist Network, have become more active in lobbying with Parliament. While there are laws against rape, it is often unreported for cultural reasons. Similarly, police attitudes towards victims of sexual abuse reportedly are often unsympathetic. Abuse of partners is most prevalent in families living below the poverty line and among unmarried couples. Police reports are rarely made. Alcohol is often a factor in abusive relationships.

Children.—The Government is committed to children's rights. Education is mandatory through age 16, and employment is illegal below age 16.

National/Racial/Ethnic Minorities.—The new law on ethnic and minority rights, approved by Parliament in July, legally establishes the concept of the collective rights of minorities and states that minorities need special rights in order to preserve their ethnic identities. It explicitly permits organized forms of limited self-government in areas where ethnic groups constitute a majority and states that the establishment of self-governing bodies must be made possible in localities where an

ethnic group constitutes less than a majority of the population. Further, the new law permits associations, movements, and political parties based upon an ethnic or national character and mandates unrestricted use of ethnic languages. Only those ethnic groups that have lived within the present Hungarian borders for at least 100 years and whose members are Hungarian citizens obtain recognized status under the new law. On this basis, the law specifically grants minority status to 13 ethnic or national groups. Other groups may petition the Chairman of Parliament for inclusion if they comprise at least 1,000 Hungarian citizens and have their own language and culture.

Significantly, the law granted the status of a minority to the Gypsies, or Romas, Hungary's largest minority. Previously, they were not regarded as a national minority and thus were deprived of some of the special rights granted to minorities under the Constitution. Conversely, Jews are not 1 of the 13 minorities listed in the law because they are considered a religious group. This was the subject of much debate during the drafting of the law, and, although there is no consensus in the Jewish community about whether Jews should be considered a minority, it is believed that the majority oppose the idea.

The effectiveness of the law will depend on the mechanisms established to implement it and guarantee its provisions. Many of its major provisions will not actually go into effect until 1994 or even later. Minority representatives in Hungary complained that the law failed to provide adequate legal and financial guarantees for expanding minority institutions. The chairman of Hungary's Roma parliament, an organization representing Gypsy interests that is not affiliated with the Hungarian Parliament although its chairman is also a member of the Hungarian Parliament, complained that the new law made no provisions for setting up specific institutions to guarantee minority rights and for providing minorities with electoral ballots in their mother tongue.

Although the Constitution allows each minority group one parliamentary ombudsman to speak for its collective rights, the Government has not yet implemented this provision.

On the local level, minorities have the right to establish self-governing bodies, and minority candidates need only two-thirds of the minimum number of votes required of nonminority candidates for election to corresponding regional legislative bodies. A minority roundtable, at which all minorities are represented, negotiates with the Government over the content of prospective legislation on minorities and was actively involved in the drafting of the law on minority rights. The Government established an Office for National and Ethnic Minorities in 1990 to address the needs of national and ethnic minorities.

Gypsies constitute the largest minority group, officially estimated at between 400,000 and 600,000 in a total population of 10.5 million. The second largest group is the 210,000 Germans, followed by 105,000 Slovaks, 85,000 Croats, and 80,000 Jews. There are also Romanian, Polish, Greek, Serbian, Slovene, Armenian, Ruthenian, and Bulgarian minorities.

To varying degrees, education is available in almost all minority languages. There are minority-language print media, and Hungarian Radio broadcasts 2-hour daily programs in the mother tongue of major nationalities. Hungarian Television carries a 30-minute program for the larger minority groups and plans to introduce programming for the smaller ethnic groups in 1994. Hebrew has been proposed as the 14th official minority language. Minority groups continued to be dissatisfied with the broadcasting hours allotted them, complaining especially about early afternoon time slots for such programs.

Conditions of life within the Gypsy community are significantly poorer than among the general population, and they suffer from discrimination and racist attacks. Gypsies are considerably less educated, with lower than average incomes and life expectancy. The unemployment rate is estimated to be 70 percent, more than five times the national average of 13 percent. With unemployment benefits exhausted and inadequate social services, there are reports that Gypsy families, including young children, are forced to resort to stealing food to eat.

The Government sponsors programs both to preserve Gypsy languages and cultural heritage and to assist social and economic assimilation. After a Gypsy youth was beaten into a coma in the town of Eger, a skinhead stronghold and site of 25 assaults on Gypsies since 1991, Gypsies held a protest rally. Strong police protection was provided. For the first time in Hungary, a member of a Gypsy organization, though not a Gypsy himself, was elected mayor in the town of Kunmadaras. Nonetheless, there is still widespread popular prejudice against the Gypsies. Gypsies are generally assumed to be untrustworthy and treated as such, including by police, which might partly account for the higher crime rate. (See Section 1.c. for reported police abuse of Gypsies.)

The Jewish community in Hungary, although generally well assimilated, was the target of occasional anti-Semitic expression, including the desecration in June of a Jewish cemetery in Eger, for which several youths were arrested and charged. Jews are well represented in politics, the media, culture, and business. Many Hungarians, however, are concerned that, while the Government does not actively condone anti-Semitic activities, its failure to disassociate itself quickly and clearly from the anti-Semitic statements of Istvan Csurka reflected a lack of sensitivity. A rightwing populist, Csurka was able to retain his position as vice president of the ruling party for several months after his statements were published. Before the MDF could expel him, Csurka went on to form his own new rightwing party and group in Parliament.

Skinheads and neo-Nazi sympathizers continued physically to assault Jews and people of color. Sentences in skinhead attacks are relatively light, especially when the defendants are minors. In June three youths convicted of attacking and severely beating two Pakistani men in November 1990 were sentenced to 8 months in jail; the court then suspended the sentences and gave the youths 2 years' probation. Although investigations of reported crimes were usually conducted, convicted criminals were rarely sent to prison. The resulting perception of the judicial system's de facto tolerance of racist crimes creates an atmosphere conducive to further acts of skinhead violence. The Martin Luther King Organization (MLKO), which documents assaults on foreigners of color (but not anti-Semitic incidents), recorded about 20 separate attacks in 1993, down from 78 in 1992. MLKO sources commented, however, that they believe many cases go unreported, that police do not seem inclined to intervene, and that the decline in the number of attacks is primarily due to the lower number of foreign students in Hungary. The greatest decline has been in the number of African students; while there were 600 Sudanese students in Hungary 2 years ago, MLKO sources say there are now barely 60.

Since 1955 the Penal Code has provided for stiffer sentences for crimes which are racially motivated. However, Hungary's Supreme Court has ruled that racially motivated crimes cannot be prosecuted under the section of the law dealing with crimes against humanity. In a case involving attacks on Gypsies and people of color by 48 members of a skinhead gang, the court ruled that the defendants could only be charged with hooliganism, and it reduced the sentences which lower courts had imposed. The Hungarian Supreme Court's failure to recognize a qualitative difference between premeditated attacks with a clear racial motivation and simple hooliganism is a significant judgment. In effect, the Court has declared that as far as Hungarian law is concerned, hate crimes do not exist.

People of color continued to suffer consistent discrimination, including being refused service in some stores and restaurants.

People with Disabilities.—Services to the disabled are still limited, and many buildings are not accessible to wheelchair . MTV does have close captioning on some programs, and there are programs that address issues of interest to the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—The 1992 Labor Code recognizes the right of unions to organize and bargain collectively and permits trade union pluralism. Workers have the right to associate freely, choose representatives, publish journals, and openly promote members' interests and views. With the exception of military personnel and the police, they also have the right to go on strike. In contrast to 1991, when the number of strikes could be counted on one hand, short "warning strikes," often no more than 2 hours in duration, increased dramatically. A strike by the maintenance personnel of MALEV, the state airline, lasted several days before a settlement was reached.

A separate law applicable to public sector workers was also passed in 1992. Under this law, public servants may negotiate working conditions, but the final decision on increasing salaries rests with Parliament.

The two free trade unions, the Democratic League of Independent Unions (LIGA) and the Federation of Workers' Councils, have attracted a combined membership of 400,000, while the successor to the former monolithic Communist union, MSzOSz, has up to 800,000 members.

There are no restrictions on trade union contacts with international organizations, and unions have developed a wide range of ties with European and international trade union bodies. In December LIGA and MSzOSz were admitted to the International Confederation of Free Trade Unions, while the Federation of Workers' Councils is associated with the World Confederation of Labor.

The conflict which characterized the trade union movement in 1992 subsided after the resolution of the issue of trade union assets formerly owned by Hungary's Communist-era trade union organization. Since the settlement agreement, labor organizations have shown a greater willingness to cooperate with one another. This is par-

ticularly evident in their relationships in forums such as the National Interest Reconciliation Council (NIRC), which discusses issues such as the setting of the minimum wage as well as wage increases. During 1993, six different union federations were able to reach a unified position on the minimum wage issue.

b. *The Right to Organize and Bargain Collectively.*—The 1992 Labor Code permits collective bargaining at the enterprise and industry level, and it is practiced in resolving most major labor issues through the NIRC. Minimum wage levels are set by the NIRC, a forum for tripartite consultation among representatives from the employers, employees, and the Government, and higher levels (but not lower ones) may be negotiated at the plant level between individual trade unions and management. By agreement, the legal minimum wage is centrally negotiated at the NIRC in order to control inflation. The Ministry of Labor is responsible for drafting labor-related legislation, while special labor courts enforce labor laws. The decisions of these courts may be appealed to the civil court system. Under the new legislation, employers are prohibited from discriminating against unions and their organizers.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited by law, which is enforced by the Ministry of Labor.

d. *Minimum Age for Employment of Children.*—The National Labor Center enforces the minimum age of 16 years, with exceptions for apprentice programs, which may begin at 15. There does not appear to be any significant abuse of this statute. Education is compulsory through age 16.

e. *Acceptable Conditions of Work.*—The legal minimum wage is established by the NIRC and subsequently implemented by Ministry of Labor decree. The National Labor Center enforces it. The monthly minimum wage at year's end was the equivalent of $90 and is insufficient to provide an adequate living for workers and their families. The International Labor Organization (ILO) calculated in February that the minimum wage was 70 percent of the minimum necessary for subsistence. Many Hungarians, therefore, supplement their primary employment with second jobs. Despite the adoption of new legislation, the ILO's Committee of Experts notes that there are many cases of employers, for economic reasons, paying wages that are lower than the prescribed rates in the water supply, forestry, and agricultural sectors.

The 1992 Labor Code specifies various conditions of employment, including termination procedures, severance pay, maternity leave, trade union consultation rights in some management decisions, annual and sick leave entitlements, and labor conflict resolution procedures. Under the new Code, the official workday is set at 8 hours; it may vary, however, depending upon the nature of the industry. A 24-hour rest period is required during the week. Labor courts and the Ministry of Labor enforce occupational safety standards set by the Government, but specific safety conditions are not always up to internationally accepted standards. Workers have the right to remove themselves from dangerous work situations without jeopardy to continued employment.

ICELAND

Iceland is a constitutional republic and a multiparty parliamentary democracy. Its people participate in high percentages in regular, fair, and free elections which determine the distribution of power among political parties and leaders.

The civil and criminal justice systems offer equal protection to all. The nation has no indigenous military forces or political security apparatus.

Iceland has a mixed, open economy, in which all of its citizens have the right to hold private property.

Icelanders have long been strong defenders of human rights.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Political and extrajudicial killings did not occur.

b. *Disappearance.*—There were no instances of abductions or disappearances.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture and other cruel, inhuman, or degrading treatment or punishment are prohibited by law and do not occur. Prison conditions are good but many prisons are antiquated, and controls on prisoners are lax. An increased frequency of escapes in 1993, some involving violent offenders, led to a public outcry for prison reform. In response, the Justice Minister appointed a panel to recommend changes to existing

regulations. At year's end, the panel had not yet reported its findings. There were no reports of physical mistreatment of prison inmates by prison officials or other inmates in 1993. Nutrition was adequate and medical care was available to prisoners at all times, as was access by family members. Prison facilities were sanitary, and recreation was provided. Most of the few prisons were relatively full. Consequently, prisoners sometimes were put into temporary quarters, for a maximum of 2 months, before being relocated to permanent prison quarters. Conditions in temporary quarters generally were equivalent to those in permanent quarters. The Government permitted independent monitoring of prison conditions by a local monitoring group, Vernd (Protection).

d. *Arbitrary Arrest, Detention, or Exile.*—Due process is provided by law and observed in practice. The Constitution states that any person arrested by the authorities must be brought before a judge without undue delay. The judge must rule within 24 hours whether the person is to be detained. Although the Constitution allows for bail, it is usually not imposed as a condition for release. A judge's ruling may be appealed immediately to a higher court.

There is no specific legal limit on the maximum length of pretrial (investigative) detention, but it usually ranges from a few days up to as much as 6 months, the latter in cases in which the detainee has appealed the sentence to the Supreme Court. Before July 1992, pretrial detention sentences were generally served in isolation. Subsequently, according to the new law, judges must rule specifically on the question of isolation. Court orders to hold prisoners incommunicado must be justified by the need to preserve the integrity of a continuing investigation. All pretrial detention sentences may be appealed to the Supreme Court, which must return a ruling "as soon as possible." In practice, this generally means a few days. Preventive detention is not practiced.

There were no allegations of arbitrary detention.

There is no exile.

e. *Denial of Fair Public Trial.*—Defendants have a right to be present at their own trials and are guaranteed the right to competent legal counsel of their own choosing. In cases in which defendants are unable to pay attorney's fees, the State assumes the cost. Defendants have the right to access to an attorney sufficiently in advance of the trial to prepare a defense. Defendants may confront witnesses and otherwise participate in public trials, which are fair and free from intimidation. Defendants and their attorneys have access to government-held evidence relevant to their cases and enjoy a presumption of innocence. All defendants have the right to appeal. No groups are barred from testifying, and within reason all testimony is given the same weight. The courts are free of political control. Although the Ministry of Justice administers the lower court system, the Supreme Court guards its independence and fairness. Juries are not used, but multijudge panels are common, especially in the appeals process.

A major reform of the Icelandic judicial system, separating judicial and executive power in regional jurisdictions, was fully implemented in July 1992. The measure transfers all judicial authority for criminal and civil cases from local officials, who also served as chiefs of police, to newly established district courts. The reform was the direct result of an Icelander's complaint to the European Commission of Human Rights in which the complainant, charged with a traffic violation, argued that it was unjust for an official of the same agency which accused him to try him.

There are no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Under the Constitution and in practice, there is deep respect for the autonomy and rights of individuals. A warrant from a court is required to enter a private house except in cases of hot pursuit. Arbitrary intrusions by official entities, political organizations, or any other organized group into the private beliefs or personal liberties of individuals do not occur.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution expressly forbids censorship and other restrictions on the freedom of the press and freedom of individual expression. Citizens and the media exercise these freedoms extensively. Iceland has a public broadcasting system, state television and radio, as well as private television and radio which broadcast a wide spectrum of views. All newspapers are privately owned.

Academic freedom of expression is vigorously exercised.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right to unarmed assembly, except when the police fear that such gatherings may cause riots. Plans for public meetings are virtually never rejected, and the authorities rarely modify them. The Constitution provides citizens the right to join to-

gether formally or informally in associations without governmental authorization. A varied and wide spectrum of voluntary organizations plays a vital role in Icelandic politics and society.

c. *Freedom of Religion.*—Although the Lutheran Church is the established church and most citizens are nominally members, there is complete freedom for other faiths. Both Christian and non-Christian faiths are allowed to proselytize freely. They may maintain ties with, and receive support from, coreligionists abroad.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Icelanders have freedom to travel at home and abroad, to emigrate, and to return at will. Iceland observes the provisions of the 1951 Geneva Convention Relating to the Status of Refugees and its 1967 Protocol. "Spontaneous" asylum seekers are usually required to return to the country of first asylum pending a Justice Ministry ruling on their application. Refugees are never compelled to return to a country in which they would face persecution. The Icelandic Red Cross facilitates the social and economic integration of refugees and those granted residence permits on "humanitarian grounds."

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

The political system is an open, fully functioning, parliamentary democracy in which voters freely choose the members of the Althing (Parliament) who, in turn, enact the laws of the land and determine the composition of the Cabinet. Parliamentary elections are held at 4-year intervals unless the Althing dissolves, on request of the Prime Minister to the President or in the event of a no-confidence vote, before the end of its full term. Voting in elections and membership in political parties are open to all citizens 18 years of age or older. Althing candidates are selected in primary elections and caucuses. Multimember districts and proportional representation increase the chances for minority points of view to be represented. In addition, there is a strong cultural insistence on having the views of all significant groups represented in the Althing.

However, Iceland's theoretically proportional system of representation is heavily weighted to favor sparsely populated rural districts over urban areas. Redistricting to reflect population shifts to the cities would require parliamentary action, which, though proposed by some Members of Parliament (MP's) in 1993, was not taken.

The center/right coalition Government was formed following national elections in April 1991. It consists of the Independence Party and the Social Democratic Party, with David Oddsson of the Independence Party as Prime Minister.

Three of the four top governmental positions—the Chief Justice of the Supreme Court, President, and Speaker of the Althing—are occupied by women. The latter two positions are largely ceremonial. There is an active and influential feminist political party, the Women's List, which elected 5 M.P.'s to Parliament in 1991 and received 8.3 percent of the vote.

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

Human rights associations, including groups working in the interest of women, children, the disabled, and prisoners, are active in Iceland. Human rights issues are sometimes considered in the court system, generating amendments to existing law.

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

Iceland's ethnically homogeneous population is strongly egalitarian and opposed to discrimination, regardless of whether it is based on race, sex, religion, disability, or other factors. Government legislation and practice reflect this attitude.

Women.—Violence against women, both physical and mental, continued to occur at a comparatively low rate. The issue gradually received increased public attention, in great part through the efforts of the Women's List political movement, which raised it periodically in political debate. A public women's shelter in Rekjavik offers protection to approximately 370 women and 180 children per year, an increase of 20 and 30 respectively from 1991. There is also a rape trauma center sponsored and operated by women's organizations. Both are financially supported by national and municipal governments and private contributions. Approximately 400 women and children (aged 3 to 70) annually seek assistance at the rape trauma center.

Spokeswomen attributed most of the increase to enhanced public knowledge of the services provided at the centers. Approximately 50 percent of those who made use of the women's shelter cited alcohol abuse by their male partners as a factor contributing to the violence they suffered. Counseling is available from social workers and lawyers at the shelter, and children can continue their schooling during their stay there.

Studies indicate that only a small percentage of cases involving domestic violence or sexual abuse (rape or attempted rape, sexual harassment) are reported to the police. Women's organizations assert that both the state investigative police and the court system are hostile or indifferent to victims of domestic and sexual violence. Only two Icelandic citizens, both men, have been sentenced in cases involving spouse or child abuse in 1992 and 1993. Spokesmen for the state investigative police also have asserted that investigation of domestic violence is a waste of time for the police, who should concentrate their efforts on "more serious" crime. Women's organizations claim that female victims, after having accused men of domestic violence or sexual abuse, are often subjected to humiliating and degrading police interrogations The Reykjavik City Hospital emergency ward now has an all-female staff to care for rape victims, and the police have implemented a program to educate officers in correct interrogation procedures. Women's action groups still complain that judges do not hand out severe enough sentences for sexually related crimes. They cite as an example that convicted rapists receive, on the average, from 1 to 2 years in prison.

Major economic and political institutions in Iceland remain male-dominated. On the basis of credible research, the Women's List asserts that, despite legislation requiring equal pay for equal work, Icelandic women do not receive pay equal to that of men. The party and other active women's organizations have given this issue top priority. Studies of comparative wage scales consistently revealed an average difference of 40 percent in the earnings of men and women in comparable jobs. Although approximately half of the difference might be explained by longer average working hours among men and their tendency to work more overtime, there was still a 20-percent unexplained differential in the wages of men and women.

Since 1991, complaints based on the equal rights law have been referred to a special committee established under the equal rights affairs office of the Ministry of Social Affairs. The committee has only advisory powers and can only make recommendations to the employer that do not have the force of law. Only a few complaints have been made to the committee. Nonetheless, women's groups speculate that the numbers are much higher, but that women are reluctant to come forward with complaints in the small, intimate, and traditionally stoic Icelandic society. Another factor is that the largely male-led Icelandic labor unions have not actively supported individual women who wish to exercise their right to sue.

Children.—High respect for children's rights is reflected in Icelandic legislation and government policy as well as in social practices. Icelandic law guarantees adequate public day-care as part of the extensive "law of the child" passed by the Althing in 1992. Children's play corners are to be found in every public building or waiting room. There are also high quality public playgrounds available throughout the country.

People with Disabilities.—Disabled individuals are not subject to discrimination in employment, education, or provision of other state services. The Government has legislated accessibility to public buildings for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—Workers in Iceland make extensive use of the right to establish organizations, draw up their own constitutions and rules, choose their own leaders and policies, and publicize their views. The resulting organizations are not controlled by the Government or any single political party. Unions take active part in Nordic, European, and international trade union bodies. With the exception of limited categories of workers in the public sector whose services are essential to public health or safety (e.g., air traffic controllers), unions have had and used the right to strike for many years, including in 1993. According to Organization for Economic Cooperation and Development (OECD) figures, 76 percent of all eligible workers belong to unions.

b. *The Right to Organize and Bargain Collectively.*—There are no impediments to union membership in law or in practice. Virtually all unions exercise their right to bargain collectively on wages, working conditions, and related issues. While union membership is theoretically no longer obligatory, wage earners are required to pay union fees. The closed shop exists in some industries, established in contracts between unions and employers. Frequently, the obligation is mutual; employers agree to hire only union members and, in return, wage earners agree not to work for employers who are not members of employer organizations.

A 12-month agreement between the central labor and management organizations that was reached with the assistance of government mediation in April 1992 formally expired on March 1, 1993. It continued to be observed in practice throughout negotiations in the spring of 1993 which resulted in a new comprehensive labor agreement signed on May 21. Wage earners did not receive any wage increases, but

low-income benefits, vacation, and December bonuses are to be paid. In conjunction with the agreement, the Government made a number of political and economic commitments, including keeping the value of the currency (krona) stable and lowering value-added taxes (VAT). The agreement expires on December 1, 1994. Labor courts effectively adjudicate disputes over labor contracts and over the rights and provisions guaranteed under the 1938 Act on Trade Unions and Industrial Disputes, which prohibits antiunion discrimination.

By law, employers found guilty of antiunion discrimination are required to reinstate workers fired for union activities, In practice, the charges are difficult to prove. In a recent case of a union activist working for the Steelwright Corporation in Reykjavik, the union was unable to prove in court its suspicion that the employee had been fired for union activities, rather than as part of a series of recession-related layoffs.

In June 1993, the European Court of Human Rights issued a ruling stating that the Icelandic Government had violated the 11th article of the European Human Rights Charter (concerning the right of free association) by obliging taxi drivers to be members of a union. The Althing is to consider amendments to Icelandic law to comply with this judgment.

There are no export processing or other special economic zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited by law and does not exist.

d. *Minimum Age for Employment of Children.*—Compulsory education legislation stipulates that children must attend school until the age of 16. The employment of children below the age of 16 in factories, on ships, and in other places that are hazardous or require hard labor is prohibited by law, and this prohibition is observed in practice. Children of 14 and 15 years of age may, however, be employed part-time or during school vacations in light, nonhazardous work; their work hours may not exceed the ordinary working hours of adults in the same occupation. The Occupational Safety and Health Administration enforces child labor regulations.

e. *Acceptable Conditions of Work.*—Icelandic workers are protected by laws that effectively ensure their health and safety as well as provide for unemployment insurance, paid vacations, pensions, and reasonable working conditions and hours. The standard legal workweek is 40 hours. Work time exceeding the standard 8-hour workday is defined as overtime and compensated accordingly. Workers are entitled to 10 hours of rest within each 24-hour period and 1 day off every week. Under special circumstances the 10-hour rest provision can be reduced to 8, and the 1 day off can be postponed by a week. In case of the latter, the worker has a right to 2 additional hours off in the following week.

Although there is no minimum wage law, union membership is so pervasive and effective that labor contracts, in effect, assure even the lowest paid workers a sufficient income for a decent standard of living. Health and safety standards are set by the Althing and administered and enforced by the Ministry of Social Affairs through its Occupational Safety and Health Administration. Food, shelter, health care, and education are guaranteed without discrimination to those lacking adequate income because they are too old, too young, sick, or otherwise disadvantaged.

IRELAND

The Republic of Ireland is a parliamentary democracy with a long tradition of orderly transfer of power. Individual liberties and civil rights are protected by the 1937 Constitution and subsequent Supreme Court decisions.

A civilian police force maintains public safety. Successive governments have had to deal with the spillover into the Republic of terrorist violence from Northern Ireland. That violence led authorities to adopt legislation in 1984 granting the police increased powers to detain and interrogate those suspected of acts of terrorism. During 1993 officials continued to show restraint in exercising these powers.

The economy, based largely on free enterprise, has grown rapidly as a result of long-term policies of industrialization and diversification which are agreed upon among the Government, the labor unions, and the business community. The economy performed well in 1993; exports were strong and the budget deficit was reduced. However, the rate of unemployment was 22 percent.

The Government and people of Ireland attach great importance to the observance and maintenance of human rights. Significant discrimination against women continued in 1993, although attitudes are changing and legislation seeking to address the problem was introduced.

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

a. *Political and Other Extrajudicial Killing.*—In the past, politically motivated killings occurred in Ireland as a spillover from the violence in Northern Ireland. In these cases, such groups as the Provisional Irish Republican Army (IRA) or the Irish National Liberation Army (INLA) usually claimed responsibility. The Government used the full force of law to pursue and prosecute such cases wherever possible. No political or other extrajudicial killings were reported in the Republic in 1993.

b. *Disappearance.*—Persons are not abducted, secretly arrested, or held in clandestine detention by the authorities.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture and other cruel, inhuman, or degrading punishment are prohibited by laws which are observed in practice.

Efforts were made to ameliorate the problem of prison overcrowding, but it continues to have an adverse impact on the psychological well-being of detainees. The Irish Council on Civil Liberties noted that prisoners in Ireland have a high suicide rate compared to those in England and Wales; that Ireland's largest prison, Mountjoy Jail, has no sanitation facilities in the cells; that there is no separate, suitable prison for women nor provision of separate secure units for young people, resulting in 14- and 15-year-olds being mixed in with the regular adult population; and that prison conditions are unacceptable for prisoners suffering from the human immunodeficiency virus (HIV).

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution provides that a person shall be deprived of personal liberty only in accordance with the law. This is respected in practice. The Constitution also provides for a judicial determination of the legality of a person's detention and requires that the arresting authorities make written explanation to the court about the person concerned.

The use of short-term detention without charges being brought is restricted. It is permitted for a maximum of 48 hours in cases covered by the Offenses Against the State Act of 1939, legislation designed to "prevent actions and conduct calculated to undermine public order and the authority of the State." This legislation, reactivated in 1972, was broadened to include other "scheduled offenses" against peace and order. The police may arrest and detain for questioning anyone suspected of any terrorist offense involving firearms, explosives, membership in an unlawful organization, or malicious damage to property. After the 48-hour period, the person must be brought before a magistrate, presented with written charges, and given legal representation.

The omnibus Criminal Justice Act of 1984 gave the police increased powers of detention for interrogation. It took effect in 1987 after implementation of the companion Complaints Procedure. The Act gave the police (garda) the authority to detain for up to 12 hours a person under reasonable suspicion of having committed a crime. Neither incommunicado detention nor exile is used.

e. *Denial of Fair Public Trial.*—Fair public trial is provided for by the Constitution and respected in practice. A defendant has the right to legal counsel. The courts are independent, and jury trial is the norm. There is provision for free legal aid and appeal against conviction or sentence. The Constitution provides, however, for the creation of "special courts" to deal with cases in which the "ordinary courts are inadequate to secure the effective administration of justice and the preservation of public peace and order." The Offenses Against the State Act formally authorized such courts in instances of offenses against national security, particularly cases of political violence perpetrated by terrorist groups likely to intimidate regular juries. Rather than having juries, these courts have panels of judges, each consisting of an uneven number not less than three. Their verdicts are by majority vote. Rules of evidence generally are similar to those of regular courts, except that the sworn statement of a police Chief Superintendent that the accused is a member of an illegal organization is considered prima facie evidence of such membership. Court sessions are usually public but may exclude certain persons, other than genuine press representatives. There were 12 special court trials, and 12 convictions, through the end of October.

In an effort to provide adequate legal assistance for those unable to afford lawyers, the 1994 budget increases from $3,018,800 (2,000,000 Irish pounds) to almost $7,547,000 (5,000,000 Irish pounds) funding for the Legal Aid Board, which provides legal assistance to the indigent. Part of the increase is to be used to establish new law centers and to enable the 16 full-time and 19 part-time centers to provide improved services to their clients.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Some Irish laws, such as the prohibition of divorce, reflect the point of view of the major-

ity of the population. The area of family law—including the rights of illegitimate children—is the subject of current debate in which minority religious communities have taken a vocal and active role.

Though not specifically provided for in the Constitution, the inviolability of personal privacy, family, and home is affirmed by the Supreme Court and generally observed. The Constitution, however, provides that the State shall enact no law "providing for the grant of the dissolution of marriage." A proposal to amend the Constitution to permit divorce in limited circumstances was overwhelmingly defeated in a 1986 nationwide referendum. In the same year, the European Court of Human Rights ruled that the prohibition of divorce is not a breach of the European Convention on Human Rights, to which Ireland is a party. The Government, which assumed office in January 1993, has pledged to hold another referendum on divorce in 1994. It announced plans to introduce legislation safeguarding the economic rights of women in marriage before holding the referendum, and in this connection the Parliament passed a "matrimonial homes" bill providing for joint ownership of the principal residence and furnishings. However, on January 24, 1994, the Supreme Court found the bill unconstitutional.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—These freedoms are provided for by the Constitution and generally respected in practice. Publication or utterance of "blasphemous, seditious, or indecent matter" is an offense punishable by law. In practice this law is directed against pornographic material. Convictions result in sentences requiring fines.

The state-owned radio and television network, on the basis of constitutional provisions dealing with public order and the authority of the State, has denied airtime to members of certain listed political organizations, including Provisional Sinn Fein, the legal political front of the illegal Provisional IRA. In 1982, the Irish Supreme Court upheld the constitutionality of this policy. Political parties not on the list are given access both to publicly owned radio and television facilities and to major independent daily newspapers and criticism of the Government in such media flourishes. A provision of the 1960 Broadcasting Act prohibiting broadcasts on radio or television of Sinn Fein representatives was not recertified by the Government upon its expiration on January 19, 1994. The Supreme Court had earlier ruled that radio and television networks could not prohibit the "nonpolitical" appearance of someone simply by virtue of incidental membership in Sinn Fein.

Academic freedom is respected.

b. *Freedom of Peaceful Assembly and Association.*—These freedoms are provided for by the Constitution and respected in practice. Certain terrorist organizations, such as the Provisional IRA and INLA, however, are illegal, and membership in them is an offense against national security punishable by a maximum prison sentence of 7 years. Political parties or groups associated with such organizations, such as Sinn Fein, are not proscribed, although some of their freedoms may be restricted, as described in Section 2.a.

c. *Freedom of Religion.*—The population is 94 percent Roman Catholic. The Constitution provides for freedom of religion, and there are no restrictions upon freedom of worship.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There is freedom of movement within the country, as well as freedom to engage in foreign travel, emigration, and voluntary repatriation. Irish authorities have accepted asylum seekers only on a limited basis and apply international definitions to those who claim refugee status. Some applicants for asylum have been held in detention for varying lengths of time— occasionally over a year—pending the adjudication of their applications. Others, such as a group of 27 Kurdish men, women, and children, who asked for asylum at Shannon Airport in November 1992, were violently forced back onto their aircraft. These Kurds were denied access to a lawyer, an interpreter, or a representative of the U.N. High Commissioner for Refugees. Eyewitnesses reported that during the struggle police and immigration officials resorted to physical and verbal abuse; many were injured. The Minister for Justice asked the police for a full report, which at year's end was not yet available. The Alien Act of 1935 gave the Minister for Justice unlimited discretion in regard to treatment of all aliens, including those who qualify for refugee status under international law. Although Ireland has ratified the 1951 Geneva Convention Relating to the Status of Refugees and its 1967 New York Protocol, their provisions cannot be implemented until they have been incorporated into domestic legislation.

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

Since the end of the Irish Civil War in 1923, periodic elections have resulted in the orderly transfer of political power. There are several political parties, and independents may stand for election to either House of Parliament. The constitutional requirement that elections be held at least every 5 years has always been met. Ireland uses a proportional voting system, and the secrecy of the ballot is fully safeguarded. There is universal suffrage for those over 18 years of age. Only 20 of 166 parliamentary deputies are women. Women participate in all departments of government, but are underrepresented at senior levels. There are two women ministers and three women ministers of state.

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

The Irish Council for Civil Liberties operates freely and without hindrance as the principal independent organization interested in domestic human rights issues.

The Government has generally ignored efforts by prisoners' rights advocacy groups to improve conditions of detention: there was relatively little pressure on the Government to do anything; money to improve facilities significantly was lacking; and the popular attitude was that prisoners were criminals who deserved harsh treatment.

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

A criminal law bill dealing with sexual offenses passed on July 7, inter alia, legalized homosexuality.

Women.—Women are discriminated against in the areas of equal pay and promotion to senior positions in both the public and the private sectors and the provision of child-care facilities. The Government pledged to implement the recommendations of the Second Commission on the Status of Women, publicly released during the year. These recommendations include a requirement that at least 40 percent of all public appointees be women (see below). The Government created in early 1993 a new department, Equality and Law Reform, for the purpose of legislating gender equality and the prohibition of all forms of discrimination. Women were overrepresented in the lower grades of the public service and underrepresented in the higher grades.

The Antidiscrimination (Pay) Act of 1974 and the Employment Equality Act of 1977 sought to provide protection and redress against gender and pay discrimination. The Employment Equality Agency monitors their operation. The number of cases has fallen in recent years, but progress in eliminating the differential in the key index of average hourly earnings in industry has been very modest. In 1993 the average hourly wage for women was 60 percent of what men received and their weekly earnings averaged 68 percent of men's weekly pay.

Violence against women occurs, and while no one has systematically studied the extent of the problem, it is believed to be serious. The Rape Crisis Center had 5,009 inquiries in 1992 about rape, sexual abuse, and child sexual abuse; 25 women who claimed to have been raped contacted the Center soon after the crime. Comparable figures for 1993 were not available. The Center estimated that 30 percent of rape victims report the crime to the police and that 10 percent of those (3 percent of the total) go to trial. In addition to rape and other sexual abuse, beatings of women and children are common; they are frequently related to alcohol abuse. A number of organizations exist which function as lobbying groups on behalf of more effective legislation, prosecution of those accused of these crimes, and protection for women. The media have expanded coverage of crimes against women. The Rape (Amendment) Act of 1990 criminalized rape within marriage and provided for free legal advice to the victim. Women's groups are seeking the extension of this provision to that of actual legal representation, as well as increased counseling and other support services for the victims of rape and domestic violence.

The Prime Minister established the Second Commission on the Status of Women in 1990 with the mandate to promote greater equality for women in all facets of Irish life. As priority objectives, the Commission identified child care, training and education, the development of employment opportunities, legal rights and protection, and the appropriate funding of representative bodies and support services. At the Government's request, the Commission paid particular attention to the needs of the full-time homemaker (only a third of Irish women work outside the home). It was in this regard that the Commission obtained from the Government the promise of early introduction of legislation providing for automatic joint ownership of the family home.

The Council for the Status of Women, representing over 100 national women's organizations, provides the central focus for pursuit of legislative and other reforms to end discrimination against women and to promote fuller participation by women in the social, economic, and political life of the country.

Children.—The Status of Children Act of 1987 and the Child Care Act of 1991 provide for governmental promotion of the welfare of children. However, there are no reliable statistics concerning the enforcement of these laws. In 1992 Ireland ratified the U.N. Convention on the Rights of the Child. Despite the Convention's provision that governments must make the principles and provisions of the Convention widely known, the Government had not done so by the end of 1993.

Children born out of wedlock have the same rights as other children. The Status of Children Act abolished the main legal discrimination between the two categories. The terms "legitimate" and "illegitimate" may no longer be used in legislation.

A 1991 seminar organized by the Youth Committee of the Irish Congress of Trade Unions highlighted the issue of low pay and exploitation of young people still attending school and engaged in part-time or holiday work. A subsequent survey revealed that the rates of pay, as established by joint labor committees, were not being followed. On the average, female workers over 16 years of age were paid 90 percent of males' hourly rate; females under 16 were paid 72 percent of males' rate.

People with Disabilities.—Few public or private buildings have facilities for the disabled. Public transport has none. The Dublin Bus Company plans to begin using five "low-bottom" buses in January 1994 as a first step in accommodating the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—Workers have the right to associate freely and to strike. The right to join a union is guaranteed by law, as is the right to refrain from joining. Antiunion actions before registration of a union are legally prohibited. The Industrial Relations Act of 1990 introduced limitations on picketing but generally renewed legal guarantees of immunity to union members and officials for industrial actions with regard to terms or conditions of employment. Strikes in 1993 included a brief "wildcat" strike at Dublin Airport by Aer Lingus employees, a week-long Dublin bus drivers' strike, and a dental assistants' strike which lasted 4 days. The Employer-Labor Council mediated a settlement of the latter by offering the dental assistants the amount they wanted as a "special payment" rather than as a raise which would apply to all public sector employees.

About 55 percent of workers in the private and public sectors are members of unions. Police and military personnel are prohibited from joining unions or striking, but they may form associations to represent them in matters of pay, working conditions, and general welfare.

The right to strike is freely exercised in both the public and private sectors. The Industrial Relations Act of 1990 prohibits retribution against strikes and union leaders; the Government effectively enforces it through the Department of Enterprise and Employment. A 2-week strike by employees of the state-owned Electricity Supply Board in the spring of 1990 led the Labor Relations Commission to draft a code of conduct for industrial relations in essential services. The Ministry of Enterprise and Employment promulgated the code in July. Negotiations between business and labor on the code's implementation were in progress at year's end. There are no restrictions on civil liberties which affect unions.

The Irish Congress of Trade Unions (ICTU), which represents unions in both the Republic and Northern Ireland, has 88 member unions with 678,800 members. Both the ICTU and the unaffiliated unions are independent of the Government and the political parties. Unions may freely form or join federations or confederations and affiliate with international bodies. The ICTU is affiliated with the European Trade Union Confederation.

b. *The Right to Organize and Bargain Collectively.*—Labor unions have full freedom to organize and to engage in collective bargaining. Legislation prohibits antiunion discrimination. The Anti-Discrimination in Pay Act of 1974 and the Employment Equality Act of 1977 make the Employment Equality Agency responsible for oversight of disputes over allegations of discrimination. If the Agency is unable resolve such disputes amicably, the Labor Court becomes responsible for doing so. The Unfair Dismissals Act of 1977 requires employers guilty of antiunion discrimination to reinstate workers fired for union activities.

Most terms and conditions of employment are determined through collective bargaining, which took place in 1993 in the context of a national economic pact, Program for Economic and Social Progress (PESP), negotiated by representatives of unions, employers, farmers, and the Government. The PESP included an agreement between the Congress of Trade Unions and the Federation of Irish Employers estab-

lishing standard pay increases for the 3-year period of its duration. The agreement also provided for a one-time wage increase of up to 3 percent to be negotiated at local level during the second year of the PESP.

The Industrial Relations Act of 1990 established the Labor Relations Commission which provides advice and conciliation services in industrial disputes. The Commission may refer unresolved disputes to the Labor Court. The Labor Court, consisting of an employer representative, a trade union representative, and an independent chairman, may investigate trade union disputes, recommend terms of settlement, engage in conciliation and arbitration, and set up joint committees to regulate conditions of employment and minimum rates of pay for workers in a given trade or industry.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is prohibited by law and does not exist in practice.

d. *Minimum Age for Employment of Children.*—The minimum age for employment is 14 years with the written permission of the parents. Hours of employment are limited by law for those 15 years of age to 8 hours per day and 40 hours per week. Those from 16 to 17 years of age may work up to 9 hours per day and 40 hours per week. These provisions are effectively enforced by the Labor Department.

e. *Acceptable Conditions of Work.*—There is no general minimum wage legislation. However, some workers are covered by minimum wage laws applicable to specific industrial sectors, mainly those that tend to pay lower than average wages. Although the lowest of these minimum wage rates would not be sufficient to provide a decent living for a family of four, additional benefits, including subsidized housing and children's allowances, are available to low-income families. Working hours in the industrial sector are limited to 9 hours per day and 48 hours per week. Overtime work is limited to 2 hours per day, 12 hours per week, and 240 hours in a year. As part of the National Economic Pact adopted in 1987, the standard workweek has been reduced to 39 hours. The Labor Department is responsible for enforcing four basic laws dealing with occupational safety that provide adequate and comprehensive coverage. There were no significant complaints from either labor or management in 1993 regarding enforcement of these laws.

ITALY

Italy is a democratic, multiparty republic with a parliamentary system of government. Legislative power is vested in the Parliament, which is directly and freely elected on the basis of universal adult suffrage. Executive authority is vested in the Council of Ministers, headed by the President of the Council (the Prime Minister). Italy's judiciary is independent of the executive although subject to occasional political party interference.

Terrorist violence of both the left and the right remained at low levels, though organized crime elements continued to use terrorist tactics. Bomb attacks in May and July in Florence, Milan, and Rome, which appeared to be aimed more at symbols of Italian culture than at people, killed a total of 10 persons. At year's end one official of the disbanded Italian Intelligence Service SISDE was under arrest along with three others in connection with bombing attempts.

Starting in 1992—with the beginning of nationwide judicial investigations into kickbacks and corruption over public contracts and the concomitant weakening of the traditional political parties—the judiciary has been under less political party pressure than in the past. However, human rights groups and others criticized the extensive use of preventive detention for persons accused of corruption.

Italy has an industrialized market economy. Although heavy government ownership of the primary industrial sectors persists, the Government and Parliament have moved forward on privatization, now well underway. In 1993 economic growth was slightly negative, with unemployment at over 11 percent, though inflation was held to less than 5 percent. Once dynamic small and medium-sized firms were seriously hit by economic recession.

Worker rights are generally respected and the Government openly addresses human rights issues which arise. The Government consistently condemned sporadic acts of violence and discrimination aimed at ethnic or religious minorities. Italy continued to experience a substantial influx of third-world and eastern European immigrants; public attention continued to focus on the problem of racism.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Neither government forces nor legal opposition organizations engaged in politically motivated killings. However, in September a 10-year-old Gypsy was killed in a carabinieri station shortly after his arrest, reportedly as a result of a scuffle over an officer's weapon. An investigation was launched but no conclusion had been announced by year's end. In March an Iranian opposition leader was shot dead in Rome. No assailants had been arrested for this offense at year's end.

An official of SISDE, along with three accomplices, two of whom are from organized crime families, were arrested on the charge of placing a fake bomb on a train; government authorities are examining possible links with other bombing attempts.

b. *Disappearance.*—There were no cases of politically motivated disappearances or kidnapings.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Freedom from torture is provided for by law and respected in practice. Cruel and degrading punishment is forbidden by law. There were credible reports, however, that detainees and prisoners were abused during police interrogation in several cases. The most common forms of alleged ill-treatment were repeated kicks and punches and prolonged beatings with batons. There were also complaints of severe overcrowding, poor sanitation, and inadequate medical assistance. A May 1993 report by Amnesty International (AI) denounced an increase in alleged ill-treatment of prisoners by prison guards, noting that "sharply deteriorating living conditions and increased detention" in jails also may have played a role. According to AI, the Government replied to only one of its requests for an inquiry into the alleged maltreatment. In its reply, the Government denied there had been any ill-treatment of prisoners and noted that there might have been "misunderstandings" over the "special treatment" of and the "severe restrictions" for Mafia-related convicts.

Those perpetrating ill-treatment of detainees and prisoners rarely have been the object of disciplinary proceedings.

On December 15, 1992, a group of lawyers presented a report to the Naples Public Prosecutor about allegations of "systematic beatings and gratuitous ill-treatment" being inflicted on inmates of Secondigliano Prison by prison guards and requested an immediate judicial inquiry. The Deputy Public Prosecutor led a judicial inquiry which included a nighttime visit to the prison on January 28, during which a number of prisoners bearing signs of physical injury were reportedly seen. On February 18, the Parliamentary Committee for Prison Affairs conducted a visit of inspection of the prison. On April 26, the commandant of the prison guards at the prison and five superintendents were suspended from duty for a preliminary period of 2 months in connection with possible criminal charges, including abusing their authority, striking prisoners, and giving false testimony. The commandant was suspected of having instigated the beating of inmates by prison guards and of opening the prisoners' outgoing mail and threatening them with further violence if they failed to remove passages referring to their alleged ill-treatment. The charges were ultimately dropped. At the end of April, an additional 60 to 70 guards were reportedly under judicial investigation in connection with the ill-treatment of prisoners. Here, too, the charges were dropped. On November 16, the director of a jail in the northern city of Pavia was suspended from duty and committed to trial on charges of having placed in isolation a detainee for whom a medical doctor had instead recommended hospitalization. His trial is scheduled for mid-January.

At the end of August, the jail population reached 52,320 persons, more than a 10-percent increase over 1992 and approximately a 100-percent increase over 1991. The increase was due partly to more efficacious police operations and partly to the slowness of the Italian judicial system. The capacity of penal facilities, however, has remained the same. Some prisons had populations double or triple their capacity. According to the Justice Ministry, from January through October, 49 inmates committed suicide, compared to a total of 47 suicides in 1992 and 29 in 1991. Protests against overcrowding sparked hunger strikes in jails nationwide in May, July, and November.

In August the Government passed legislation aimed at reducing the jail population by making it easier for certain categories of offenders to receive house arrests or other alternative sentences. Also in August, the Government dedicated approximately $90 million at the then prevailing exchange rate (150 billion lira) to complete the building of new jails. Authorities are in the process of separating less serious offenders from other prisoners in existing facilities. Felony offenders and high-risk prisoners such as Mafiosi are held in high-security wings of regular jails. The Government permits independent monitoring of prison conditions, under the supervision

of jail directors, by parliamentarians, local human rights groups, the media, and other organizations.

d. *Arbitrary Arrest, Detention, or Exile.*—Police procedures are controlled by law and judicial oversight. Arbitrary arrest is not practiced. Anyone detained by the authorities must be charged within 48 hours, except for Mafia-related suspects who may be charged "as soon as possible." Italy does not have a system of bail. Judges may grant provisional liberty to persons awaiting trial; this occurs frequently. The law imposes broad time limits on pretrial investigative or preventive detention, which includes detention in connection with one specific offense prior to the conclusion of all appeals. Preventive detention is implemented to prevent a suspect from fleeing or destroying evidence while authorities investigate and is not permitted for minor offenses. In normal criminal cases, the maximum permissible duration of preventive or investigative detention is 4 years, with no more that 2 years at each step of the trial during the appeals process. The Government moved to extend the total period to 6 years for defendants accused of Mafia-related crimes. Preventive detention is sometimes longer than the penalty for the crime; restitution for unjust detention is provided for in the Constitution and in law.

In practice, pretrial detention is extended when the accused, already being held without bail on specific charges, is charged with additional offenses. This has often been the case during judiciary proceedings connected to kickbacks and corruption over government contracts (widely known as "clean hands" proceedings), which started in Milan in February 1992 and have since spread throughout the country. Politicians of all parties as well as officials of private and public companies have been implicated.

Each offense with which "clean hands" defendants are charged allows a maximum preventive custody of 3 months. Since most of the defendants are charged with more than one offense, some have remained in jail for longer than 3 months. In early 1993, the Italian League of Human Rights published a warning by a French human rights expert regarding the potential for abuse of this provision. In July, following the suicide of a "clean hands" detainee, there was considerable public criticism, though not from human rights groups, of the extensive use of preventive detention for those accused of such offenses. On December 1, Parliament voted to ask the Government to revise the law on preventive custody to avoid accumulation of charges against defendants and the consequent extension of the terms of pretrial custody. This revision had not been implemented at year's end.

According to official figures of the Justice Department, defendants awaiting trial comprise 50 percent of the total jail population; those awaiting their first trial comprise 29 percent of the total jail population. Because of chronic understaffing in the judiciary, police, and clerical staff, and lack of office space, equipment, and training courses, the average waiting period for trials is about 18 months but can exceed 24 months. Thus, despite the judiciary's efforts to extend the periods of preventive custody in order to keep a prisoner in jail until the beginning of the trial, many defendants are released before the proceedings start.

Arrest warrants are issued by investigating judges. People held in detention are allowed prompt and regular access to lawyers of their choosing. If detainees are indigent, a lawyer is provided by the State. Normally, people held in detention are also allowed prompt and regular access to family members. However, defendants charged with more serious offenses, including Mafia-related crimes, are allowed regular but limited contacts with their families. As a safeguard against possible abuses involving unjustified detention, "liberty tribunals" are empowered to review available evidence in cases of persons awaiting trial and to decide whether continued detention is warranted. Judges in "liberty tribunals" are drawn from the normal courthouses but only review cases involving the detention of prisoners.

Exile abroad as a form of punishment is not practiced. In July Parliament passed a bill that negates the possibility of domestic exile.

e. *Denial of Fair Public Trial.*—A fair and public trial is assured by law and broadly observed in practice. Counsel is provided for the accused, free of charge if necessary. Good faith efforts are made to guarantee due process rights. Nevertheless, trial procedures are often cumbersome; trials frequently last years.

A revised Code of Criminal Procedure which entered into force in 1989 sought to streamline the process. The Code provides for a more adversarial system designed to promote speedier trials. Initial unfamiliarity with the new system on the part of judicial authorities created bureaucratic problems, increased delays, and further increased existing backlogs, yet to be fully cleared. In addition, parts of the new criminal code did not prove workable and are slowly being amended by Parliament to restore time-saving devices of the old code, such as admitting pretrial testimony.

All court cases may be appealed to the highest appellate court, the Court of Cassation. There are no political or security courts or political prisoners. The judiciary

is formally autonomous and independent of the executive. Nonetheless, before the start of the "clean hands" judicial proceedings in 1992, there was a broad perception that magistrates were subject to political influence and that the political views of certain judges affected proceedings. Since the start of the "clean hands" investigations, magistrates have increasingly disengaged themselves from traditional pressure by political parties and are investigating members of all parties for kickbacks, corruption, and reception of stolen goods.

Over 25 magistrates so far have come under investigation on suspicion of links with the Mafia; the list continues to grow. One judge of the Supreme Court of Cassation, who for 6 years overruled a total of 400 verdicts of the lower courts for alleged technical errors in reaching judgments in Mafia trials, was placed under investigation by the Superior Magistrates Council (CSM) in September 1992. In March 1993, the office of the Palermo public prosecutor began judicial investigations against him for ties with organized crime; in April he was suspended from office. In December 1992, a Sicilian judge committed suicide because of suspicion of collusion with the Cosa Nostra. In May 1993, the Naples judiciary arrested a judge with ties with the Camorra (a criminal organization); he was the first judge to be arrested on such charges.

Several sitting and former judges and other magistrates in Bari, Milan, Florence, Perugia, and throughout Sicily are under judicial investigation or under suspension in connection with antiorganized crime cases or as part of proceedings in the "clean hands" corruption scandals. In December the Justice Minister started disciplinary proceedings against 21 magistrates belonging to Masonry lodges for "incompatibility with the impartial behavior required by their position." He also asked the CSM to transfer these judges. The judiciary in the southern city of Palmi is investigating several other judges for Masonic association.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The concept of the privacy of the home is safeguarded legally and respected by the authorities. Searches and electronic monitoring may be carried out only under judicial warrant and in carefully defined circumstances.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Free speech and a free press are assured by law and observed in practice. Publications are free from government control and present views across the political spectrum without censorship. Under Italian law, publications may be seized for violation of obscenity laws or for defamation of state institutions. These powers are seldom invoked; they have not been used in the past several years.

In addition to government-run radio and television, many private radio stations operate. The political views of these stations differ widely. A lively political debate over the issue of media regulation reflects public concern over the potential for monopolistic power on the part of the private media. The Government's controversial allocation of private television channels in 1990 and 1992 came under the scrutiny of the judiciary on the suspicion that political parties gained an advantage from the allocation of stations through their links with the private owners. On October 27, Parliament approved a decree giving the Government a mandate to redefine the allocation plan by October 1994.

b. *Freedom of Peaceful Assembly and Association.*—Citizens freely exercise their right of peaceful assembly, which is limited only in cases where national security or public safety is endangered. Permits are not required for meetings, but organizers of public demonstrations must notify the police in advance. Professional and employer associations organize and represent their constituencies freely.

While allowing freedom of association, the Constitution and law prohibit secret associations, associations that pursue political aims by using paramilitary structures, and the reorganization of the dissolved Fascist Party. An increasing number of episodes of violence perpetrated in 1992 and early 1993 by neo-Fascist groups against Jews, Gypsies, and third- country nationals led the Government to issue a decree in April allowing the arrest of members of groups inciting racial, ethnic, national, or religious discrimination. The decree allows the police to search and close neo-Fascist meetingplaces. These measures led to the arrest in May of a person for having burned the Israeli flag and in July of nine persons on charges of seeking to reorganize the Fascist Party. At least 15 other persons were under judicial investigation for the same charge at year's end.

c. *Freedom of Religion.*—Individuals are free to profess and practice any religious faith. All religions are free to organize and proselytize within the limits imposed by the laws governing public order. Italy's relations with the Roman Catholic Church are governed by a 1984 agreement (Concordat) between the Government and the Holy See, ratified in 1985. The agreement, which replaced the Concordat of 1929,

recognized the rights of Catholicism and its historic presence in Italy but no longer accorded Catholicism the status of a state religion. The Roman Catholic Church continues informally to enjoy special standing partly as a result of the Concordat but also because of the presence of the Vatican and because the overwhelming majority of Italians are Roman Catholic. Taxpayers may elect to designate a small percentage of their tax payment to the Catholic Church, the Adventist Church, the Assemblies of God, or the State for social or humanitarian purposes; the percentage is the same regardless of the recipient. In November the Italian Buddhist community initiated procedures to receive similar funding.

Roman Catholic religious instruction is offered in the public schools as an optional subject. The Ministry of Education has instructed schools to provide an optional course (such as the history of religions or drawing but not mandatory courses such as mathematics or literature) to students who do not want to attend the "hour of religion." Some schools allow free time to students who do not elect to take either course.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens may travel freely both within the country and abroad. Emigration is unrestricted. Citizens who leave are guaranteed the right to return, and the Constitution forbids deprivation of citizenship for political reasons. According to government statistics in September, a total of 19,182 refugees came to Italy, primarily from the former Yugoslavia. Government authorities in December estimated the total number for 1993 at 26,000, mostly from the former Yugoslavia and a few hundred from Somalia. The Government arranged for their temporary stay. There is no reliable estimate of the number of unregistered refugees who also entered. Some regional governments provided assistance in employment, housing, health care, and education.

A new law on citizenship, which came into force in August 1992 reduced from 5 to 3 years the period of residence necessary for some immigrants (those born in Italy or of Italian origin) to acquire Italian citizenship. The law retained the 5-year residency requirement for immigrants from European Community (EC) countries and increased from 5 to 10 years the required residence period for non-EC immigrants.

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

Italy has a parliamentary system with members of Parliament elected on the basis of universal adult suffrage. Although the Constitution outlaws the Fascist Party, a wide range of organized and active political parties exists from the far left to the far right of the political spectrum. Election campaigns are free and open, and voting is by secret ballot. The two chambers of Parliament and regional, provincial, and municipal councils are elected at regular intervals of 5 years; the Constitution allows the President of the Republic to call special parliamentary elections. A 1992 electoral reform provided for the direct election of mayors in municipalities with over 15,000 inhabitants. A 1993 reform provided for 75 percent of the seats of both houses of Parliament to be elected on a majority basis in single-member districts and 25 percent to continue to be elected on a proportional basis.

There are no restrictions in law on the participation of women in government and politics. Political and social customs continue to result, however, in a lower percentage of participation by women than by men. In 1993, 3 of 24 Cabinet members, 31 of 325 Senators, and 51 of 630 deputies in the lower house were women. New electoral laws have provisions that either encourage more female candidates or place them higher on proportional voting lists.

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

Nongovernmental organizations, including human rights organizations, are free to investigate conditions in Italy, attend trials, and publish their findings.

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

There is no legal discrimination on the basis of race, religion, sex (except with regard to work regarded as dangerous; see below), ethnic background, or political opinion. In practice, discrimination based on sex and ethnic background, among other factors, continues.

Women.—Women participate freely in political and social life but still face discrimination, sometimes legally. For instance, no women, regardless of age, are permitted to be employed underground in quarries, mines, or tunnels. Despite legal guarantees, employers continue to favor men over women in filling jobs, particularly those with prospects for advancement to management. Women fill approximately 10 percent of managerial positions and are poorly represented in the professions.

Women tend to remain in employment areas such as schoolteaching and in public employment sectors such as post offices, government ministries, the national health service, national social security institute, and national statistical office. The Italian media has reported a 10-percent increase in the number of female police officers. Labor agreements in significant sectors such as metalworking (the leading industrial sector), local administration, and public service prohibit sexual harassment, which, however, is not prohibited by law. This makes it difficult for women successfully to pursue such cases in court. For example, in a prominent case in the Piedmont region, a female employee was unable to win a harassment case despite having 15 witnesses who confirmed her accusations against her supervisor.

Women enjoy legal equality with men in marriage. In the event of divorce, a woman is entitled to a share of the survivor's pension and any inheritance in the event of the death of her ex-husband. The property of a married couple is considered community property unless husband and wife agree to keep their property divided. All assets acquired prior to marriage are exempt from the community property provision.

Legislation seeks to provide women protection from physical abuse. Police and judges are not reluctant to intervene and mete out punishment in such cases. Spousal rape was tried in the courts in 1993 under the Criminal Code. Although there are no statistically reliable studies attesting to the extent of domestic violence against women, newspaper reports of such violence are common and it is thought to be widespread. The Government provides a public telephone service, Telefona Rosa, which offers legal, practical, social, and psychological counseling for women in difficulty. The Prime Minister's Office on the Status of Women has stated that, while laws exist to punish those who commit acts of violence against women and the laws are enforced, victims often do not bring charges due to fear, shame, or ignorance of the law.

Children.—In recent years, elements of Italian society have manifested growing concern over violence against children. A privately financed, nationwide, toll-free telephone hotline service to help abused children, established in 1987, has received over 270,000 calls. Private volunteer organizations operate to protect minors from potential abuse; social workers either on their own initiative or with orders from a "Judge of Minors" can take remedial or punitive action. Social workers can also place abused children in family shelters.

Reliable, consistent statistics on child abuse are often not readily available. According to the national hotline for children, most callers complain of psychological violence, physical abuse, or negligence. Available evidence suggests that most of those calling to denounce maltreatment of children are adults, but the number of children using child-abuse protection telephone lines is increasing. Some experts in the field believe that, rather than indicating that abuse is increasing, this may signify that children's fear of reaching out for support is diminishing. According to these statistics, about 50 percent of those calling are from northern Italy and mostly denounce cases of physical abuse. The remainder is evenly divided between the central and southern regions, where the child mistreatment most commonly denounced is sexual abuse. An assessment by another private institution (for the protection of maltreated children) indicates 100,000–150,000 cases of child abuse are perpetrated every year, of which 50,000 are physical abuse and about 40,000 are sexual.

The Government in 1993 reorganized the Department of Social Affairs to give it principal responsibility for children's rights. In September an 8-member committee was established with the task of advising the Minister on policy concerning minors.

National/Racial/Ethnic Minorities.—North Africans residing and working in Italy and the population of Gypsy origin are subject to discrimination.

Aggressive racial incidents aimed at foreigners and immigrants increased and spread all over Italy in 1993. Among the most significant incidents were the beating of several hundred North African tomato-pickers by the population of a southern Italian town, who were aroused and spurred on by persons operating illegal employment schemes historically present in southern Italy under a system called "caporalato"; beatings of North African drug-peddlers and destitutes in the northern city of Genoa; the burning of a Caritas assistance center being readied for immigrants near Caserta, in the south, and the burning of lodgings for immigrants in Rome and of housing for North Africans in the north central city of Bologna. Some arrests were made in the Genoa beatings, but at year's end other perpetrators had not yet been apprehended.

Despite official efforts to integrate the Gypsy population into Italian society, Gypsy communities continue to stand out and to attract negative, sometimes violent, attention because of an increase in pickpocketing and other street crime in

which some members of these groups are popularly viewed to be predominant participants.

As in 1992, during the first half of 1993 trailers in Gypsy camps in Rome and Bologna were set on fire. Police regularly investigate such incidents. While the perpetrators of these particular crimes have not yet been apprehended, the Government prosecutes such offenders when they are apprehended. Local administrations and communities have shown sensitivity to the need to ensure equal treatment of those who belong to nomadic groups and who are, for the most part, Italian citizens. Local and regional authorities in Rome and Florence, for example, have worked to provide sanitation to Gypsy campsites. Approximately 4,000 Gypsies reside in the greater Rome area. Most of them live in precarious and unhygienic conditions.

As a result of the increasing influx of legal and illegal immigration from Africa and East European countries, these issues are being examined with greater attention by the general public and by political parties. Employees of international organizations from third-world countries living in Rome report more difficulty than their European colleagues in finding housing. The Government funds nonprofit organizations that provide social assistance to third-world nationals living in Italy. In this area, the Government also works closely with the Roman Catholic Church, which has been a powerful public voice condemning discrimination against, and mistreatment of, minorities and which supports social assistance groups and activities.

Recently enacted changes in the Special Statute for Alto Adige (along the Austrian border) give German speakers there added safeguards against alleged risks to their culture and language. Some in the Italian-speaking community in the Alto Adige claimed reverse discrimination. The German-speaking community is also pressing local authorities to change the names of several towns from the Italian wording to what they claim were the original German versions prior to World War I.

The Government and Parliament began to discuss revision of the 1990 Law on Immigration, including the possible introduction of a quota system and the application of stricter administrative controls.

There are about 35,000 Jews in Italy. Occasional anti-Semitic incidents, such as the desecration of tombs in a Jewish cemetery and the appearance of anti-Semitic graffiti, continued to occur during the year. The police suspect that perpetrators are members of the various anti-Semitic and neo-Nazi groups that have emerged recently. However, only one person was caught in the act of desecrating Jewish graves and arrested on charges of ethnic and religious discrimination.

People with Disabilities.—There are no restrictions on employment of physically disabled persons in Italy, and since 1968 employers employing 35 or more persons have been required, with limited exemptions, to staff 15 percent of their work force with disabled persons. In practice, however, only about 4 percent of the work force in these firms are disabled. A comprehensive framework law was adopted in 1992 covering assistance, social integration, and rights of handicapped persons. The Labor Inspectorate of the Ministry of Labor enforces this law; employers who do not obey the law are fined and obliged to comply; repeat offenders receive higher penalties.

Protection against discrimination in education has been guaranteed at all levels since 1977, and this was successfully defended in the courts in 1987. The 1992 Law on the Rights of Handicapped Persons reinforced this guarantee. A 1971 law calls for physical accessibility for the disabled to public buildings; compliance in schools and other public buildings is thus far not universal.

Section 6. Worker Rights

a. *The Right of Association.*—The Workers' Statute of 1970 provides for the right to establish trade unions, to join unions, and to carry out union activities in the workplace. Trade unions are not government controlled, and the Constitution fully protects the right to strike, which is frequently exercised. In practice, the three major labor confederations possess status and influence (in comparison to the smaller independent unions) for reasons that go well beyond their membership size. They have strong historical ties to two of the three major political parties and administer certain social welfare services for the Government, which compensates them accordingly.

Moreover, the Workers' Statute favors the three confederations to the extent that it is difficult for small unions, including the so-called Base Committees (Cobas) at the shop floor level, to obtain recognition. In July a tripartite agreement was reached, which, among other things, laid the basis for election of unitary union representation (RSU) in all workplaces. If enacted into law, two-thirds of the RSU would be elected by all employees in the workplace and one-third nominated by those unions that signed the National Labor Contract affecting those workers.

A 1990 law limits the right to strike in essential public services such as transportation, sanitation, and health. Public sector workers, including those covered by these restrictions, engaged in demonstrations and a partial general strike in early 1993 in support of union demands in national tripartite negotiations and in conjunction with a Europe-wide day of action called by the European Trade Union Confederation. However, minimum services in essential public services were provided. Italian unions associated freely and actively with international trade union organizations.

The Workers' Statute (Law 300 of 1970) prohibits employers in firms employing more than 15 workers (more than 5 in agriculture) from taking retribution against strikers other than deduction of wages for the duration of the strike. The Government enforces this effectively. Hiring of personnel to replace strikers is effectively prohibited.

b. *The Right to Organize and Bargain Collectively.*—The right of workers to organize and bargain collectively is protected by the Constitution and is freely practiced.

Labor-management relations are governed by legislation, custom, collective bargaining agreements, and labor contracts. In July an agreement was signed by representatives of labor, management, and government laying down a new collective bargaining structure. All future national labor contracts are to be of 4 years' duration. Wage increases for the first 2 years are to respect guidelines established through consultations at the national level; wages may be renegotiated after 2 years. Company-level bargaining on issues not covered in the national contract is to take place once during the life of the agreement at a time to be specified in the national contract. Company-level wage increases are to depend on performance of the firm.

National collective bargaining agreements in practice apply to all workers, regardless of union membership. The July agreement called for further legislation to make these agreements legally binding on all firms in the pertinent sector.

The law prohibits antiunion discrimination by employers against union members and organizers. Judges of first instance (Pretore) resolve complaints of discrimination. A 1990 law encourages workers in small enterprises (less than 16 employees) to join unions and requires "just cause" for dismissals from employment.

Employers found guilty of antiunion discrimination are required to reinstate workers fired for union activities if the firm has more than 15 employees. In firms with less than that number, the employer has the option to reinstate or pay compensation up to approximately $15,000 at the year-end exchange rate (2.5 million lira) or 6 months' wages, whichever is larger. In special cases, this can be increased to 10 or 15 months' wages. Protection of worker rights in the case of transfer of company ownership is provided in a law that complies with a European Community (EC) directive on the subject. The law requires that the unions of both the former and the new owners' companies be consulted in advance of the sale and that no worker benefits be lost as a result of the transfer.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited by law and does not exist in practice.

d. *Minimum Age for Employment of Children.*—The law provides that no child under 15 years of age may be employed (with some specified exceptions). The Ministry of Labor, having consulted with the labor organizations, may, as an exception, authorize the employment of children over 12 years of age on specific jobs. There are also specific restrictions on employment in various dangerous or unhealthful occupations up to the age of 18 for men and 21 for women. In general, minimum age laws are effectively enforced. However, some employment of children occurs in the shadow economy, particularly in the agricultural sector in the less prosperous southern parts of Italy.

e. *Acceptable Conditions of Work.*—There is no minimum wage set under Italian law; basic wage and salary levels are set forth in collective bargaining agreements. National collective bargaining agreements contain minimum standards to which individual employment contracts must conform. In the absence of agreement between the parties, the courts may step in to determine fair wages on the basis of practice in related activities or related collective bargaining agreements.

Working time and safety standards are established by law and buttressed and extended in collective labor contracts. The Basic Law of 1923 provides for a maximum workweek of 48 hours—no more than 6 days per week and 8 hours per day. The 8-hour day may be exceeded for some special categories. Most collective bargaining agreements provide for a 36- to 38-hour week. Overtime may not exceed 2 hours per day or an average of 12 hours per week.

Basic health and safety standards and guidelines for compensation for on-the-job injuries are set forth in an extensive body of law and regulations. While 13 of the

EC's directives on safety and health were incorporated into Italian law in 1991, 8 had not yet been implemented in late 1993. Most of these health and safety standards are exceeded in collective bargaining agreements. Enforcement of health and safety regulations is entrusted to labor inspectors, who are either employees of local health units or of the Ministry of Labor and have the same status as judicial police officers. Inspectors make periodic visits to companies to ensure observance of safety regulations. Violators may be fined or even imprisoned; it is common for Italian judges to fine employers guilty of infractions. Trade unions also play an important role in reporting safety violations to inspectors. Coverage is hampered by the inadequate number of inspectors. Union sources claim that many companies fail to keep records on potential health risks in their plants, as required by law.

Because of high unemployment, there is pressure on workers to accept unsafe conditions. There are many substandard workplaces, especially in the south. Following a serious accident at a refinery in Sicily in June, the Government decided to set up a special agency to deal with industrial accidents. At year's end, this unit had not begun to function.

KAZAKHSTAN

In its second year of independence, the Government of Kazakhstan continued political and economic reform while stressing political consensus and interethnic harmony. The Supreme Soviet (Parliament) adopted a new Constitution which reinforces legal guarantees for basic political and personal freedoms, further removing Kazakhstan from the legacy of Soviet rule. The new Constitution establishes the executive as the predominant branch of government. President Nursultan Nazarbayev, elected in 1991 in a single-candidate election, is the leading political figure in the country. The Supreme Soviet and the judiciary, while generally supportive but not yet fully independent of the executive, proved to be more effective checks on executive power than in 1992. The Supreme Soviet, elected in 1990 under the Soviet system, lacked a democratic mandate. In an effort to speed the reform process, the Supreme Soviet voted in December to move the date of the next parliamentary elections from December 1994 to March 7, 1994, dissolve the Supreme Soviet, and grant the President extraordinary power to rule the country until the new supreme soviet is sworn in. The new legislature will be comprised of 135 deputies elected from districts and 42 appointed by the President. The President's power to appoint deputies has sparked controversy.

The Committee for National Security (KNB) is seeking to legitimize its role by focusing more on issues of nuclear proliferation, counterterrorism, and combating organized crime and official corruption. In many respects, however, it is a continuation of the old Soviet Committee for State Security, or KGB. It retains, for instance, the authority to deny citizens permission to travel in and out of the country, to requisition property, and to demand cooperation by citizens (e.g., to inform on other citizens). Declining real wages for the criminal police, which is subordinated to the Ministry of Internal Affairs, resulted in increased corruption.

The Government in 1993 accelerated the pace of economic reform, while trying to minimize social dislocation and political and ethnic tensions. Kazakhstan began a World Bank-approved program of privatization. A small private sector is growing and is relatively free to operate, although hampered by bureaucratic holdovers from the Soviet era. The economy continued its decline in 1993, with near hyperinflation and a budget deficit of about one-tenth of gross domestic product. However, its educated, pragmatic people and vast natural resources form a solid basis for long-term economic growth.

Basic human rights were generally respected in 1993, although there were significant problems in a number of areas. The most egregious human rights abuse was the effort by the Government and state-sponsored trade unions to harass and suppress independent trade unions and impose other restrictions on worker rights. A widely voiced complaint was that good laws were being passed at the national level, but implementation of them at the local level was weak. A huge bureaucracy, including state enterprises, stifled initiative and reduced openness. Freedom of assembly and religion were generally respected. Internal freedom of movement was restricted by continued use of the "propiska" system of permits for residence in the capital. With the important exception of state television, the media were increasingly pluralistic and more frequently critical of the Government. However, continuing state ownership of printing and broadcasting facilities had an inhibiting effect on press freedom.

Ethnic Kazakhs predominate in government and, at times, discriminated against non-Kazakhs, in part out of a sense of a need for affirmative action to reverse decades of second-class status under the Tsarist and Soviet empires. Some ethnic Kazakhs pressed for election laws that would give preferential treatment to Kazakhs. In the interests of interethnic harmony, the Government refused to register political parties that, it claimed, were based on ethnic or religious criteria. The Government expressed concern over contacts between foreign embassies and nongovernmental organizations (NGO's) and opposition parties and independent trade unions and moved to restrict the activities of foreign NGO's.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—No political or other extrajudicial killings are known to have occurred.

b. *Disappearance.*—No political disappearances or abductions are known to have occurred.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture is prohibited by law, and no cases of torture or inhuman or degrading treatment or punishment are known to have occurred. Prison conditions are deteriorating due to overcrowding, resulting from the increase in crime during 1993. The budget for prisons has not kept pace. Cells are packed to overflowing, and the diet is inadequate. There is not enough equipment and electricity to provide work for the prisoners. Prisoners are allowed one visit every 6 months. Additional visits may be granted in emergency situations. Juveniles are kept in separate facilities.

d. *Arbitrary Arrest, Detention, or Exile.*—With only minor modifications, Kazakhstan continued to use the Soviet legal system in 1993. The new Constitution lays the basis for reform of the legal system. Pretrial detention is sanctioned by law. Prosecutors issue arrest warrants. According to the Criminal Procedure Code, a detainee may be held for 3 days before being charged. After 3 days, the detainee may be held with the sanction of a prosecutor but no longer than 10 days without being charged. The detainee may be held up to 1 year before trial. Detainees are not held incommunicado. Defendants in criminal cases have the right to choose an attorney and to appeal the legality of their arrest to the prosecutor before trial. If the defendant cannot afford an attorney, the State will provide one free of charge. There is no provision for bail. Defendants remain incarcerated until trial. Some lawyers fear reprisals if they represent a client unpopular with the Government.

There were reliable reports of some violations in law enforcement procedures, including arrests without specific charges, detentions of persons for more than 10 days without bringing charges, and instances of refusing access to a lawyer. In many cases, citizens and the police appeared to be uninformed about the right of the accused to have access to a lawyer or the legal necessity of a specific charge within a certain time frame.

e. *Denial of Fair Public Trial.*—In Kazakhstan's court system, the President recommends nominees for the Supreme Court for Supreme Soviet approval. Heads of oblasts (provinces) recommend nominees for oblast soviet (council) approval. Regional or city councils elect lower level judges. All judges are appointed for 10-year terms. The Constitutional Court, established in 1992, interprets the Constitution, resolves legal conflicts between oblasts, and rules on interethnic problems. Kazakhstan law provides for due process, including the right to a public trial, the right to counsel, the right to call witnesses for the defense, and the right to appeal a decision to a higher court.

There are three levels in the court system: the local level, the oblast level, and the Supreme Court. Local-level courts handle less serious crimes, such as petty theft and vandalism (hooliganism, in the old terminology). Oblast-level courts handle the more serious crimes, such as murder, grand theft, and organized criminal activities. The oblast courts may handle cases in rural areas where no local courts are organized. Judgments of the local courts may be appealed to the oblast-level courts. Judgments of the oblast courts may be appealed to the Supreme Court. A special arbitration court handles disputes between state enterprises.

In 1993 the Constitutional Court continued to show its ability to act independently by declaring a number of decrees unconstitutional. During the debate over the Constitution, attempts from some quarters to limit substantially the powers of the Constitutional Court were voted down.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The KNB and the Ministry of the Interior, with the sanction of the Procuracy, may arbitrarily interfere with privacy, family, home, and correspondence, a legacy of Soviet rule. Criminal police, who remain part of the internal security structure, are re-

quired by law to have a search warrant from a prosecutor before conducting a search but were sometimes known to conduct searches without a warrant. There were also credible reports that police occasionally planted evidence.

The KNB has the right to monitor telephone calls and mail, but under the law it must inform the Procuracy within 3 days of such activity.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The new Constitution provides for freedom of speech and press. Kazakhstan has an increasingly pluralistic press and generally respects freedom of speech. However, laws against insulting the President and Supreme Soviet deputies and a government monopoly on broadcast media and printing presses act to limit these freedoms.

Kazakhstan has hundreds of publications and radio and television companies, both governmental and private. Because of the slow progress of privatization, the Government continued to control printing, distribution, and broadcast facilities and subsidized "official" as well as most "independent" publications. Government ownership of printing and broadcast facilities tended to encourage self-censorship. For budgetary reasons, the Ministry of Press and Mass Information planned to reduce subsidies further to nonofficial publications.

Most political opposition groups issue their own publications, which, though dependent on government control of printing supplies, are critical of government policies. In general, the opposition press was not subject to intimidation or harassment. One exception was Birlesu, the independent trade union publication, which the Almaty city administration harassed in various ways (e.g., denial of paper and other printing supplies). In addition, Russian print journalists were prevented from transmitting reports to Moscow after Russian television broadcast a story on May 22 about the tensions between ethnic Russians living in Kazakhstan and Kazakhs.

Official publications also increasingly criticized Supreme Soviet and presidential decisions. Overall, self-censorship appeared to decline in 1993. The prohibition against insulting the President or Supreme Soviet deputies, however, remained in force. Karishal Asanov, tried and found not guilty in 1992 of the charge of insulting the President, was retried in 1993. The prosecutor appealed the 1992 not-guilty verdict, and the Supreme Court, finding technical problems with the first trial, ordered a retrial. Asanov was found guilty and was sentenced to 3 years' probation. He appealed the judgment and was awarded another trial Asanov was acquitted in October of the charge of insulting the President. There were no reports of the Government refusing to allow an academic to publish for political reasons.

Despite Kazakhstan's generally positive record on media freedom in 1993, several other cases pointed to continuing problems. In January 1992, the terms of employment for heads of local television and radio broadcasting enterprises with countrywide Kazteleradio were changed from a system in which they were employed under the labor law to a contract system. This was done without the knowledge of the regional employees and made it easier for them to be fired. In January 1993, Kazteleradio decided not to renew the contract of Bakhidzhan Mukushev, the head of Karaganda radio. This decision was widely ascribed to political reasons. Mukushev was a reformer who supported the Independent Miners Union of Karaganda. Also, Kazteleradio insisted that the majority of radio programming in Karaganda, a majority Russian-speaking area, be in Kazakh. Mukushev, an ethnic Kazakh, argued for a more gradual approach. Radio employees who struck in sympathy with Mukushev won the Government's agreement to settle the matter in court. The case was taken to both the Constitutional Court and the local oblast court. The Constitutional Court, ruling on the legality of the contract system under which Mukushev was hired rather than on Mukushev's personal case, decided in Mukushev's favor. The oblast court, nonetheless, ruled against Mukushev, under pressure, many believe, from oblast authorities. Mukushev is awaiting trial in the Supreme Court.

Independent television station Tvin reported erroneously in its morning news program "Telemax" that the chairman of Turan Bank, the former state industrial bank, had been arrested for stealing. Telemax caught the mistake within 10 minutes and issued an apology. However, the chairman of Turan bank sued Tvin for 15 million rubles for defamation, an amount that would have bankrupted the station. The Almaty city court awarded only 1 million rubles in damages. The Procuracy has appealed to the Supreme Court for the full 15 million rubles. The Procuracy's action was widely perceived as an attempt to close down Tvin and its radio component radio Max, stations considered liberal and proreform. The Procuracy has the right to appeal the decision of a civil case if it believes the law was not properly followed in the conduct of the trial.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, which in 1993 were generally respected. Demonstrations must have the approval of local authorities 10 days in advance. Those held without prior approval are considered illegal. The organizers may be tried and given jail sentences. There were no illegal demonstrations resulting in punishment during 1993.

To participate in elections, a political party must register with the Government. To register, a party must submit a list of at least 3,000 members from a minimum of 11 (out of 19) different oblasts (provinces). The list must provide personal information about the members, including date and place of birth, address, and place of employment. For many Kazakhstanis, submitting such personal data to the Government recalls old-style KGB tactics and inhibits them from joining parties. The nationalist, pan-Turkic Alash party and the Social Democratic Party refused to register on the principle that they should not have to submit personal information about their members to the Government. Members of unregistered parties may run for elected office as individuals but not as party members.

Organizations or "movements" that conduct public activity, hold public meetings, participate in conferences, or hold bank accounts must also register with the Government. A minimum of 10 members is required to register on the local level, and a minimum of 10 members in at least 11 oblasts is required to register on the republic level. The Government's refusal to register religious and ethnic-based parties and movements is not a stated policy, although some officials quote article 55 of the Constitution which states: "The creation and activity of public associations proclaiming or carrying out in practice racist, nationalist, social, or religious intolerance, elitist exclusivity . . . is prohibited."

Government officials have justified decisions not to register certain parties on the grounds that the activities of ethnic-based parties and movements could spark ethnic violence, if allowed to operate freely. Unregistered parties and movements are, nonetheless, able to hold meetings and publish newspapers, although these groups appear to have more difficulty obtaining paper and ink than other publishers.

The only group that actually applied for registration and was refused (in 1992) was the ethnic Russian Yedinstvo (Unity) movement. It was refused on the grounds that it opposed the use of Kazakh as the state language and wanted to form paramilitary units to "assist" the police. Two other political groups, Azat and Alash, have objected to the requirement that they submit personal data about their membership when registering.

c. *Freedom of Religion.*—Freedom of religion is provided for in the Constitution and is respected. Kazakhstan is a relatively secular society. Muslims, Christians, Jews, and members of other religions reported no interference from the Government or any other source. The Mufti and the Orthodox Archbishop appeared together publicly to promote religious and ethnic harmony.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Freedom of movement within Kazakhstan was generally respected. However, although privatization of housing proceeded in 1993, the Government still controlled most housing and required a residence permit (propiska). Obtaining a propiska was generally routine in 1993, with the exception of the capital, Almaty. Since 1992, the city administration has limited the transfer of residences in Almaty to people already living there. There is favoritism toward ethnic Kazakhs in the transfer of residences. For example, the Almaty city administration is more likely to give permission to sell or trade a residence if a Kazakh is to receive the property.

An exit visa is still required for travel abroad, but refusals in 1993 were exceptional. Some officials, however, reportedly demanded bribes for issuing one. In one reported case, an exit visa was refused on political grounds. Bakhidzhan Mukushev, who had led a strike of radio workers in Karaganda (see Section 2.a.), was invited to attend a seminar sponsored by the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) in the United States. Of the three government agencies authorized to issue exit visas, the Ministry of Foreign Affairs, the Ministry of Internal Affairs, and the local oblast authority, none would issue a visa to Mukushev, each telling him it was the responsibility of one of the other two agencies. Mukushev took his case to the Supreme Court and eventually received his visa, but only after it was too late to attend the seminar.

The Government accords special treatment to those Kazakhs and their families who fled Kazakhstan during Stalin's time and wish to move back to Kazakhstan. Kazakhs in this category are encouraged to return to Kazakhstan, are entitled to citizenship, and may retain any other citizenship they already have. Anyone else, including ethnic Kazakhs who are not considered refugees from Stalin's terror, such as the descendants of Kazakhs who moved to Mongolia during the previous century, must apply for permission to immigrate and must renounce any other citizenship.

Ethnic Kazakh citizens already living in Kazakhstan, as well as nonethnic Kazakh citizens, are not permitted to obtain another citizenship without losing their Kazakhstani citizenship.

The Constitution provides for the right to emigrate, and it is respected in practice.

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

The right of citizens to effect a peaceful, democratic change in their government is untested. To speed the reform process, the Supreme Soviet voted on December 8 to move the date of the next Supreme Soviet elections and oblast-level elections up from December 1994 to March 7, 1994. Kazakhstan's first presidential election is expected to be held in December 1995. All men and women aged 18 and above have the right to vote.

Shortly before independence, President Nazarbayev won election as the first President of the country. He ran unopposed in the election and received 98 percent of the vote. While Nazarbayev appeared to have broad support, no international monitors were invited to verify that the vote was free and fair. The leader of the Zheltoksan Party, who attempted to run against Nazarbayev, alleged that the Government used a series of legal technicalities, as well as force, to prevent him from fulfilling the requirements to establish his candidacy.

Supreme Soviet deputies were elected in March 1990 while the Communist Party retained a monopoly on political power. The Supreme Soviet lacked democratic legitimacy. Nonetheless, it represented a growing, if still modest, check on the President's power. Although it usually supported the President, in 1993 it successfully opposed a number of presidential initiatives. Most of its sessions were open to the press and foreign ambassadors. Members of the Kazakhstani public could be invited by deputies to attend sessions and give speeches on a particular area of expertise, but the sessions were not generally open to the Kazakhstani public.

There are two legally registered political parties: the Socialist Party (the former Communist Party); and the People's Congress Party (formed by poet and environmentalist Olzhas Suleymenov).

President Nazarbayev is not a member of any party but has accepted the formal endorsement of the People's Unity Movement. There are a number of unregistered opposition parties and movements. The Government has refused to register any party or movement whose platform it believes will foment ethnic tensions (see Section 2.b.).

There are no legal restrictions on women participating in politics and government, but, owing to prejudice and traditional attitudes, few women are professionally active in these fields. About 5 percent of Supreme Soviet deputies are women.

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

There are a number of local human rights organizations active in Kazakhstan. The Government did not interfere with the activities of the local Helsinki Watch group. The latter had limited organizational and financial means to observe, contest, and report human rights violations. It did protest such actions as the retrial of Karishal Asanov (Section 2.a.). Members of the Supreme Soviet's human rights committee supported the establishment and registration of the Kazakhstan-America Human Rights Association. The Association, funded with the assistance of the Union of Councils of Soviet Jews, cooperated with Helsinki Watch and other Kazakhstani organizations.

The Government permitted representatives of the Free Trade Union Institute (FTUI), the AFL-CIO, the International Republican Institute (IRI), the National Democratic Institute (NDI), ISAR (a group that assists in the development of environmental organizations), human rights groups, and foreign constitutional lawyers to visit Kazakhstan and contact opposition and environmentalist groups. However, in midyear the Government ordered the NDI and IRI to suspend their activities until they were formally registered with the Ministry of Justice. Kazakhstan's law currently has no provision for registering foreign nongovernmental organizations (NGO's). Government officials stated that other foreign NGO's are allowed to operate despite their lack of registration because they are not working with opposition political parties. At various times during 1993, the Government interfered with the IRI's, NDI's, and ISAR's telephone and facsimile (fax) communications.

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

Women.—There is no legal discrimination against women, but women are severely underrepresented in higher positions in government and state enterprises and over-

represented in low-paying and some menial jobs. Women are disadvantaged in promotions, but they generally have access to higher education.

Several women's organizations exist, including the Union of Women of Kazakhstan, the Union of Women Entrepreneurs, the League of Muslim Women, and the Union of Feminists, which is headed by a man. There are also mothers' groups organized around specific issues, including the Mothers of Soldiers, Mothers of Invalids, and Mothers of Many Children. The major concerns of most women's groups are to obtain support for families during the economic crisis and to increase the number of women in government and business. The women's groups generally supported the Government and avoided partisan politics.

According to reliable local observers, wife beating is common, particularly because of widespread alcohol abuse among men. Police are reluctant to intervene unless they believe the beating is severe or life threatening. The maximum sentence for wife beating is 3 years.

Children.—The Government is committed in principle to children's rights and has signed the U.N. Convention on children's rights (it has not yet been ratified by the Supreme Soviet). As in many other areas, the absence of a tradition of civil liberties and budget stringencies severely limit the Government's effectiveness in dealing with children's rights issues. There is no established pattern of governmental or societal abuse against children. According to credible reports, child labor is used during harvests, particularly during the cotton harvest in the south (Section 6.d.).

Article 51 of the Constitution states: "The upkeep, teaching, and upbringing of children is the obligation of the parents or persons substituting for them. The nature and forms of upbringing and education should not damage the interests of the child." Article 52 states: "The State provides for the upkeep, upbringing, and education of orphaned children and children deprived of parental care, and encourages charity toward children."

National/Racial/Ethnic Minorities.—Kazakhstan's population of about 17 million is comprised of about 43 percent Kazakhs; 37 percent Russians; 7 percent other Slavs, mainly Ukrainians; and smaller populations of Germans, Uzbeks, Tatars, Uyghurs, Koreans, and scores of other ethnic groups. Many Slavs and Germans have emigrated to the West or to the countries of their national origin in the hope of better economic opportunity and, in some cases, for fear of eventual discrimination by ethnic Kazakhs in an independent Kazakhstan.

There was increasing discrimination in favor of ethnic Kazakhs in employment in government and state-controlled enterprises as well as in education, housing, and other areas. Although some officials are Slavs, ethnic Kazakhs increasingly predominated in government and in higher positions in state enterprises. The Supreme Soviet had 360 deputies, of whom only 80 were not ethnic Kazakhs. The Constitution provides for equal political rights for all citizens regardless of ethnicity. President Nazarbayev has publicly emphasized that all nationalities are welcome in Kazakhstan, but most non-Kazakhs are nervous about preferences for ethnic Kazakhs and discrimination against those who do not speak the Kazakh language. Many ethnic Kazakhs, however, believe they were second-class citizens under Russian domination for 200 years and that action is needed to reverse this. Under Communist rule, Kazakh and other minority languages and cultures were repressed.

The majority of the population speaks Russian; only about half of ethnic Kazakhs can speak Kazakh effectively. The Supreme Soviet declared in January that Kazakh would be the official state language, that Russian would be the "language of interethnic communication," and that there would be a "transition period" (the duration of which was left undefined) for the majority of the population to learn Kazakh. The Government is encouraging more education of children in the Kazakh language but has done little to provide Kazakh-language education for adults. There are reports of ethnic Kazakh gangs in rural areas targeting ethnic Russians for theft, and reports of more frequent exchanges of insults between Russians and Kazakhs in public places. However, there are no reports of politically organized ethnic violence between Russians and Kazakhs.

People with Disabilities.—According to the Constitution, citizens with disabilities are entitled to assistance from the State. As a result of inflation, people relying only on state disability benefits experience severe economic hardship. There is no legal discrimination against people with disabilities, but in practice employers do not give them equal consideration. The Government has not legislated or otherwise mandated accessibility for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—The Supreme Soviet adopted a new Labor Code during its spring session which, along with the Constitution, provides for basic workers' rights, including the right to organize and the right to strike. The law does not,

however, provide mechanisms to protect workers who join independent unions from threats and harassment from the state-run unions or from enterprise management. Kazakhstan joined the International Labor Organization (ILO) in 1993.

Most workers remained members of the system of state-sponsored trade unions established during the Communist period. Membership was obligatory. At the vast majority of enterprises, the state-sponsored unions continued automatically to deduct 1 percent of each worker's salary as dues. In addition, 30.2 percent of each worker's salary was withheld for the government pension fund, and 7.3 percent was taken by the state unions, which have the authority to allocate funds for disability and sick pay, housing, and the use of vacation retreats. The state-run unions under the Communist system were, and in most respects still are, an organ of the Government. They often use their power coercively to enforce labor discipline and work hand in hand with government and management to minimize labor unrest and to discourage workers from forming or joining independent unions.

The Constitution entitles workers to join or form unions of their own choosing and to stop the automatic dues deductions for the state unions. To obtain legal status, an independent union must apply for registration with the local judicial authority at the oblast level and with the Ministry of Justice at the republic level. Registration is generally a lengthy, difficult, and, especially for smaller unions, expensive process. The decision to register a union appears to be arbitrary, with no published criteria. Judicial authorities and the Ministry of Justice have the authority to cancel a union's registration.

Workers who joined independent trade unions were subjected to various forms of harassment, including dismissal, transfer to lower paying or lower status jobs, threats, and intimidation. State unions often took an active part in the harassment to inhibit challenges to their hegemony and to pressure new unions.

Independent unions suffered in 1993 as a result of the lack of enforcement of national laws at local levels. For example, in Tekele, a group of miners left the state-sponsored union to form an independent union. After 7 months, dues were still being deducted automatically from their salaries for the state union. The miners took the case to the oblast court. The judge told them to go to the state union and, in effect, "to work it out," leaving them at the mercy of the state union. The miners then took the case to the Supreme Court, where it remained pending at year's end.

The Independent Trade Union Center of Kazakhstan claims that membership in independent unions has nonetheless doubled from 250,000 in 1992 to 500,000 in 1993, out of a total work force of about 5,600,000.

Unions have the legal right to strike, and several major strikes occurred in 1993. In January the Karaganda radio workers went on strike to protest the removal of Karaganda radio director Bakhidzhan Mukushev for what they perceived to be political reasons. The radio workers received support from the Independent Coal Miners Union (NPG) and others in solidarity. The strike lasted several weeks but failed to achieve Mukushev's reinstatement.

A major cause of labor unrest in 1993 was the payment of part of, or all, wages at some enterprises in scrip rather than in cash, a practice at odds with Article 3 of ILO Convention 95 on the protection of wages, which prohibits payment of wages other than in the legal currency, without the expressed consent of the workers. Enterprise directors claimed that the enterprises were not being paid in cash by their traditional trading partners in other parts of the former Soviet Union, which were also experiencing cash flow difficulties as a result of the general economic crisis. The scrip was often not accepted at stores or accepted at a discount in its value. In Kentau, some 15,000 miners went on strike in May after not being paid full wages in cash since February. The enterprise agreed to pay the wages in full, although as of December most miners were receiving about 20 percent or less of their normal salaries. When paid, the miners' salaries are usually well above the minimum wage.

In 1992 the NPG of Karaganda won the right for the miners to market privately 15 percent of the coal they produced. In 1993 enterprise and oblast authorities used bureaucratic obstacles to limit the miners' ability to market their 15 percent.

By law, unions may freely join federations or confederations and affiliate with international bodies. Most independent trade unions in Kazakhstan belong to the Independent Trade Union Center (ITUC) headquartered in Almaty. The NPG, along with the State Miners' Union of Karaganda, became members of the Miners' International Federation.

b. *The Right to Organize and Bargain Collectively.*—There are significant limits on the right to organize and bargain collectively. Most industry is state owned and is subject to the State's production orders. Although collective bargaining rights are not spelled out in the law, in some instances unions have successfully negotiated agreements with management. If a union's demands are not acceptable to management, they may be presented to an arbitration commission comprised of manage-

ment, union officials, and independent technical experts. There is no law against antiunion discrimination.

There are no export processing zones. Several free economic zones enjoy all the privileges of export processing zones, as well as other tax privileges and abatements, but labor conditions in them appear to be no different from those elsewhere in Kazakhstan.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is prohibited by law. Compulsory labor, however, is used to gather the annual grain harvest. Some persons were required to provide labor or the use of privately owned equipment, with no or very low compensation, to help gather the harvest on state-owned farms. University-level students were also required to help with the harvest at minimal compensation.

d. *Minimum Age for Employment of Children.*—The minimum age for employment is 16. A child under age 16 may work only with the permission of the local administration and the trade union in the enterprise at which the child would work. Such permission is rarely granted. Abuse of child labor was generally not a problem, except that child labor was used during the harvest, especially the cotton harvest in the south.

e. *Acceptable Conditions of Work.*—There is no universal minimum wage that covers all employment sectors. The current economic crisis with its high inflation rate has made implementing and enforcing a meaningful minimum wage difficult. In its October session, the Supreme Soviet set a new minimum wage rate of about $7 per month, which is not sufficient for a worker and family to live on.

The legal maximum workweek is 48 hours, although most enterprises maintain a 40-hour workweek, with a 24-hour rest period.

Working and safety conditions in Kazakhstan's industry are substandard. For example, workers in factories usually do not wear protective clothing, such as goggles and hard hats, and work in conditions of poor visibility and ventilation. Economic dislocation is a major cause of shortages of safety equipment. The regulations concerning occupational health and safety, enforceable by the Ministry of Labor and the state-sponsored unions, are largely ignored by management and not enforced. Lack of management concern, as well as economic dislocation, has resulted in shortages of safety equipment. Workers, including miners, have no legal right to remove themselves from dangerous work situations without jeopardy to continued employment.

KYRGYZ REPUBLIC

A former republic of the Soviet Union, the Kyrgyz Republic (Kyrgyzstan), became an independent nation on August 31, 1991. The Jogorku Kenesh (Parliament) by unanimous vote adopted a new Constitution on May 5, 1993, defining Kyrgyzstan as a unitary democratic republic founded on secular principles and providing substantial guarantees of the civil rights of its citizens. The Constitution provides for a government with three branches (legislative, executive, and judicial) presided over by a President who is the Head of State. Governmental institutions are in a transitional state as several constitutional provisions have not gone into effect, pending legislative elections scheduled for 1995 and presidential elections for 1996. In addition, Kyrgyzstan's legal and judicial systems remain essentially unchanged from the Soviet period, although at the end of 1993 the Government began a process of legal and judicial reform.

Although the Constitution changed the name of the legislature from Supreme Soviet to Jogorku Kenesh, members elected during the Soviet period continued to dominate this 350-member body. A reformer, Askar Akayev, was originally chosen as president by the Supreme Soviet of Kyrgyzstan in 1990. In October 1991, he was popularly reelected in a referendum-style election; he ran unopposed.

The Committee on National Security (KNB) has inherited much of its personnel and infrastructure from the old Soviet Committee for State Security, or KGB. The KNB chairman is a member of the Cabinet. Unlike during the Soviet era, the KNB's actions must conform to Kyrgyzstan's laws. The KNB appears to be under the full control of the Government.

The predominantly agricultural economy is highly dependent on trade with the rest of the former Soviet Union. The Government remains firmly committed to the development of a market economy, with favorable laws on privatization, joint ventures, and foreign trade and investment. With International Monetary Fund support, the Government introduced a new currency, the som, in May in order to stabilize the economy, avoid the inflation of the ruble, and attract foreign investment.

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Since then, the currency has proved fairly stable, and monthly inflation slowed from 40 percent to 10 percent. Foreign investment reached $400 million by midyear. However, industrial production continued to fall, and unemployment grew.

The Government continued to express strong support for human rights, including freedom of the press, democracy, and the rule of law, and in general respected them in practice. However, concerns continued to be raised about government policy toward non-Kyrgyz ethnic minorities. In 1993 increasing domination by ethnic Kyrgyz of government, education, and other institutions and a language policy that favored official use of the Kyrgyz language created insecurity among members of ethnic minorities, primarily Russian speakers, and caused their members to emigrate in large numbers. In addition, Kyrgyzstan's legal and judicial systems remain essentially unchanged from the Soviet period.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Extrajudicial Killing.*—No reports of such killings by government authorities or others are known to have occurred.

b. *Disappearance.*—There were no incidents of disappearance or abduction attributable to government authorities or others.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture or other cruel, inhuman, or degrading treatment or punishment is not known to have occurred.

d. *Arbitrary Arrest, Detention, or Exile.*—For the most part, Kyrgyzstan's legal system continues to operate under the laws and procedures that prevailed during the Soviet period. The procurator determines who may be detained, arrested, and prosecuted and must approve all warrants. The Ministry of the Interior, the Committee on National Security, and the General Procurator's office carry out investigations. A person arrested or charged with a crime has the immediate right to defense counsel. However, in practice the accused often has access to defense counsel only after the case comes to trial.

The Criminal Code permits the procurator to detain a suspect for up to 72 hours before releasing him or informing him of the crime he is suspected of having committed. The accused remains in detention while the procurator investigates the case and prepares to present it to the court. Under Kyrgyz law, family members and lawyers involved in the case have access to the detainee. At the procurator's discretion, the accused may be kept in pretrial detention for up to 1 year. After the year has elapsed, the procurator must release the accused or ask the legislature to extend the period of detention. Since independence, there have been no known instances in which the legislature voted for such an extension. There is provision for bail, except for detainees under investigation for serious or violent crimes.

According to official government accounts, approximately 1–2 percent of the prison population are pretrial detainees. However, nongovernmental sources believe that a more accurate number is 10–15 percent. In addition, these same sources claim that it is common practice for the police to hold people for a short period while making initial inquiries into the case before either officially charging the suspects or releasing them.

e. *Denial of Fair Public Trial.*—The court system remains largely unreformed from the Soviet period. Once the procurator is ready, he brings the case of the accused to court and tries it before a judge and two people's assessors (pensioners or citizens chosen from labor collectives). The accused and defense counsel have the right of access to all evidence gathered by the procurator. They attend all proceedings, which are generally public, and are allowed to question witnesses and present evidence. The court may render one of three decisions: innocent, guilty, or indeterminate (i.e., the case is returned to the procurator for further investigation). Both the defendant and the procurator may appeal the verdict to the next higher court or to the procurator's office. However, the decision of a court to return a case to the procurator for further investigation may not be appealed, and the court returns the accused to the procurator's custody where he or she may remain under detention.

The Government has recognized the need to reform the legal and judicial systems it inherited from the Soviet period. The reform of the judicial system is still evolving. The Constitution establishes the judiciary as a separate branch of the Government. During the interim period, however, the courts remain under the auspices of the Ministry of Justice. The General Procurator's office has introduced the principle of the presumption of innocence of the accused. However, a deteriorating economy and a system staffed largely by officials trained during the Soviet period continued to impede reforms.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The new Constitution prohibits unlawful entry into a home and states that a person's private life, privacy of correspondence, and telephonic and telegraphic communications are protected by law. Current law and procedures require that the police, the KNB, and the Procurator's Investigation Bureau obtain the General Procurator's approval for wiretaps, searches of homes, interception of mail, and similar procedures.

Those personnel and organizations responsible for violations of the right to privacy during the Soviet period have remained largely in place; however, no widespread and systematic violations were reported in 1993. Some citizens active in politics or interested in human rights believe that the privacy of their communications was violated in 1993. Credible evidence to this effect is not available.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Supreme Soviet in 1992 passed a law on the press and mass media which establishes freedom of the press but also provides guidelines proscribing publication of certain information. The law supports the right of journalists to work, obtain information, and publish without prior restraint. It also guarantees a journalist's right to protect his or her sources. The law prohibits publication of material that advocates war, violence, or intolerance toward ethnic or religious groups. The law prohibits material advocating the overthrow of the constitutional order. Desecration of national symbols like the national seal, anthem, or flag is prohibited. Publication of pornography is prohibited, as is propagation of false information.

The law states that the press should not violate the privacy or dignity of individuals. President Akayev opposed a law that would have prohibited insulting the dignity of the President, and the Supreme Soviet did not pass it. The law requires all media to register with the Ministry of Justice and to await the Ministry's approval before beginning to operate. Since the law was passed, there have been no reports that the Ministry refused to register a publication or used the law in any prosecutions.

During 1993 the press was free to publish material without prior government approval or restraint and was frequently critical of the President and the Government. In August the Ministry of Justice attempted to initiate a process whereby press material would have to be screened for classified information prior to its publication. The press harshly criticized these efforts as a return to censorship. The Vice President, acting in the President's absence, quickly issued a government decree reversing the initial steps taken by the Ministry of Justice and reaffirming the freedom of the press. Similarly, no prior restriction or censorship existed for the electronic media or cinemas.

However, the Government owns all but one of the radio and television facilities, and Kyrgyz television remained tightly controlled. While a few fully independent newspapers and magazines existed, the Government continued to exert varying degrees of influence over most other publications. Independent publishers said they were disadvantaged because they paid higher prices for materials and did not have some of the resources available to the government-owned media, such as office space. Government involvement in and ownership of much of the media raised concerns among journalists about pressure to self-censor. It is likely that in some cases writers for government-supported newspapers engage in self-censorship.

In September a government press service statement accused a local ethnic Russian journalist working for the Russian television network Ostankino of negative reporting about Kyrgyzstan and concluded that it was unacceptable that "a foreign journalist insult the dignity of the people of the country of his temporary habitation." The journalist, however, was born in the capital, Bishkek, has lived in Kyrgyzstan for the past 30 years, and is a Kyrgyz citizen. He appeared before the procurator on September 15 but was not charged. The local Russian-language press sharply criticized the Government statement for attempting to portray the journalist as a foreigner. In addition, the press pointed out that it was the journalist's highlighting of the negative side of life in Kyrgyzstan that government officials resented and tried to suppress. President Akayev made a public defense of the journalist and criticized those officials for their handling of the case. The government press service defended its position but also assured the media that the criticism of the journalist had no implications for the media as a whole.

b. *Freedom of Peaceful Assembly and Association.*—Under the new Constitution, citizens have the right to assemble and associate freely, and they did so in 1993 without government interference. Permits were required for public marches and gatherings, but there were no reports that they were denied arbitrarily.

The 1991 law requires all public organizations, including labor unions, political parties, and cultural associations, to register with the Ministry of Justice. In at-

tempting to register, some organizations have encountered bureaucratic obstacles of the kind prevalent during the Soviet period, but ultimately all organizations have been able to register. However, charges that interpretation of the law on public organizations was not evenhanded were credible. An organization of Cossacks applied three times before it was registered as a cultural and economic organization. According to the Cossacks, the Kyrgyz bureaucracy resisted registering them on the grounds that they had no historical ties or connections to Kyrgyzstan. The Cossacks also claim that they are still periodically called into the Ministry of Justice to defend their status as a legitimate social organization. The Ministry of Justice, on the other hand, claims that the initial version of the Cossack's charter contained a number of clauses referring to it as a paramilitary institution.

c. *Freedom of Religion.*—There are no governmental impediments to the practice and revival of all faiths in Kyrgyzstan. Missionaries and evangelists are not restricted. All have access to facilities and are free to proselytize. For the first time, a Roman Catholic church opened in Bishkek. Members of the Jewish community have complete freedom to teach Hebrew and practice their faith. Construction of mosques has accelerated.

The President and his ministers profess commitment to a secular government, with no official ties to any religion. However, the preamble of the draft constitution which the President supported referred to Kyrgyzstan's commitment to the "moral principles, national traditions, and spiritual values of Islam." Government spokesmen explained that this phrase was intended only to awaken moral and spiritual values long suppressed under Soviet rule. Nevertheless, this language raised concerns among members of other faiths and among those committed to a complete separation of religion from the State. At the end of 1992, the Supreme Soviet voted to include a modified reference to "Islam and other religions" in the preamble and adopted the new Constitution in 1993 with this change.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government stated its support for freedom of travel within and outside Kyrgyzstan. However, certain policies imposed during the Soviet period continue to restrict internal migration and resettlement and impede citizens' ability to travel abroad.

The Parliament passed a law in 1993 on citizenship removing registration requirements for residence. However, in practice citizens of Kyrgyzstan need official government permission ("propiska" or residence permit) to work and settle in Bishkek. Continued use of this law restricts freedom of internal movement. Home and apartment owners are legally restricted to selling their property to buyers with such permission. In addition, members of minority nationalities accused the Government of partiality toward ethnic Kyrgyz while continuing to restrict the internal movement of those belonging to other ethnic groups. They cite the case of ethnic Kyrgyz squatters who continue to live in Bishkek without official permission and received government help to construct housing.

Kyrgyzstan does not have a law on emigration. The administrative procedures used in 1993 permitted freedom of emigration without any evidence of discrimination. Citizens who apply for international passports must present a letter of invitation from the country they intend to visit or to which they intend to emigrate. Instituted during the Soviet period, this policy impedes free and unrestricted foreign travel. There were no reports, however, that citizens, after presenting such a letter, were denied a passport or an exit visa. Emigrants reportedly were not prevented from returning to Kyrgyzstan.

Kyrgyzstan has drafted an agreement with Russia to ease emigration for the members of the Russian-speaking minority. The draft presumes that resettlement is voluntary and provides for the establishment of migration services in Kyrgyzstan and Russia in order to facilitate a more orderly transition for the migrants. The agreement is expected to be signed in the first half of 1994. In 1993 approximately 24,000 people immigrated to Kyrgyzstan, and 135,000 emigrated from it.

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

The ability of citizens to effect a peaceful, democratic change of government remains untested. Most of the 350 members of Parliament were elected in 1990 when the first multiple-candidate elections were held. However, the Communist Party, with its monopoly on power still intact, manipulated the elections to ensure the victory of candidates it favored. New elections for the Parliament are scheduled for 1995. Askar Akayev was elected President by the Supreme Soviet in 1990 and, running unopposed, was reelected by popular ballot in 1991. As President, he may issue decrees that are binding unless abrogated by a vote of at least two-thirds of Parliament. New presidential elections are scheduled for 1996.

In 1993 women occupied several high-level government positions, including those of Chairman of the Constitutional Court, Ambassador to the United States, and Minister of Education.

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

The Government does not restrict the activities of local human rights monitors or the delegations and representatives of international and nongovernmental human rights groups that visit Kyrgyzstan. For example, the Human Rights Movement of Kyrgyzstan was registered by the Ministry of Justice in 1991. It focuses on the activities of law enforcement and security agencies as well as alleged cases of discrimination in the workplace based on ethnicity. The Kyrgyz-American Bureau on Human Rights and Law Protection registered with the Ministry of Justice in December. The Bureau states that its goal is to bring to the world's attention the human rights situation in Kyrgyzstan.

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

The Government expresses strong commitment to protecting the rights of members of all ethnic, religious, and linguistic groups as well as those of women. In a total population of 4½ million, some 52 percent are Kyrgyz, 22 percent Russians, 13 percent Uzbeks, and the remainder include Ukrainians, Tajiks, Kazakhs, and others.

Women.—The law gives equal status to women in Kyrgyzstan, and women are well represented in the work force, professions, and institutions of higher learning. In rural areas, women still seem limited to the roles of homemaker, mother, and wife. The press often reports abuse and violence against women which is frequently associated with abuse of alcohol. Normal law enforcement procedures are used in cases of domestic violence. The Government has not initiated special programs to address these issues but is discussing possible measures. In Bishkek, there is a Women's Congress, which is headed by the current head of the Constitutional Court, a woman. The Congress meets periodically to consider women's issues.

Children.—The Government adopted in 1993 two laws, the Law on Education and the Conception of the Youth, which address children's rights. On the basis of these two laws, the Government is in the process of working out a comprehensive legislative packet on the rights and welfare of youth in the Kyrgyz Republic.

National/Racial/Ethnic Minorities.—Complaints of discrimination center on the treatment of citizens who are not ethnic Kyrgyz. This group, which makes up over 40 percent of the population of Kyrgyzstan, is often called the Russian-speaking minority, although Russian-speaking Uzbeks comprise about 13 percent of the total population. Members of this group alleged discrimination in hiring, promotion, and housing. They complained that government officials at all levels favored ethnic Kyrgyz.

Russian speakers pointed to ethnic Kyrgyz squatters in Bishkek who occupied land and were later given government aid to build houses. They cited this as an example of a policy that favored ethnic Kyrgyz at the expense of other groups, in that the authorities provided direct financial assistance and allowed the squatters to bypass the "propiska" system. Russian speakers also alleged that a "ceiling" existed in government employment that precluded their promotion beyond a certain level. The percentage of ethnic Kyrgyz at high and intermediate levels of government is much greater than the percentage of ethnic Kyrgyz in the general population. Ethnic Kyrgyz have replaced Russian speakers in many positions in government, industry, and education, and this development gives credence to perceptions that career opportunities are limited for those who are not ethnic Kyrgyz.

The appointment of ethnic Kyrgyz to key positions in the judicial system has led to charges by non-Kyrgyz citizens that the system is arbitrary and unfair and that the courts treat Kyrgyz more leniently than members of other groups. Although there is no evidence of systematic discrimination, it may have occurred in individual cases.

The 1993 Constitution designated Kyrgyz as the official language and stated that Russian and other languages used in the country were guaranteed preservation and equal and free development. However, many Russian speakers, particularly ethnic Russians and Ukrainians, still feel disadvantaged because they cannot speak Kyrgyz. They have called on the Government to adopt a policy of bilingualism. The Government has not established a universally available program of Kyrgyz instruction for adult non-Kyrgyz speakers, although some instruction is available. In general, adults who did not speak the language did not demand Kyrgyz-language instruction. Currently, both Russian and Kyrgyz are used in industry, education, and

the courts. Most ethnic Russians favor giving Russian equal status with Kyrgyz as national languages in the Constitution.

People with Disabilities.—Handicapped persons are not openly discriminated against, but the current harsh economic conditions limit the Government's ability to provide equal opportunity for individuals with handicaps. Parliament in April 1991 adopted the Law on Social Protection of the Disabled, which provides for accessibility for the handicapped, but lack of funds makes implementation of this law a low priority.

Section 6. Worker Rights

a. *The Right of Association.*—The law adopted in February 1992 includes provisions protecting the rights of all workers to form and belong to trade unions. The law requires a minimum of five workers to form a union. There is no evidence that government policy tried to obstruct the formation of independent unions. However, the Federation of Independent Trade Unions of Kyrgyzstan (FITUK), successor to the former official union, remains the sole trade union umbrella organization, has the same leadership, continues to manage the State's social fund, and retains possession of its previously held properties. The employer automatically deducts dues from employees' paychecks, which are then transferred to the trade union's account. It professes to be transforming itself from a passive recipient of orders from Moscow during the Soviet period into a genuine defender of working people. In 1993 FITUK was very critical of government policies and their impact on the workers' standard of living. Nevertheless, FITUK regards itself still as in a process of transition in which it is working out its relations with the Government, with the unions in other former republics of the Soviet Union, and with unions abroad. It remains affiliated with the Moscow-based General Confederation of Trade Unions, which succeeded the Soviet-era All-Union Central Council of Trade Unions.

Nineteen of Kyrgyzstan's 20 union organizations are affiliated with FITUK with a claimed membership of 1.5 million. The exception is the growing Union of Entrepreneurs and Cooperative Members which as of October 1993 claimed a membership of 50,000. FITUK does not coordinate with the Union of Entrepreneurs and Cooperative Members.

While the right to strike is not codified, strikes are not prohibited. In 1993 there were no strikes by workers' unions. However, the threat of strikes by teachers, miners, and medical workers was sufficient to induce the Government to address these labor groups' respective concerns by raising salaries. There were no retaliatory actions against these groups, nor were there instances of human rights abuses directed at unions or individual workers.

Unions are legally permitted to form and join federations and to affiliate with international trade union bodies. The new labor law called for practices consistent with international standards. Since independent unions were still in their infancy, no meaningful affiliation with international trade union bodies took place.

b. *The Right to Organize and Bargain Collectively.*—A law passed in April 1992 recognizes the right of unions to negotiate for better wages and conditions. Although overall union structure and practice remain consistent with the Soviet experience, there is growing evidence of active union participation in state-owned and privatized enterprises. In the second half of 1993, leaders of the official trade unions actively criticized the President and the Government for the economic crisis and the resulting drop in the standard of living for workers. In most sectors of the economy, the Government continued to set wage levels by decree, although many factories have begun systems of bonuses and other incentives in keeping with the Government's commitment to develop a market economy. The Government has no influence in setting wages in the private sector, where wages offered by employers are considerably higher than those paid in the public sector.

Union members are protected by law from antiunion discrimination, and there were no recorded instances of discrimination against anyone because of union activities in 1993. However, because the old management/labor leadership continues to dominate the labor movement, those who wished to form an independent union faced formidable obstacles. This situation, along with a deteriorating economy, may have discouraged independent union activity.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is forbidden by law and does not occur.

d. *Minimum Age for Employment of Children.*—The minimum age for employment is 18. Students are allowed to work up to 6 hours per day in summer or in part-time jobs from the age of 16. The law prohibits the use of child labor (under 16). The police are responsible for enforcing the law; the Ministry of Education monitors enforcement. Restrictions on the use of child labor were largely observed. However,

the law is violated on occasion by small family businesses and more frequently by family farms.

e. *Acceptable Conditions of Work.*—The Government sets a national, legally mandated minimum wage at a level that theoretically provides for minimal subsistence. The minimum wage at present is $3.50, or 32 soms per month. After January 1, 1994, it will be $5, or 45 soms per month. In practice, even the higher median wage is considered insufficient to assure a decent standard of living for a worker and a family. The FITUK is responsible for enforcing all labor laws, including the law on the minimum wage. As the Government provided the overwhelming proportion of employment, minimum wage regulations were largely observed. However, enforcement of labor laws was nonexistent in the growing underground economy. Nevertheless, market forces helped wages in the unofficial sector keep pace with official wage scales.

The standard workweek is 41 hours, usually within a 5-day week. For state industries, there is a mandatory 24-hour rest period within the workweek. Small private and family businesses set their own hours.

The April 1992 law established occupational health and safety standards as well as enforcement procedures. Safety and health conditions in factories are far behind international standards. The deteriorating economy hindered enforcement of existing regulations and prevented investment to improve health and safety standards. Besides government inspection teams, trade unions are assigned active roles in assuring compliance with these measures.

LATVIA

Latvia regained its independence in 1991 after 50 years of Soviet rule. A parliamentary democracy, Latvia in June held its first free and fair elections in over 60 years, albeit under a restricted franchise (see Section 3), and in July reinstated its 1922 Constitution. Valdis Birkavs of the right-of-center coalition party Latvia's Way, which won 36 out of 100 seats in the Saeima (parliament), became Prime Minister. The Saeima in July elected Guntis Ulmanis of the Farmers' Union as President (head of state). The Prime Minister, as chief executive, and the Cabinet are responsible for day-to-day government operations. A 1991 Constitutional Law, which supplements and expands on the 1922 Constitution, provides for basic rights and freedoms.

Latvian authorities are gradually replacing the Soviet-trained police; however, there are recurrent allegations of corruption among police and security forces. The Home Guard, a voluntary military reserve, assists in police patrols but has no arrest powers. The regular military services have yet to establish internal disciplinary procedures in accordance with democratic norms. The Latvian Republic Security Service was involved in at least two unsuccessful attempts to pressure the media. As of the end of September, 13,000 Russian troops remained in Latvia. Latvia insisted that all Russian troops leave the country as soon as possible; the Russians proposed that most troops leave in 1994, with a remaining presence at a missile early-warning radar at Skrunda. Although negotiations continued, no agreement had been reached by year's end.

Latvia made progress in stabilizing its economy and pursuing market-oriented reforms. Its currency was strong enough to appreciate steadily in a free foreign currency market. In 1993 inflation was 35 percent, and a foreign trade surplus was expected. Latvia's economy had contracted substantially since the country regained independence in 1991 but appeared to stabilized in the second half of 1993. A booming private sector accounted for about a quarter of economic activity, but unemployment rose to an estimated 8 percent. As of September 1, private farms and gardens covered 54 percent of Latvia's farmland, while privatized collective farms accounted for much of the rest.

The previous parliament, elected under Soviet law, deferred action on implementing legislation regarding naturalization and citizenship. It did not pass a naturalization law, arguing it had to await a legislature elected by Latvian citizens under Latvian law. Due to the policy of Russification during the Soviet occupation, ethnic Latvians make up only 52 percent of the total population, and none of Latvia's seven largest cities has an ethnic Latvian majority. The possibility that non-Latvians who entered the country while it was under Soviet rule and who had no proven affiliation to Latvia could control the balance of political power made citizenship and naturalization issues particularly sensitive for many Latvians. The Government decided to schedule elections without resolving these issues. The new Parliament deliberated on several draft naturalization laws, and final passage was ex-

pected in 1994. The draft naturalization bill of the Latvia's Way Party passed the legislature in November in its first reading; the bill is expected to be modified before its second reading. In the context of the deliberations, the Latvian Government has pledged to submit a draft of the naturalization legislation to the Council of Europe for review by legal experts.

In October the Government directed authorities to close down three small organizations that allegedly had plotted a coup against Latvia in connection with the October insurrection in Moscow. Prison conditions are so substandard that they threaten the health of prisoners. Juvenile detainees suffer from disease and are subject to violence and sexual abuse (see Section 1.c.).

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—No such killings by Latvian authorities are known to have occurred.

b. *Disappearance.*—There were no known instances of political abductions or disappearances.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture is prohibited under the Constitution, and there were no indications that such abuses occurred.

There were credible reports of beatings of detainees and prison inmates, including juveniles. Sanitation facilities in some cases are inadequate, and shortages of blankets and medical care persist. Poor ventilation and inadequate lighting are common. Under Soviet law, prisoners awaiting trial were not allowed to send mail, and in general this prohibition has been continued.

The situation for some imprisoned children was egregious. Credible reports indicate that children 14 years old are kept in filthy conditions and suffer from disease and deprivation. Although detention is supposed to be no longer than 6 months, there were cases of children being kept in prison for up to a year and a half, and even reports of instances of juveniles being placed in solitary confinement. Both boys and girls are subject to violence and sexual abuse, and in one case a 15-year-old boy was reportedly strangled to death by his cellmates. There have been slight improvements in conditions since early 1993. A new head of the Riga Central Prison is to assume duties in early 1994. One of the main problems continues to be a lack of resources.

d. *Arbitrary Arrest, Detention, or Exile.*—There were no known instances of arbitrary arrest or exile. Arrests are made on the basis of a prosecutorial warrant. The law requires the prosecutor's office to make a formal decision whether to charge or release a detainee within 72 hours after arrest. Charges must be filed within 10 days of arrest. A detainee may not be held for more than 6 months without new arrest orders being issued by the Procurator's office. No detainee may be held for more than 18 months without the case going to court. Detainees have the right to have an attorney present at any time. The court reviews fulfillment of these requirements at trial.

e. *Denial of a Fair Public Trial.*—Latvia is reorganizing its courts along democratic lines and adding regional courts. For more serious criminal cases, two lay judges join the professional judge in making a determination. The law envisions that capital cases will be heard by a 12-member jury, but no procedures exist to put this into effect. There are no reports of judges having been improperly influenced by the Government.

Trials may be closed if state secrets might be revealed, but there is no known instance of this provision being used since Latvia regained independence. All defendants have the right to hire an attorney, and the State will lend funds to destitute defendants for this purpose. Defendants have the right to read all charges and confront all witnesses. Defendants may offer witnesses and evidence to support their case.

During the August 1991 Soviet coup attempt, former Latvian Communist party chief Alfred Rubiks proclaimed himself head of the so-called National Salvation Committee, which is accused of attempting to seize power in Latvia. At year's end, he was on trial for his part in the attempted coup. Some observers criticized the 2-year delay between his detention and the commencement of the trial, during which time he was denied bail. Rubiks was elected to the new Parliament, which deferred seating him pending the outcome of his trial.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—According to the Constitutional Law, a judge's order must be obtained to intercept mail, telephone calls, or other forms of communication. In practice, however, the law in force on investigations allows wiretaps and searches on a prosecutorial warrant.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Latvia generally enjoyed freedom of speech and press throughout 1993.

The Constitutional Law contains provisions on free speech and press, and the 1991 Latvian press law prohibits censorship of the press or other mass media. Both Latvian and Russian-language papers printed a wide range of criticism. The media actively covered all aspects of the spring election campaign.

In August the Baltic News Service (BNS) and the country's largest Russian-language newspaper, Sm-Sevodnya, revealed that government security officers had pressured them on two occasions to "cooperate" in government investigations and to publish information provided by the Government. BNS and the newspaper appealed to international media organizations to assist them in resisting such pressure. The Government disavowed the actions of the security officers involved but maintained no laws had been broken.

In September Parliament began considering drafts of two laws on the print and broadcast media. Drafts contain provisions that, if enacted, could hamper freedom of the press. Latvian libel law remains modeled on Soviet libel law and has the same standards of proof for libel against public as against private figures. In November a court awarded damages in libel suits by former Prime Minister Godmanis against two newspapers. Several other papers settled out of court with Godmanis. In the most serious case, the court awarded damages of $1,666 (1,000 Lats) to Godmanis against the country's largest newspaper for an August editorial that accused the former Prime Minister of having acted more in the interest of a private company (in which he was alleged to have an interest) than in Latvia's national security. The suit was seen by most publishers as an attempt to intimidate the media.

By 1993, virtually all newspapers in Latvia had been privatized, but overall circulation figures continued to drop due to the weakening economy. Despite the overall decline in circulation figures, a number of new publications have appeared, and there has been no loss of variety of political views.

In 1993 the number of independent television and radio broadcasters continued to grow. The independents include both Latvian and Russian-language stations. Two cable television companies compete for subscribers in Riga; the number of cable television subscribers continues to grow.

There are no restrictions on academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—Latvian authorities legally do not have the power to prohibit public gatherings but may change the time and place, for example, on the grounds of fear of public disorder. In 1993 numerous mass meetings and political demonstrations took place without government interference. The Constitution provides for the right to associate in public organizations. Over 20 political parties participated in the June elections.

In October the Cabinet directed authorities to close three small organizations that allegedly had plotted a coup against the Latvian Government in connection with the October insurrection in Moscow, including the Union of Communists. That organization and the like-minded Union for the Protection of Veterans' Rights have sued the Government for its refusal to register them as legal organizations. Trials were scheduled to begin in December. Communist parties are illegal in Latvia. The only extant group of Communists is the politically insignificant Union of Communists. Although numerous small groupings have formed, resident Russians have not coalesced into any large, distinct political movements.

c. *Freedom of Religion.*—The Government does not interfere in the exercise of religious freedom. The dominant faiths are Lutheran, Catholic, and Eastern Orthodox. Foreign evangelists are permitted to hold meetings and proselytize. Religious groups are not required to register with the Government, but the documents for incorporation as a legal entity must be filed by members who are residents of Latvia.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no obstacles to freedom of movement within the country, foreign travel, or repatriation of citizens. The number of Latvians traveling abroad has increased dramatically over the past several years. Some noncitizens may require reentry permits. Exit visas or invitations are not required.

Latvia is not a signatory to international conventions on refugees and does not have a law on political asylum. Most of those seeking refugee status are persons from the Middle East entering by land from Russia and hoping to reach Scandinavia; Latvia usually attempts to return such applicants to Russia.

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

Citizens have the right to change their government. Latvia in June held its first free and fair elections since 1931 with the participation of 23 political parties rep-

resenting a broad political spectrum. Eight parties won seats in the Saeima, and 90 percent of eligible voters participated, using a secret ballot. As citizenship and naturalization questions were not resolved before the elections, there was no mechanism for residents of Latvia who were not citizens to participate in the elections. Parliamentary representation in Latvia is not based on ethnic identity, and ethnic Russians serve in the Cabinet and as members of Parliament.

The coalition Latvia's Way obtained 36 of 100 seats in the Saeima and formed a parliamentary coalition with the Farmers' Union (12 seats). The Saeima approved Valdis Birkavs of Latvia's Way as Prime Minister and in July elected Guntis Ulmanis of the Farmers' Union as President (head of state). The next elections are scheduled for October 1995.

In November Parliament approved in the first reading the draft naturalization bill submitted by the ruling Latvia's Way Party. The bill includes a language requirement, with an exemption for senior citizens, and a 10-year residency requirement. The draft includes a provision that the Government, with parliamentary approval, would set quotas each year for naturalization. Parliamentary committees are expected to suggest many changes to the bill before its second reading. Latvia is working with human rights experts from the Council of Europe on naturalization legislation and has pledged to submit a draft to international organization human rights experts before final passage. The law barring naturalization until Russian troops are withdrawn remains in effect, but its standing is subject to continuing deliberations on the draft naturalization law.

There have been documented instances of abuses by the Latvian Department of Immigration and Citizenship against residents who are not Latvian citizens. In some instances, decisions by the Department of Immigration and Citizenship were overturned by the Court, but the Department continued to refuse to carry out the Court's orders. The Government in December relieved the head of the Department of Immigration and Citizenship of his duties, and a new head is expected to take up responsibilities in early 1994.

At the end of 1993, Parliament was debating a controversial law that would determine whether noncitizens would have the right to vote in local elections.

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

There are several organizations that transmit concerns raised by local ethnic Russians to the courts and the press, but there are no domestic human rights organizations as such in Latvia.

The Government welcomes visits by human rights organizations and received delegations from, among others, the Conference on Security and Cooperation in Europe (CSCE), the Council of Europe, and the United Nations. In September the Government granted permission to the CSCE to establish a resident mission in the country to "address citizenship issues and other related matters." The mission will also report on "developments relevant to the full realization of CSCE principles, norms, and commitments."

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

The Constitutional Law provides that all persons are equal under the law regardless of race, sex, religion, language, social status, or other grounds, and grants equal rights to work and wages to all nationalities.

Women.—Women possess the same legal rights as men. The law requires that women may not be hired for certain jobs considered dangerous; beyond this, employment discrimination is banned. In reality, given the extreme competition for jobs and the potential cost of legally mandated child birth benefits, women frequently face hiring and pay discrimination, especially in the emerging private sector. Women apparently have not brought any discrimination suits before the courts.

Adult prostitution has not been outlawed; it is increasing and is often linked with organized crime. Reliable statistics on domestic violence against women are unavailable. Some cultural factors have fostered domestic violence, often associated with alcohol abuse. Observers suggest that police are sometimes reluctant to arrest in such cases since the victims later often drop charges. No programs exist specifically to assist victims of domestic abuse, though normal government-provided health care and disability benefits apply.

The women's advocacy groups that exist are still small. They are involved in finding employment for women, lobbying for increased social benefits, and opposing army hazing of recruits.

Children.—The Government seeks to ensure that children's human rights are respected and their basic welfare needs met. A few children's advocacy groups are ac-

tive, particularly in lobbying for legislation to protect children's rights and for increased welfare payments for children. Legislative gaps hampered efforts to win convictions in child molestation cases. Law enforcement authorities have won court suits to remove children from abusive parents and secured convictions in child prostitution cases. For a discussion of physical and other abuse of children, see Section 1.c.

National/Racial/Ethnic Minorities.—The Constitutional Law provides that only citizens may occupy state positions, establish political parties, own land, and "choose a place of abode on Latvian territory." Under the Constitution, all residents of Latvia enjoy equal rights under the law, but the majority of nonethnic Latvians cannot fully participate in the civic life of the country. Noncitizens were active in political parties during the election campaign, although they did not have the right to vote.

The Latvian language law requires employees of the State and of all "institutions, enterprises, and institutes" to know sufficient Latvian to carry out their profession. The law also requires such employees to be conversationally proficient in Latvian to be able to deal with the public. Despite the language law, there have been no reports of widespread dismissals, even in the city of Daugavpils, in which 87 percent of the population is not ethnically Latvian and Russian is the prevailing language in industry. Nevertheless, many non-Latvians believe that they have been disenfranchised and that the language law discriminates against them, although there are no reports of widespread dismissals among management, teachers, or other sectors. In the case of the police force, which is predominantly made up of noncitizen ethnic Russians, non-Latvian speaking police officers were given 2 years to learn Latvian.

Some ethnic Russians have also complained of de facto discrimination resulting from Latvia's property laws, which limit land ownership to citizens. Because of past Soviet Russification policies, ethnic Russians generally live in newer, better housing than ethnic Latvians. The level of compensation for their apartments to those emigrating from Latvia is not high enough to permit them to purchase an apartment in Russia. Latvia does not officially grant any compensation to Russian officers for apartments assigned them by the Soviet military, though at least some seem to find ways around such legal restrictions.

The Government has agreed to continue using Russian as the language of instruction in public schools where the pupils are primarily Russian speakers. Although all non-Latvian speaking students in public schools are supposed to be taught Latvian, there are shortages of Latvian teachers. State-funded university education is in Latvian, except for the medical school and some classes for outgoing seniors. Incoming students whose native language is not Latvian must pass a Latvian language entrance exam. It remains the Government's stated goal that all public schools eventually convert to Latvian as the language of instruction.

Jewish community leaders report anti-Semitism is not a major problem in Latvia and the government has been generally supportive of efforts to rejuvenate the Jewish community.

People with Disabilities.—Latvia does not have a law banning discrimination against the disabled. The Government supports special schools for disabled persons. A law requiring buildings to be accessible to wheelchairs took effect on January 1, 1993. Most buildings, however, are not accessible to wheelchairs.

Section 6. Worker Rights

a. *The Right of Association.*—Latvia's law on trade unions mandates that workers, except for the uniformed military, have the right to form and join labor unions of their own choosing. In the fall of 1993, about 50 percent of the work force belonged to unions; union membership is falling as workers leave Soviet-era unions that include management or are laid off as Soviet-style factories fail. The Free Trades Union Federation of Latvia, the only significant labor union confederation, is nonpartisan, though some leaders ran as candidates for various smaller parties that failed to enter Parliament. Unions are free to affiliate internationally and are developing contacts with European labor unions and international labor union organizations.

The law does not limit the right to strike. Latvia saw almost no strikes in 1993. Although many state-owned factories are on the verge of bankruptcy and seriously behind in wage payments, workers fear dismissal if they strike, and noncitizens fear that their participation in strikes may affect their residency status. While the law bans such dismissals, the Government's ability to enforce these laws is weak.

b. *The Right to Organize and Bargain Collectively.*—Labor unions have the right to bargain collectively and are largely free of government interference in their negotiations with employers. The law prohibits discrimination against union members and organizers. Some emerging private sector businesses, however, threaten to fire

union members; these businesses usually pay better salaries and benefits than are available elsewhere. The Government's ability to protect the right to organize in the private sector is weak.

No export processing zones exist in Latvia.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is banned and is not practiced. Inspectors from the Welfare Ministry's Labor Department enforce the ban.

d. *Minimum Age for Employment of Children.*—The statutory minimum age for employment of children is 15, although those aged 13 may work in certain jobs away from school hours. Children are required to attend school for 9 years. Child labor and school attendance laws are enforced by state authorities through inspections. The law restricts employment of those under 18, for instance, by banning night shift or overtime work.

e. *Acceptable Conditions of Work.*—As of the end of 1993, the minimum monthly wage was set at about $24 (15 lats). Latvian authorities estimate the poverty line to be about $83 (50 lats) per month. Many factories are virtually bankrupt and have reduced work hours.

The Labor Code provides for a mandatory 40-hour maximum workweek with at least one 24-hour rest period, 4 weeks of annual vacation, and a program of assistance to working mothers with small children. Latvian laws establish minimum occupational health and safety standards for the workplace, but these standards are frequently ignored.

LIECHTENSTEIN

The Principality of Liechtenstein is a constitutional monarchy and parliamentary democracy whose present Constitution dates from 1921. The reigning Prince is the Head of State. All legislation adopted by the unicameral legislature (Landtag) must have his concurrence. The Government, whose members are proposed by the Landtag and appointed by the Prince, is responsible for the entire administration of the State. After the Head of Government lost a confidence vote in September, Parliament voted, pursuant to constitutional procedure, to ask the Prince to remove him from office. Instead, the Prince, citing the lack of legitimacy for any new government head, dissolved Parliament and scheduled elections for October. The Vaterlaendishe Union won an absolute majority of seats but chose to govern again with its former coalition partner, Fortschrittliche Burgerliche Partei.

The Principality's police force maintains internal order and is aided by a part-time auxiliary police force. Both organizations are under the control of the elected Government and operate under procedures consistent with respect for human rights.

Despite its small size (29,386 population of which over one-third are noncitizen resident foreigners) and limited natural resources, Liechtenstein has developed during the last 3 decades from a rural agrarian society into a prosperous, highly industrialized, free enterprise economy with an important service sector. Through a 1923 treaty, it participates in a customs union with Switzerland and uses the Swiss franc as its national currency. Liechtenstein voted on December 13, 1992 to join the European Economic Area (EEA). Unemployment stood at 1.2 percent in 1993. The people of Liechtenstein enjoy a very high standard of living.

Individual human rights are ensured by the Constitution and protected in practice.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There is no history of politically motivated or other extrajudicial killing, and none is known to have occurred in 1993.

b. *Disappearance.*—There have been no known abductions, secret arrests, or clandestine detentions.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture and cruel punishment are prohibited by law, and there were no reports of violations.

d. *Arbitrary Arrest, Detention, or Exile.*—Freedom from arbitrary arrest and detention is guaranteed by law and observed in practice. Any person detained by the authorities must appear before an examining magistrate not later than 24 hours after arrest. The magistrate must either state formal charges or release the prisoner. The right to legal counsel is guaranteed. If the accused cannot afford representation, the State provides the cost of defense. Release on personal recognizance or bail is granted unless the examining magistrate believes the person is a danger to

society or will not appear for trial. There is no provision in the legal system for exile, and it does not occur.

e. *Denial of Fair Public Trial.*—The judiciary is separated from the executive and legislative branches. The Constitution provides for public trials and judicial appeal. Liechtenstein has a three-tier system of courts: Lower Court, High Court, and Supreme Court. The Constitution provides also for an administrative court, which hears appeals against government decisions. A State Court, which protects the rights accorded by the Constitution, decides on conflicts of jurisdiction between the law courts and the administrative authorities and acts as a disciplinary court for members of the Government.

There are no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for personal liberty and the inviolability of the home and of letters and telephone conversations, including the freedom from wiretaps. Police need a judicial warrant to search private property. No violations have been reported.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—An independent press, effective judiciary, and democratic political system combine to ensure freedom of speech and press. There are two newspapers, each representing the interests of one of the two major political parties. There are no private television or radio broadcasting facilities within the Principality, but residents receive radio and television broadcasts from neighboring Switzerland, Austria, and Germany, and many are also cable television subscribers.

There is one government-owned television station. A suit brought to protest the exclusive use of the channel by the Government during the 1992 EEA debate was thrown out of court. The Government granted permission for a private radio station to be established in 1994, contingent on 50-percent ownership by citizens of Liechtenstein. Academic freedom is respected.

b. *Freedom of Peaceful Assembly and Association.*—The freedoms of assembly and association are protected by the Constitution and observed in practice. Although permits must be obtained for public meetings and demonstrations, they are routinely given.

c. *Freedom of Religion.*—Liechtenstein enjoys religious freedom. The state church is Roman Catholic, and 87 percent of the population practices that faith. The finances of the state church are integrated directly into the budgets of the national and local government. Catholic or Protestant religious education is a compulsory part of the school curriculum, although parents may request government permission to exempt their offspring. Other denominations are entitled to practice their faiths and to hold religious services. Foreign clergy are free to perform their duties.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens have the freedom to travel in or outside the country and can emigrate without difficulty. There is no restriction on repatriation of citizens from abroad. As Liechtenstein has no airport or international train station, it is not a country of first asylum. The few applicants for asylum are returned to the authorities of one of the two neighboring entry points, Switzerland or Austria. Liechtenstein seeks assurances from the two countries that asylees will not be forced to return to countries in which they have reason to fear persecution.

Liechtenstein's asylum policy was put to the test in October, when 18 Tibetan refugees arrived in the country, claiming persecution in Tibet. They were granted permission to stay for 3 months. The Prime Minister said that they would not be returned to Tibet. Liechtenstein is discussing the matter with Switzerland and Austria. If the refugees make formal application for asylum, it would require an act of Parliament to grant the request.

Despite the lack of asylum law, Liechtenstein does make provision for refugees on a case-by-case basis. In 1993 Liechtenstein accepted 44 Bosnian refugees who will be permitted to remain at least until the violence in their homeland ends.

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

The monarchy is hereditary in the male line. The unicameral legislature, comprising 25 deputies, is elected by the people every 4 years by proportional representation. The Constitution provides for the right to vote, which is universal, equal, secret, and direct. A coalition of the two major political parties, the Vaterlaendische Union and the Fortschrittliche Burgerpartei, has formed the Government since 1938. Although there are historical differences between these two parties, as well as disagreements over some local issues, a high degree of political consensus exists. The rights of emerging opposition and splinter groups are respected. For the first

time in 55 years, in 1992 a third party, the Freie Liste, which focuses on environmental issues, entered the legislature.

In late August Head of Government Marcus Buechel was asked by his own party to step down because he allegedly misinformed and ignored them. He refused to resign, even after a parliamentary vote of no confidence on September 14. Subsequently the Parliament voted, pursuant to constitutional procedure, to ask the Prince to remove Buechel. The Prince instead dissolved Parliament and called for new elections. The elections were held in late October. The Vaterlaendishe Union won an absolute majority of parliamentary seats but chose to govern again in coalition with its former Fortschrittliche Burgerliche Partei partners Mario Frick was installed as Prime Minister on December 15.

The electorate regularly makes use of its right to participate in initiatives and referendum. Women gained the right to vote in national elections in 1984 and have exercised this right. The Landtag presently has two female members. The Executive Council of Five contains two women, one of whom participated also in the previous government. All major parties have committees to address the concerns of women.

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

The only known human rights group based in Liechtenstein, Justitia, is an informal group of several persons who monitor prison conditions and assist foreign workers with immigration matters. Justitia was founded by church members to address the needs of Liechtenstein's marginalized persons and operates without government restriction.

There have been no requests for the investigation of human rights violations.

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

There is no legal discrimination on the basis of race, language, or social status. There were no reported incidents of abuse of minorities. Of the resident foreigners, 87 percent are from Switzerland, Germany, Austria, and Italy. The remainder is composed of citizens of Turkey, Spain, Greece, and the former Yugoslavia. It is possible for foreigners who have be n resident in Liechtenstein for 5 years to become citizens through an acceptance vote of the local community. The process is expedited for wives and children of citizens.

Women.—A 1992 constitutional amendment guaranteed women equality under the law. All relevant statutes concerning citizenship and residency rights, social security and unemployment insurance, education, taxation, and conditions in the workplace are to be revised to conform to this equal rights amendment and must be presented to Parliament before 1996. Revisions of the law became linked to Liechtenstein's entry into the EEA, which was projected to take place in mid-1994. For instance, legislation to give women equal pay for equal work is to enter into force with Liechtenstein's entry into the EEA.

Several groups monitor and promote women's rights. They report that the Government is cooperative with respect to their concerns and in some cases provides financial support. The social and traditional discrimination that still persists hinders opportunities for women in fields that have been traditionally dominated by men, and at present there are no legal means to redress discrimination. Wife beating is prohibited by law and is prosecuted in practice. Liechtenstein has facilities through which women who are victims of violence may obtain help and counseling. In 1993, 536 women were sheltered overnight because of violence or threat of violence from a spouse or partner.

Children.—There is no pattern of societal abuse against children. The Government supports programs intended to protect the rights of children and matches contributions made to the four nongovernmental organizations involved in children's rights concerns.

People with Disabilities.—Liechtenstein has not legislated accessibility for the disabled. Government programs to provide supplemental financial support for disabled persons are being revised. An organization dedicated to promoting the interests and rights of the disabled works together with international disabled rights organizations.

Section 6. Worker Rights

a. *The Right of Association.*—Labor-management relations in Liechtenstein are conducted according to the Swiss Code of Obligations. All workers, including foreign workers in Liechtenstein, have the freedom to associate, join the unions of their choice, and select their union representatives. The existing social peace, in part due to the high standard of living, has resulted in a low demand for organized worker representation. The one trade union comprises 13 percent of the work force but

looks after the interest of nonmembers as well. It is a member of the World Confederation of Labor, although it is represented at meetings by the Swiss National Christian Trade Union.

Workers have the right to strike except in certain work categories, as outlined in work contracts and agreed to by the employees concerned. Labor unrest is virtually nonexistent. No strikes are known to have taken place in the last 25 years.

Liechtenstein's law does not have specific protections for strikers. Employers may dismiss employees for "refusal to work." Such dismissals may be contested.

b. *The Right to Organize and Bargain Collectively.*—The law provides workers the right to organize and bargain collectively. This right is recognized for all professions. Because of Liechtenstein's reliance on Swiss practice, collective bargaining agreements are, as a practical matter, generally adapted from similar agreements already negotiated by Swiss industry. Agreements so adopted have not been contested in the past 25 years. The last such agreement came into force in January 1989 in the metals industry.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited by law and does not exist in practice.

d. *Minimum Age for Employment of Children.*—The employment of children under the age of 15 is prohibited. Children are required to remain in school for 9 years. Child labor laws are enforced by the Government, and adolescent workers are provided special protection by law.

e. *Acceptable Conditions of Work.*—There is no national minimum wage; wages are high. The law sets the maximum workweek at 45 hours for white collar workers and employees of industrial firms. The maximum in other areas is 50 hours. In practice, the average workweek is 40 to 43 hours. Workers under the age of 20 receive a minimum of 5 weeks of vacation. After they are 20 they receive a minimum of 4 weeks.

Occupational health and safety standards are set by law and protect the worker in the workplace. A safe working environment is enforced by the Department for Worker Safety. The trade union also monitors working conditions. There were no allegations of worker rights abuses, other than disputes over contractual obligations.

LITHUANIA

Lithuania regained its independence in 1991 after more than 50 years of Soviet occupation. A parliamentary democracy, Lithuania has a popularly elected unicameral legislature, the Seimas, a popularly elected President, who functions as Head of State, and a government formed by a Prime Minister and other ministers, appointed by the President and approved by the Seimas. The Government exercises authority with the approval of the Seimas and the President. In the free and fair 1992 parliamentary elections, the Lithuanian Democratic Labor Party (LDDP)—the successor to the Communist Party of Lithuania, which in 1989 broke away from the Soviet Communist party—won a majority of seats and formed the Government. On February 14, voters elected Algirdas Brazauskas, the then chairman of the LDDP, as President.

The security structure includes the military forces administered by the Ministry of Defense, the domestic police subordinate to the Interior Ministry, two regiments of militarized police subordinate to the Interior Ministry and responsible for maintaining prison security and public order, and a security service charged with internal security. All forces stationed by the Soviet Union in Lithuania were withdrawn by the end of 1993.

Lithuania is gradually transforming a centrally planned economy into a market-oriented system. Most housing and small businesses are now in private ownership, but large enterprises continue to be state owned. The Government has been unable thus far to stem the general economic deterioration characterized by a steady fall in industrial output, rising unemployment, and declining per capita income. Inflation, however, has come down significantly with the introduction of a stable national currency and the reduction of government deficits. Over 100,000 new private farmers cultivate over a third of the arable land.

There is respect for basic freedoms and civil liberties. The preventive detention law, aimed at those suspected of violent criminal activity, extended the period of investigative detention from 72 hours to 2 months. Although it was broadly hailed as a useful tool in dealing with gangs of criminals, its possible extension beyond January 1, 1994, while generally popular, caused some concern that law enforcement officials might abuse its provisions. Reform of the judicial system still awaits the com-

pletion of civil and criminal procedure codes. The holding of elections in February for two district councils in areas predominantly inhabited by ethnic Poles eased relations between Lithuanian authorities and the Polish community.

Lithuania was accepted as a full member of the Council of Europe on May 14, 1993.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of politically motivated killings by Lithuanian authorities in 1993. The local press did report one instance of a man who died in police custody as a consequence of police brutality. Otherwise, media reporting of alleged police brutality has been scarce. The Ministry of Internal Affairs generally has been reluctant to publicize statistics on reported cases of police brutality.

b. *Disappearance.*—There were no reports of abductions or disappearances caused by Lithuanian officials.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There were no reports that Lithuanian officials engaged in or condoned torture and other cruel, inhuman, or degrading treatment or punishment. The press has occasionally reported on police beatings of travelers passing through Lithuanian border crossings, which often are choked with thousands of motorists awaiting their turn to go through customs.

d. *Arbitrary Arrest, Detention, or Exile.*—By law, police may detain a person for up to 72 hours based upon reliable evidence of criminal activity. At the end of that period, police must decide whether or not to make a formal arrest, and a warrant must be approved by a magistrate. The authorities have a total of 10 days to present supporting evidence. Once a suspect is formally charged, prosecutors may keep the suspect under investigative arrest for up to 2 months before taking the suspect to court. In exceptional cases, investigative arrest may be extended by a further 6 to 9 months with the written approval of the Procurator General. The right to an attorney is protected by the Constitution from the moment of detention.

In an effort to cope with rapidly growing organized crime, Parliament passed in July a temporary law on preventive detention of persons suspected of being violent criminals; it extended the period of investigative detention from 72 hours to 2 months. Those apprehended must be released after 2 months if an investigation does not lead to formal charges. Local police commissioners must obtain the Procurator General's approval of each arrest carried out under the provisions of this law.

Lithuanian legislators voted in December to extend the temporary law for 1 additional year. Several new provisions were attached to the July version of the law in an apparent effort to improve the legal rights of detainees. The authorities must now inform a suspect within 3 hours following arrest about the length of preventive detention, which may not exceed 2 months. Within 48 hours of the arrest, the detainee must be brought before a district judge, who must rule on whether the suspect had been lawfully detained. A suspect is legally guaranteed the right to consult with an attorney during the period of detention.

Although the law is widely perceived as useful in tackling the organized crime problem, its provisions give law enforcement officials wide latitude in making arrest decisions and may be open to abuse.

There is no exile.

e. *Denial of Fair Public Trial.*—The Lithuanian legal system is in a state of transition from a Soviet to a democratic model. To date, progress towards judicial and legal reform has been limited. The judicial system consists of a two-tier structure of district courts and the Supreme Court, which hears appeals from the district courts. Court decisions are arrived at independently. The Procurator General exercises an oversight responsibility through a network of local prosecutors who work with police investigators from the Ministry of Interior in preparing the prosecution's evidence for the courts. Jury trials are not used in Lithuania.

A law reforming much of the structure and procedures of Lithuania's judicial system, scheduled to take effect in November 1992, was suspended, pending the completion of new civil and criminal procedure codes. The new civil procedure code should be ready for parliamentary consideration in mid-1994.

The newly created Constitutional Court began its deliberations in September. The Constitution specifies that the Constitutional Court shall settle disputes about the constitutionality of official acts of the Government, Parliament, and the courts. Only official bodies such as the Government, Parliament, and the courts may appeal decisions to the Constitutional Court, in contrast to the Supreme Court, which hears appeals involving private citizens and organizations.

The Constitution provides defendants with the right to counsel. Public defense attorneys are routinely assigned to persons charged with serious offenses. Defendants also have the right to hire an attorney of their choice. In practice, the right to legal counsel is constricted by the shortage of trained lawyers—only about 340 registered lawyers practice in Lithuania—who reportedly find it difficult to cope with the estimated 40-percent rise over 1992 in criminal cases before the courts in 1993. Outside observers have recommended the establishment of a public defender system to regularize procedures for provision of legal assistance to indigent persons charged in criminal cases. By law, defense attorneys have access to government evidence and may present evidence and witnesses. Routine, written requests for evidence generally are honored by the courts and law enforcement agencies. There were no political trials.

Government rehabilitation of over 50,000 persons charged with anti-Soviet crimes during the Stalinist era led to reports in 1991 that some people alleged to have been involved in crimes against humanity during the Nazi occupation had benefited from this rehabilitation. Such rehabilitation clears the person of any wrongdoing during the Stalinist period and is essentially of moral significance. A special judicial procedure was established to examine each case in which an individual or organization raises an objection that a rehabilitated person may have committed a crime against humanity. In 1993 the Supreme Court overturned the rehabilitation of four persons whose cases were pending from 1992. The Procurator General has appealed to the Supreme Court to annul the rehabilitation of an additional three persons suspected of committing war crimes.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The authorities do not engage in indiscriminate or widespread monitoring of the correspondence or communications of citizens. With the written authorization of the Procurator General, however, law enforcement and national security agencies may engage in surveillance and monitoring activities on grounds of national security. The evidence collected in this way must be regularly submitted to a parliamentary committee for review and approval. Except in cases of hot pursuit or the danger of disappearance of evidence, police must obtain search warrants signed by a procurator before they may enter premises. It is, however, widely assumed that law enforcement agencies have increased the use of a range of surveillance methods to cope with the expansion of organized crime. There is some question as to the legal basis of this police surveillance activity, but there are no known legal cases challenging the legality of the surveillance. The former President of the Lithuanian National Bank, who claimed that eavesdropping devices were found in his office, publicly called on the Procurator General to investigate the incident.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech is widely respected.

Prior restraint over either print or broadcast media and restrictions on disclosure are prohibited, except in cases determined by the Government to involve national security.

Investigative journalists reporting on the organized crime problem have been harassed and have received death threats; a copublisher and editor of a widely read daily, who wrote extensively on organized crime, was murdered. Four persons suspected of killing the editor are being held in investigative detention.

The Government made efforts to prevent private printing enterprises in Kaunas from printing two extreme rightwing German publications promoting anti-Semitism. By law, Lithuanian publications are prohibited from propagating racist views or inciting hatred against ethnic groups. At last report, the Lithuanian partner of this printing venture withdrew his participation; the printing enterprises have ceased printing the two German publications.

Five private radio stations, including one broadcasting in Polish, are on the air. Two private television stations also broadcast regular programming to a wide audience. The owners of both the private radio and television stations, however, have complained about unfair broadcasting rates that are set by the Government and allegedly favor the state radio and television stations.

b. *Freedom of Peaceful Assembly and Association.*—There are no laws that prohibit public gatherings. During 1993 a large number of public meetings and demonstrations took place, with rightwing groups, blue-collar workers, pensioners, and farmers being especially active.

The Constitution respects the right of Lithuanians to associate freely, requiring only that they inform local government authorities of planned demonstrations. Parliament, however, outlawed the Moscow-backed Communist party in Lithuania in light of its support for the January 1991 military crackdown and the August 1991 Soviet coup attempt. Other organizations associated with the Soviet occupation were

also banned. Former officials of Communist-era Lithuania were not arrested, except those charged with specific crimes.

c. *Freedom of Religion.*—There were no restrictions on the exercise of religious freedom in 1993. The Government recognizes no state religion, although the Roman Catholic Church has the largest following in the country, and its clergy are the most visible in public life. Religious instruction was widely introduced in Lithuanian schools in 1992, but parents have the right to enroll their children in secular "ethics" classes as an alternative. Forty-one Russian Orthodox churches and an additional 47 Old Believer churches are in use and mainly serve the spiritual needs of the ethnic Russian community (9 percent of the population). Protestant groups began proselytizing activity, organizing public prayer meetings and religious instruction.

Representatives of some Protestant religions and smaller religious communities protested against a draft law on religion that classifies religions according to whether they are considered "established" or "unestablished." There is some concern that the draft law, if it is not amended, could result in preferential treatment (i.e., financial aid and access to the state-owned media) of the larger and older religious communities by the Government, while the more recently introduced religions would be denied these benefits.

The Government supports the small Jewish community by helping fund several schools and a Jewish cultural center and museum in Vilnius. Considerable progress has been made in restoring and maintaining Jewish cemeteries as well as memorials that testify to the Jewish community's cultural life and tragic past in Lithuania.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Under Lithuanian law, citizens and permanent residents are permitted free movement within, and return to, their country. There are no restrictions on foreign travel.

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

Lithuania is a parliamentary democracy. Lithuanian election law requires that parliamentary elections be conducted by secret ballot. Suffrage is universal.

Of 141 parliamentary seats, 71 are elected directly and 70 through proportional representation. In the October-November 1992 elections to Parliament, which international observers determined were free and fair, 27 registered party, association, or coalition slates participated. Only 6 won enough votes to enter the new Parliament. A party must draw a minimum 4 percent of the national vote to be represented in Parliament. National minority slates are exempt from this rule. Two of the four Union of Poles representatives won their seats on a proportional basis, even though the Union slate captured only 2 percent of the nationwide proportional vote. The other two won in district races. In addition, two other ethnic Poles were elected, representing other political groups.

The Lithuanian Democratic Labor Party (LDDP) won an absolute majority, with 73 of the 141 parliamentary seats. The Homeland Union (which originated from the rightwing Sajudis), the mainstream Christian Democratic Party, the Social Democratic Party, the Union of Poles, and one representative from a separate Christian democratic group make up the opposition.

The generally inclusive citizenship law of December 11, 1991, extends citizenship to persons who were born in the territory of the Republic of Lithuania, who were citizens prior to 1940, as well as their children and grandchildren, and who became citizens under the legislation in effect prior to the new effective date of December 11, 1991. All applications for retention, restoration, and naturalization must go through a citizenship committee appointed by Parliament. In order to qualify for naturalization, an applicant must pass a Lithuanian-language examination, have been resident in Lithuania for the last 10 years, have a permanent job or source of income, and renounce his current citizenship.

Moreover, the 1991 Lithuanian-Russian agreement offered Lithuanian citizenship to Russian residents who had taken up residence in Lithuania as of the date of the agreement's signing. Well over 90 percent of ethnic Poles, Russians, and others residing in Lithuania in 1991 were granted Lithuanian citizenship.

There are no de jure restrictions on women's participation in politics or government, but for cultural and historical reasons they are underrepresented in political leadership positions. There are only 10 female deputies in the 141-member Seimas, and no female ministers serve in the current Cabinet.

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

The Association for the Defense of Human Rights in Lithuania is an umbrella organization for several small human rights groups, which operate without government restriction. However, the Association is not very well known nor particularly active. Lithuanian authorities actively encouraged international and nongovernmental human rights groups to travel to Lithuania.

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

Lithuanian constitutional law prohibits discrimination based on race, sex, religion, disability, or ethnic background.

Women.—The Constitution provides equal rights for men and women, and official policy specifies equal pay for equal work. Generally, men and women receive the same pay for comparable work, but women are largely underrepresented in some professions and in the managerial sector as a whole. Women enjoy maternity and day-care benefits. There are, however, significant inequalities in Lithuanian society based on sex. A growing number of formal and informal women's organizations are active in promoting women's rights in Lithuania, but women's rights activists report that public awareness of women's issues is still at a rudimentary stage, and there are no known lawsuits charging discrimination.

Abuse of women in the home is reportedly common, especially in connection with alcohol abuse by husbands, but institutional mechanisms for coping with this problem are generally not available. Statistics on the incidence of abuse of women in the home are not filed separately from other categories of assault. Women's groups report some resistance among law enforcement officials to collecting and releasing such statistics. Persons convicted of rape generally receive sentences of from 3 to 5 years in prison.

Children.—The Ministries of Social Protection and Internal Affairs shared official responsibility for the protection of children's rights and welfare in 1993. As of January 1, 1994, the Children's Rights Service of the Ministry of Social Protection will take on many of the functions formerly handled by the Internal Affairs Ministry and its subordinate police offices throughout the country, thereby presumably focusing more attention on the social welfare needs of children.

The Soviet-era family code, which until recently has governed legal relationships between children and their families, is undergoing reform with a view to enhancing children's rights generally and improving adoption procedures and legal protection against child abuse specifically. Legal experts are working on a separate law regulating the rights and responsibilities of children vis-a-vis their parents. Lithuania is a signatory to the Convention on the Rights of the Child.

A number of private organizations are active in children's welfare issues, including monitoring and supporting the work of orphanages and distributing charity to children in socially deprived families (see also People with Disabilities below).

National/Racial/Ethnic Minorities.—Non-Lithuanian ethnic groups, comprising about 20 percent of the population, include Russians, Poles, Belarusians, Ukrainians, and Jews.

Minority nationalities have ready access to primary and secondary education in their own languages. State radio and television programs include a fair selection of programs in minority languages. In addition, Lithuanian television regularly rebroadcasts programs from two television stations in Russia and one in Poland. Numerous periodicals are readily available in Russian and Polish. Relations between the Lithuanian authorities and the sizable ethnic Polish community in the southeast region of Lithuania have improved following elections on February 14 of two district councils that had been suspended immediately after the August 1991 Soviet coup attempt. The members of the councils, which represent predominantly Polish constituencies, had been charged with upholding Soviet rule during Lithuania's independence struggle and supporting the August 1991 coup attempt. Parliament also suspended on the same grounds a county council in Snieckus (now called Visaginas) representing a predominantly Russian community, but, despite repeated elections to the county council in late 1992 and February 14, 1993, local voter turnout was too low to elect new representatives under Lithuanian election law. The county remained under the authority of an ethnic Russian administrator appointed by the central Government.

Polish special interest groups have long demanded cultural autonomy and recognition of a Polish university. Non-Lithuanians, especially Poles, have expressed concerns about the possibility of job discrimination arising from implementation of the language law. Many public sector employees were required to attain a functional knowledge of Lithuanian within several years. Language-testing committees began

their work in early 1993. During the first 9 months of 1993, about 2,000 persons were tested for their Lithuanian language ability, of whom 1,786 were certified as language qualified. There is no documented evidence of dismissals based on this law. Lithuanian authorities have indicated that the intent of the law is to apply moral incentives to learn Lithuanian as the official language of the State; they have asserted that no one would be dismissed solely because of an inability to meet the language requirement.

In its negotiations for a Friendship Treaty with Poland, Lithuania has insisted on a declaration affirming its historic sovereignty over Vilnius. The Vilnius-based Union of Poles and the Warsaw-based Citizens Committee for the Defense of Poles in the Vilnius Region claimed that such a declaration could be used to legalize discrimination against the Polish ethnic minority in Lithuania.

People with Disabilities.—A law on integrating disabled people, passed in 1991, provided for a broad category of rights and government benefits to which disabled people are theoretically entitled. A number of government agencies or government-supported public bodies are engaged in protecting the rights and defending the interests of the disabled, who number over 300,000, according to official statistics. The Hope Society promotes public awareness of the problems of disabled children through the mass media and raises funds to support the treatment and care of disabled children.

Section 6. Worker Rights

a. *The Right of Association.*—The 1991 law on trade unions and the Constitution recognize the right of workers and employees to form and join trade unions. The law on trade unions formally extends this right to employees of the police and the armed forces, although the Collective Agreements Law of 1991 does not allow collective bargaining by government employees involved in law enforcement and security-related work.

The Lithuanian branch of the U.S.S.R.'s All-Union Central Council of Trades Union (AUCCTU), grouping 23 of 25 trade unions, renamed itself the Confederation of Free Trade Unions (CFTU) in 1990 and began asserting increased independence from its Soviet parent and promoting the interests of the Lithuanian state industrial sector. In March the CFTU joined eight other unions that had also been a part of the AUCCTU to form the Lithuanian Trade Union Center (LTUC). The Lithuanian Workers Union (LWU) was formed in 1990 as an alternative to and competitor of the CFTU.

Since its formation, the LWU has adopted policies clearly supportive of the proindependence Sajudis movement and sought contacts with Western free trade unions. The LWU now claims a dues-paying membership of 50,000, organized in 35 regional groupings. The LWU signed an agreement on February 26 with the then Prime Minister and several other labor unions (including its rival, the CFTU, now called the LTUC), setting forth a cooperative relationship between the Government and Lithuania's trade unions. Although the LWU and LTUC remain rivals on the national scene, there are indications that the two organizations cooperate on the local level.

There are no restrictions on unions affiliating with international trade unions. The Union of Teachers (which is associated with the LWU) is affiliated with the International Federation of Free Teachers. The LWU and its component organizations currently maintain loose cooperative contacts with the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO), the Polish Solidarity union, and other international labor organizations. The CFTU/LTUC has also begun pursuing closer contacts with Western labor unions.

The 1991 law on trade unions and the 1992 Constitution provide for the right to strike, although strikes by public officials providing essential services are not permitted. A nationwide strike of primary and secondary schoolteachers protesting low wages took place during April and May. Bus drivers in the port city of Klaipeda stayed off their jobs from March to April. Both the schoolteachers and the Klaipeda bus drivers called off their strike after agreement was reached to increase their wages. The teachers received an immediate 10-percent wage increase while the drivers' pay went up about 30 percent.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining and the right of unions to organize employees are protected by the collective agreements law, although several provisions of this law reportedly hinder the establishment of new union organizations. According to the Collective Agreements Law, unions, in order to be registered, must have at least 30 founding members in large enterprises or have a membership of one-fifth of all employees in small enterprises. Difficulties commonly arise in state enterprises whose employees are represented by more than one union. LWU officials charge that managers in some state enterprises discrimi-

nate against LWU organizers and have on occasion dismissed employees as retribution for their trade union activities. The LWU also charges that the Lithuanian judicial system is slow to respond to LWU grievances regarding dismissals from work. LWU representatives charge that state managers sometimes prefer the old-style CFTU/LTUC over the LWU unions as collective bargaining partners.

In general, trade union spokesmen say that managers often determine wages without regard to trade union wishes, except in larger factories with well-organized trade unions. The Government issued periodic decrees that served as guidelines for state enterprise management in setting wage scales. The LWU and the LTUC engage in direct collective bargaining over wages at the workplace level. Wage decisions are increasingly being made at the enterprise level, although government ministries still retain some control over this sphere in state-owned enterprises. The LWU reports that it supplements its bargaining efforts with active lobbying in government ministries that own enterprises. During the first 11 months of 1993, wage increases appear to have kept pace with price rises.

No export processing zones have been established.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced labor, and this prohibition is observed in practice.

d. *Minimum Age for Employment of Children.*—The legal minimum age for employment of children without parental consent is 16. The legal minimum age with the written consent of parents is 14. Free trade union representatives assert that the mechanisms for monitoring minimum age legislation are rudimentary. Complaints about infringements of child labor regulations generally are referred to local prosecutors who investigate the charges and take legal action to stop violations. Available evidence suggests that child labor is not a widespread phenomenon.

e. *Acceptable Conditions of Work.*—The legal minimum wage is $11 (43 litai) per month, while the average wage in the state industrial sector is $45 (180 litai) per month. The Council of Ministers and the Ministry of Social Protection periodically set the minimum wage. Every 3 months these two government bodies must submit their minimum wage proposals to the Parliament, which has the right to approve or revise the minimum wage level. Enforcement of the minimum wage is almost nonexistent, in part because the Government does not want to exacerbate the current unemployment problem.

The Constitution provides that workers have the right to safe and healthy working conditions. In October a labor safety bill went into effect, setting down the rights of workers confronted with hazardous conditions and providing legal protection for workers who file complaints about such conditions. The State Labor Inspection Service, which was established by the law, has been charged with implementing the labor safety law. Regional labor inspection offices, each of which is staffed by two or three officials, have already been set up in four of Lithuania's largest cities and have begun their work. Nevertheless, severe financial constraints faced by both the state budget and state industrial enterprises will complicate efforts to rectify unsafe conditions caused by worn, outdated industrial technologies.

Lithuanian labor safety experts estimate that 150,000 production workers are employed in enterprises with substandard hygienic working conditions. Half of the nation's production work force is thought to be exposed to excessively high levels of noise, vibrations, and air pollution in factories and enterprises.

LUXEMBOURG

Luxembourg is a constitutional monarchy with a democratic parliamentary form of government. Executive authority is exercised by the Prime Minister. The role of the Grand Duke, the titular Head of State, is largely ceremonial. The Chamber of Deputies, a unicameral legislature, encompasses the full political spectrum. The Council of State, an appointed body, reviews legislation before it is given final approval by the Chamber.

The police and gendarmerie who maintain order are subordinate to governmental and judicial authority. Judicial and penal systems are open, efficient, and fair.

Luxembourg has a prosperous free market economy with active industrial and services sectors. Its standard of living and level of social benefits are high.

Human rights are valued and safeguarded. Individual rights are protected by law and respected in practice by both the Government and the populace. Luxembourg's large foreign population (just over 30 percent) is well integrated into the society and the economy. National practices in apparent conflict with human rights are quickly and publicly addressed.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Killing for political reasons did not occur.

b. *Disappearance.*—There were no known instances of politically motivated disappearance.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture or other unusual punishment is prohibited by law and is not known to occur. An allegation by a resident Spanish foreign national charging police use of excessive force is being investigated to determine whether the police acted outside the law.

d. *Arbitrary Arrest, Detention, or Exile.*—Due process is provided by law and observed in practice. Except in cases of hot pursuit, judicial warrants are required for arrests. Detainees must be charged and must appear before a judge within 24 hours of arrest. Prisoners are not held incommunicado, and immediate access to an attorney is granted. Those who are charged are held pending trial or released on bail at the judge's discretion. Exile is never imposed.

e. *Denial of Fair Public Trial.*—Luxembourg has an independent and fair judicial system with the right of appeal. Civilians are not tried in military courts. All defendants have access to legal counsel, at public expense if necessary. All charges are formally and publicly stated. Defendants are presumed innocent unless proven guilty. They have the right to public trial, cross-examination of witnesses, and presentation of evidence. Either the defendant or the prosecutor may appeal a ruling. An appeal results in a completely new judicial procedure, with the possibility that a sentence may be increased or decreased. There are no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The right to privacy is protected by law and respected in practice. A judicial warrant is required to enter a private residence, to monitor private correspondence, or to conduct electronic surveillance.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedoms of speech and press are legally protected and respected in practice. Print media are privately owned and free of governmental interference. The privately owned national radio and television company has exclusive rights for television broadcasting within Luxembourg. The company is subject to governmental oversight but functions independently. A newly instituted permit system allows the establishment of other private radio stations. Radio and television broadcasts from neighboring countries are freely available.

Censorship is not legally imposed, but societal consensus on propriety largely precludes dissemination of extreme pornography or of sensitive information concerning national security or the royal family. Academic freedom is respected.

b. *Freedom of Peaceful Assembly and Association.*—Freedom of peaceful assembly and association is provided by law and exists in practice. No limitations are imposed on orderly public demonstrations. Permits for public demonstrations are routinely issued.

c. *Freedom of Religion.*—There is no state religion, and full freedom of religious choice exists. There are no restrictions on maintaining places of worship, religious training or instruction, publication of religious material, or participation in charitable activities. Foreign clergy practice freely. Luxembourg's population is about 95 percent Roman Catholic. The state pays the salaries of Roman Catholic, Protestant, and Jewish clergy. Local governments often provide and maintain religious facilities.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There is full freedom of domestic and foreign travel, emigration, and repatriation. Luxembourg asylum policy grants asylum seekers due process and full consideration of their cases.

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

Luxembourg is a fully functional multiparty democracy. There is universal suffrage for all citizens aged 18 and above. Policy is freely debated within the Government and the society. There is no risk in dissent; opposition groups and political parties operate without fear of government repression. National elections are held every 5 years, and local elections every 6 years. Representatives are chosen by secret ballot in direct elections which are based on a proportional system. Multiple candidates run for most positions. The Maastricht Treaty entitles nationals of European Union (EU) states to vote in their country of residence, starting in 1995, re-

gardless of how long they have lived there. Due to Luxembourg's large foreign population, it has received a derogation whereby EU non-citizen residents who have resided in Luxembourg for at least 5 years will be permitted to vote in local and European Parliament elections. Such residents may run for election after residing in Luxembourg for at least 10 years.

Foreigners who have fulfilled certain age and residency requirements (usually 18 years of age and 10 years of residence, 5 of them continuously) may apply for Luxembourg citizenship. Women participate freely in the political process. There are seven women in the Chamber of Deputies, including the President of the Chamber. Other women in senior leadership positions include the Minister of Agriculture, the Secretary of State for Public Health and Youth, three members of the European Parliament, and the mayors of several major municipalities, including Luxembourg City.

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

The Government does not restrict the activities of local or international human rights groups.

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

Racial, social, or sexual discrimination is prohibited by law. In practice, blatant discrimination rarely occurs, and relations among native Luxembourgers, immigrants, and other foreigners are generally good.

Women.—Women and men enjoy the same property rights. In the absence of a prenuptial agreement, property is equally divided upon dissolution of a marriage.

Equal pay for equal work is mandated by law. No job discrimination suits have been brought to date. In addition to prominent women politicians and civil servants, there are noted women doctors, lawyers, and journalists. A recent European Union study on women's presence in the Luxembourg labor market noted that only 52 percent of Luxembourg women between the ages of 25 and 49 work, which may be attributed in part to Luxembourg's singular prosperity. The study also pointed out that, while progress is being made, women's salaries in Luxembourg are only 55 percent of men's earnings and that women are concentrated in lower level clerical, janitorial, and sales jobs but that progress is being made in the banking sector.

Violence against women is not widespread and is not tolerated by society or the Government. Several women's rights groups, including some that aid battered women, are active. Prosecution of battery charges does take place, but cases are rare.

Children.—The Government is strongly committed to the protection of children's rights and welfare. Luxembourg pays family allocation allowances (calculated on a sliding scale according to family income and size), birth premiums, and educational allowances. School is compulsory, beginning at age 4. Among other activities, the Ministry of Youth coordinates youth centers, educational and cultural exchanges, and courses.

Child abuse is not considered to be a widespread problem. The Luxembourg Association for the Prevention of Child Abuse believes there may be about 200 cases a year. Victims of or witnesses to child abuse may call for help on a hotline.

National/Racial/Ethnic Minorities.—Government estimates in 1993 indicate that Luxembourg's foreign population is over 30 percent of the total, primarily long-term permanent residents. Approximately 85 percent of the foreign population comes from European Community member states. Luxembourg recognizes a need for foreign workers, and foreigners generally are assimilated into the overall society and economy without difficulty. "Skinheads" and neo-Nazis are few, and antiforeigner incidents are infrequent (estimated at less than 10 in 1993) and confined largely to harassment. Police respond whether or not the motivation is antiforeigner. The Government has tried to promote increased tolerance through education and subsidizes French, German, and Luxembourg courses to help integrate foreigners into the society.

Approximately 2,200 refugees from the former Yugoslavia resided in Luxembourg under temporary special protected status in 1993. Government and private entities continued to support their basic needs. Some 300–400 of these refugees were working. Although precise figures are difficult to determine, the Government has estimated that 220–250 refugees from the conflict in the former Yugoslavia resided in Luxembourg without the benefit of legal protection.

People with Disabilities.—Luxembourg's national programs for the disabled are coordinated by the Ministry of the Family. Job placement and professional education assistance is provided by the Government. Disabled workers apply for positions

through the Employment Administration. Businesses and enterprises with at least 25 employees must hire qualified disabled workers if they apply and must pay them prevailing wages. Employers who do not adhere to these quotas, which are determined by the size of the employer's work force, are subject to monthly fines equivalent to half of a disabled worker's monthly salary. There is no record of complaints of noncompliance.

National legislation does not directly mandate accessibility for the disabled, but builders receive subsidies to construct "disabled friendly" structures. The Ministry aims to expand access to public buildings, priority parking, housing, and schools.

Section 6. Worker Rights

a. *The Right of Association.*—All workers have the right to associate freely, choose their own representatives, publicize their views, and determine their agenda. Approximately 65 percent of the labor force is unionized. Membership is not mandatory. Unions operate free of governmental interference. The two largest labor federations are linked to, but organized independently of, the Christian Social and the Socialist Parties. There are also several independent unions. Laws prohibiting discrimination against strikes and strike leaders are enforced by a labor tribunal.

Except for government workers providing essential services, all workers have the right to strike. Essential workers include police, army personnel, and medical workers in duty hospitals and clinics. Those government workers who may strike must observe certain conditions, such as preliminary cooling-off periods. Workers rarely strike in Luxembourg; no strikes occurred in 1993.

Unions maintain unrestricted contact with international bodies, including the European Trade Union Confederation and the International Confederation of Free Trade Unions.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining is protected by law and freely practiced throughout Luxembourg. Wages, benefits, and working conditions are set in negotiations between unions and employers. Businesses having 15 or more employees must have worker representatives. Businesses with over 150 employees must form joint works councils composed of equal numbers of management and employee representatives. In businesses with more than 1,000 employees, one-third of the membership of the supervisory boards of directors must be employees' representatives.

Both Luxembourg law and practice promote union activity and protect union leaders and members from discrimination. Effective procedures exist and are used to adjudicate employment-related complaints. Labor tribunals are authorized to adjudicate employment-related complaints. A request for a hearing before the court must be made in writing. Parties to the dispute are summoned before the tribunal to give testimony. The tribunal's decision may be appealed by either party. The tribunal does not have the authority to require that employers found guilty of antiunion discrimination reinstate workers fired for union activities, but it can impose fines on such employers.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited by law and does not exist.

d. *Minimum Age for Employment of Children.*—Employment of children under the age of 15 is prohibited. Children are required by law to remain in school until they are 16 years old. Apprentices between 15 and 16 years of age must also attend school. Adolescent workers receive additional legal protection, including limits on overtime and the number of hours that can be worked continuously. The Ministries of Labor and of Education oversee strict enforcement of national child labor and education laws.

e. *Acceptable Conditions of Work.*—The minimum wage legislation effective as of May 1993 provides for a minimum wage for workers at least 18 years of age with no dependents. The minimum wage for a single adult worker throughout Luxembourg is approximately $6.50 per hour (232.99 Luxembourg francs). Lower, tiered minimum wage rates apply to younger workers and students between 15 and 18 years of age and increase yearly by age. Minimum wage rates apply to all sectors of the economy without exception. All wages and salaries are indexed to the general cost-of-living index.

Supplements to the minimum wage are added for workers with dependents. Nonetheless, supporting a family in Luxembourg is difficult on the minimum wage. In practice, most employees receive more than the minimum wage.

National legislation mandates a workweek of 40 hours. Premium pay is required for overtime or unusual hours. Employment on Sunday is prohibited except in continuous-process industries (steel, glass, and chemicals) and for certain maintenance

and security personnel. All workers receive a minimum of 5 weeks of paid vacation yearly, in addition to paid holidays.

Luxembourg enjoys very high health and safety standards. A safe working environment is mandated by law and strictly enforced through an inspection system that provides severe penalties for infractions. Inspections are carried out by the Labor Inspectorate of the Ministry of Labor and by the Accident Insurance Agency of the Social Security Ministry.

No laws or regulations specifically guarantee workers the right to remove themselves from dangerous work situations without jeopardy to continued employment. If workers believe that the workplace is unsafe, they have the right to ask the Labor Inspectorate to make a determination. Determinations of workplace safety are usually made expeditiously.

MACEDONIA*

Macedonia, which became independent following the breakup of the former Socialist Federal Republic of Yugoslavia, is a parliamentary democracy. The Parliament was elected in free and fair elections in 1990 and voted for Kiro Gligorov as President in January 1991. The Government, a broad-based coalition of Social Democrats, Socialists, Liberals, and ethnic Albanians completed a year in power in September 1993. In August Parliament began consideration of new electoral laws, including a proposal for direct, popular election of the president. Divisions, even within the coalition, however, have delayed action on this and other important pieces of legislation. New elections are scheduled for November 1994 at the latest.

The Ministry of Interior oversees a security apparatus, including uniformed police, border police, and the domestic and foreign intelligence services. By law, the Ministry is under the control of a civilian minister and the civilian Government. A standing parliamentary commission oversees operations. Charges of excessive use of force in connection with the handling of an early 1993 demonstration and public disturbances in late 1992 led to a formal parliamentary review and debate.

Historically, Macedonia was the poorest of the former Yugoslav republics. Its economy, based on agriculture, mining, and light industry, was closely tied to those of the other republics, especially Serbia. Conflict in the region and the imposition of international sanctions against Serbia/Montenegro, coupled with dislocations caused by the transition to a market economy, have severely disrupted the economy. Unemployment stands at approximately 36 percent, production has fallen some 50 percent, and the Government estimates the cost of sanctions to the Macedonian economy at $1.8 billion.

Fundamental human rights are provided for in the Constitution and are generally respected, but there continue to be credible reports of police abuse of detainees and prisoners.

Minorities, including Albanians, Turks, and Serbs, have raised various credible allegations of human rights infringements and discrimination at the hands of the ethnic Macedonian population. Ethnic Macedonians predominate beyond their apparent percentage of the population in civil administration, education, the court system, the armed forces, and police.

Ethnic Albanians, who dispute official 1991 census figures that credit them with 22 percent of the population, claim to constitute at least one-third of the population. They hold far fewer than 10 percent of positions in government employment and are particularly underrepresented at senior levels. They also charge economic discrimination and incommensurate political rights, particularly inadequate representation in local administration. They continue to demand increased Albanian-language instruction, greater representation in public sector jobs, and enhanced media access. In a positive development, the Government reached agreement with representatives of the Serbian community on similar issues. Due to change in the leadership of the Serbian community, that agreement has been called into question.

A striking example of interethnic tension occurred in a February clash between ethnic Macedonians and Bosnian Muslim refugees at a camp in Skopje in which a number of people were injured (see Section 5). In June the Council for Interethnic Relations was established. The Constitution assigns the Council a broad range of

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*Macedonia has proclaimed independent statehood but has not been formally recognized by the United States as a state. There has been a dispute regarding the name under which it should be recognized. We use "Macedonia" in this report informally for convenience; its use is not intended to have international or diplomatic significance.

responsibilities, including appraisal of interethnic issues and recommendations of solutions, which the Parliament is obliged to consider for implementation.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of political killings during 1993. An Albanian national implicated in the "All-Albanian Army" conspiracy, died while undergoing interrogation. Although the autopsy reported the cause of death as a heart attack, credible persistent rumors circulated that the heart attack may have been caused by the stress associated with a beating. A parliamentary commission that investigated the November 1992 riot in Skopje exonerated the police involved.

b. *Disappearance.*—There were no reported disappearances in 1993.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such treatment and punishment. Early in the year, a number of ethnic Albanian prisoners claimed mistreatment was occurring at the Idrizovo prison near Skopje. The monitoring mission of the Conference on Security and Cooperation in Europe (CSCE) investigated, and conditions improved. Informed independent sources describe prison mistreatment as rare. Government sources stated that 37 cases brought against police officers for exceeding their authority resulted in disciplinary action; 28 officers were fined and 9 were dismissed.

One of the ethnic Albanians arrested for alleged involvement in a separatist plot claimed he was mistreated at first but not after being transferred to Skopje.

On New Year's Day, ethnic Serbs clashed with Macedonian police in a village with a Serbian majority, and Serbs charged that police used excessive force. Macedonian authorities alleged that a Serbian guard had provoked the police by hurling stones.

The indigenous Forum for Human Rights successfully intervened with the Government to obtain separate detention for juvenile offenders after receiving reports that juvenile detainees were raped by adult inmates.

d. *Arbitrary Arrest, Detention, or Exile.*—There were no confirmed reports of arbitrary arrest in 1993. Some ethnic Albanians continued to report instances of unprovoked harassment such as the June 25 detention of a number of Albanians for approximately 4 hours. Police explained the incident as a "sweep" for unregistered and illegal devices in an apartment building. There appears to be little or no systematic use of detention as a form of nonjudicial punishment. Incommunicado detention is not practiced in Macedonia.

The Constitution states that a person must be arraigned in court within 24 hours of arrest and sets the maximum duration of detention pending trial at 90 days. The accused must be informed of his or her legal rights and of the reasons for arrest and detention. The accused is entitled to contact a lawyer at the time of arrest and to have a lawyer present during police and court proceedings. The Constitution also provides that a person illegally detained has the right to compensation. Judges issue warrants at the request of prosecutors. Practice generally appears to conform to the law. Exile, internal or external, is not used as a form of punishment.

e. *Denial of Fair Public Trial.*—Constitutionally, the courts are "autonomous and independent." The court system is three-tiered: municipal, district, and the Supreme Court. The Constitutional Court deals exclusively with matters of constitutional interpretation. Although some progress has been made in establishing the system envisioned under the Constitution, parliamentary deadlock has stalled the election of new judges and the implementation of the proposed system. As such, the mandates of most, if not all, of the country's judges, who were appointed prior to independence, expired in 1992. Judges continued to exercise their judicial authority pending legislative action on the judicial reform program.

There were no known trials on purely political charges in 1993, and no political prisoners are known to be held. The Government said that the 10 political prisoners noted in the Department of State's report for 1992 were released with a finding that they had been improperly incarcerated.

The Constitutional Court has a mandate to protect the human rights of citizens, but it has not yet taken any action in this area. Parliament has not passed the necessary implementing law to establish a people's ombudsman to defend citizens' constitutional and legal rights.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The right to privacy of person, home, and correspondence is provided in the Constitution. Although no instances of abuse were substantiated, officials of the Internal Macedonian Revolutionary Organization (VMRO) opposition party charged that their telephones were tapped and the privacy of communications not respected.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution forbids censorship and guarantees freedom of speech, public access, public information, and freedom to establish institutions for public information. These freedoms are generally respected.

There are several daily newspapers in Skopje and numerous weekly political and other publications. An Albanian and a Turkish newspaper are also published nationally and are directly subsidized by the Government. Other cities publish their own dailies or have them printed in Skopje. Some critics complain that the Government, through the powerful national daily Nova Makedonija and affiliates, monopolizes local press coverage. The Government's ability to present its views through this influential medium has led to the criticism that it manages the news. Nove Makedonija receives income from its near monopoly on printing, rental space, and kiosks.

Macedonian Radio-Television (MRT) in Skopje, which is state owned, transmits programs in the Macedonian, Rom, Turkish, Albanian, Serbian, and Vlach languages. There are currently three television and four radio stations under MRT's control. In addition, there are several private radio and television broadcasters throughout the country. Towards the end of the year, a private radio station with an all-Albanian format reportedly began broadcasting in Skopje. The Albanian minority has complained of insufficient Albanian-language broadcasting on state television, only some 5 hours per week. VMRO complained of unequal access to the media. However, several journalists claimed that VMRO does not understand that a free press has editorial freedom.

There are no legal barriers to setting up independent media outlets, although the country's difficult economic conditions and the coalition's inability to pass required legislation to facilitate the move to a market economy complicate such initiatives.

Foreign books and publications are freely available, principally in larger cities. Academic freedom appeared to be respected despite the fact that the university relied upon the Government for funding. Reportedly, there was no government interference with professorial latitude in research or publishing.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for these rights. Groups and political parties may not advocate the forcible overthrow of the constitutional order, encourage the commission of military aggression, or promote national, racial, or religious hatred or intolerance. Advance notification for an assembly is required to ensure adequate security, but such provisions do not appear to have been abused.

Political parties and nongovernmental organizations are required to register with the Interior Ministry in compliance with a comprehensive political party registration law. Over 50 political parties and associations are registered, including two major ethnic Albanian political parties, a political party of Serbs, and a pro-Bulgarian party. An ethnic Albanian party was denied registration. Although the denial was supposedly based on the similarity of its proposed name to that of an existing entity and because it was not an indigenous organization, critics charged the denial constituted harassment. In October the Ministry of Interior announced plans to seek the deregistration of two parties for advocating the "forcible change of the constitutional order and/or promoting ethnic or religious intolerance." One of the parties involved opposes independence and supports reintegration with Yugoslavia. The other allegedly espouses the establishment of a fundamentalist Islamic state.

c. *Freedom of Religion.*—Freedom of religion is guaranteed, and there is no governmental interference with the practice of religion. The dominant faiths are Eastern Orthodox and Muslim, but many others are active. Although the Macedonian Orthodox Church is specifically named in the Constitution, it does not enjoy any special legal status. That church and all other religious communities and groups are separate from the State and equal under the law. They are free to establish religious schools and social and philanthropic organizations.

There is some sense among non-Orthodox believers that the Orthodox Church benefits informally from its position as first among equals. According to some observers, it appears easier for the Orthodox than for the others to obtain prime property for construction and building permits. In a positive development, the "agreed minutes" negotiated between the Government and representatives of the ethnic Serbian community provided for treatment for the Serbian Orthodox Church equal to with accorded to other faiths. Relations between the Macedonian and Serbian Orthodox Churches were badly strained because the latter does not recognize either Macedonia's independence or the separateness of the Macedonian Orthodox Church.

The Muslim community continued to complain over the placement of crosses on the facades of public buildings in some towns, as well as to criticize the reproduction on the national currency of cultural monuments, such as churches with crosses. The

currency also portrays monuments from the period of Ottoman rule on some denominations.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens are permitted free movement within the country as well as the right to leave and return. These rights may be restricted for security, public health, and safety reasons.

In August the Government began requiring citizens of Serbia/Montenegro to show a passport when seeking to enter Macedonia. Previously, citizens of both countries could cross the border on the basis of identity cards. Ethnic Albanians criticized this change, claiming that the group most seriously affected are Albanians from Kosovo, already pressured and isolated within Serbia. Consequently, they considered it discriminatory. The Government suggested it would consider special arrangements to accommodate inhabitants of immediate border areas, which would require the cooperation of the Serbian authorities.

Macedonia has accepted a number of refugees from the crisis in Bosnia. Since the summer of 1992, however, the Government has restricted the entry of additional refugees, and it is openly concerned that a rising refugee flow from Kosovo, in the event of a crisis in that region, could destroy Macedonia's ethnic identity and its fragile economy.

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

The citizens of Macedonia chose their Government in 1990 by secret ballot in free, fair, multiparty, and multicandidate elections. The parliamentary term is 4 years. The Constitution allows citizens who are at least 18 years of age to vote. There are no formal restrictions on the participation of women in political activities. Approximately 3 percent of the seats in Parliament are held by women. Although two women serve as ministers in the coalition Government, most of the senior government and party positions are held by men. Albanians participated in the 1992 elections, and the major ethnic Albanian political party is a member of the ruling coalition. They hold about 20 percent of parliamentary seats and have one deputy Prime Minister, a minister without portfolio, and three ministerial posts in the Government.

A unicameral parliament of 120 members, called the Assembly, governs the country. The Prime Minister, who is the Head of Government, is the candidate of the party or parties that are in the majority in the Assembly. The Prime Minister and the other ministers do not have to be members of the Assembly. The Prime Minister is appointed by the President and confirmed by the Assembly. The Constitution provides for legislation by initiative and referendum. Although the Assembly elected the sitting President, current legislative proposals, when enacted, will result in direct popular election of the Head of State. In addition to being the Head of State, the President is also the chairman of the Security Council and the commander in chief of the armed forces.

The Government, formed in September 1992, is a broad-based coalition that unites the Social Democratic Alliance, the Liberal Party, the Party for Democratic Prosperity (Albanian), and a number of other small parties. The Prime Minister, Branko Crvenkovski, is a member of the Social Democratic Alliance.

The main political party of the Roma is the Party for the Complete Emancipation of Romanies in Macedonia (PSERM), which claims 36,000 members and has local branches throughout the country. Its president is also a member of the Macedonian Parliament, representing the predominantly Romany town of Suto Orizari, located on the outskirts of Skopje. PSERM was instrumental in securing rights for the Roma and successfully campaigned for Romany-language instruction in elementary schools, the establishment of Romany studies at the university, and daily television and radio news and current affairs programs in Romany.

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

Human rights groups and ethnic community representatives meet frequently with foreign representatives without government interference. The Forum for Human Rights was established in 1990 by a group predominantly made up of academics to propagate a culture of respect for human rights. While their effort is primarily educational, they work with the Government and institutions to improve protection of human rights.

The Government did not oppose visits or investigations by international human rights groups. It has cooperated fully with the CSCE "spillover" monitor mission operating in Skopje. The mediator on ethnic groups of the International Conference on the Former Yugoslavia visited Macedonia frequently to negotiate "agreed min-

utes" between the Serbs and the Government and between the Albanians and the Government.

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

Women.—Women possess the same legal rights as men. Little is known of the extent to which violence against women, including domestic violence, occurs. Macedonian society, both in the Christian and Muslim communities, is traditionally patriarchal, and the advancement of women into nontraditional roles is still limited. In 1993 a few fledgling women's advocacy or support groups began to organize.

Children.—Macedonia's commitment to children's rights and welfare is limited by its resources. The State does have social welfare programs to support children, but the current economic crisis brought on by the sanctions against Serbia have rendered many inoperative. For example, allowances to parents whose employers have gone bankrupt are at least 5 months in arrears. Despite the State's financial limitations, it undertook a children's vaccination program in the spring of 1993 that reportedly covered at least 95 percent of the country's children. There is no pattern of societal abuse against children.

National/Racial/Ethnic Minorities.—The population of about 2.2 million is composed of a variety of national and ethnic groups—Macedonians, Albanians, Turks, Romas (Gypsies), Serbs, Greeks, and Vlachs (Aromanians). All citizens are equal under the law. The Constitution provides for the protection of the ethnic, cultural, linguistic, and religious identity of minorities. However, ethnic tension and suspicion are evident within the population, and popular prejudices exist. The Government appears committed to a policy of trying to address nationality concerns without provoking an extremist, nationalist backlash.

Representatives of the Albanian community are the most vocal in alleging discrimination. Expressing concern about undercounting, the Albanian community refused to participate in the 1991 census. As a result, there are no authoritative figures on its percentage of the population. According to the 1981 census, Macedonians comprised 67 percent of the population, Albanians 20 percent, Turks 5 percent, and Serbs 2 percent. Most observers estimate that Albanians now account for at least 30 percent of the population, while some Albanians claim 40 percent.

Albanians also boycotted the 1991 independence referendum because of objections to several articles in the Constitution, which referred to them as a minority rather than as a separate national group. Much of the Macedonian population considers the Albanian desire to be recognized as a nation responsible for its own affairs, rather than as a minority, as an assault on the unitary nature of the State and a step toward secession.

Albanians point out that there is a minimum amount of Albanian-language broadcasts on state radio and television, some 5 hours per week of television broadcasts. They contend there is inadequate schooling in the Albanian language and charge patterns of employment discrimination. Albanian advocacy groups and political parties have specifically charged that Albanians are underrepresented in both the military and the police forces.

The Government has acknowledged underrepresentation in the military and police, and the Ministries of Defense and Interior have instituted moderate measures to respond to the imbalance, including special competitions for midlevel positions open only to members of ethnic minorities and quotas for the induction of ethnic minorities into the military college and the police academy. Following the most recent conscription, the army, some 16,000 troops, is now 26.5-percent Albanian, and the police, 7,000 strong, are to reach 15 percent within 2 years, according to the Minister of Interior.

The State defends its record on access to television time. It notes that one of the state-owned stations broadcasts international programming which is either in English, French, or German. The remaining stations carry programming not only in Macedonian and Albanian but also in the languages of other ethnic groups. On the question of Albanian education, the State notes that primary and secondary education are provided, as well as Albanian-language courses at the college level to prepare primary and secondary schoolteachers.

Ethnic Turks, who comprise almost 5 percent of the population, have complained of governmental, societal, and cultural discrimination. Their main complaints concern insufficient Turkish-language education, exclusion from Macedonian political life, inadequate media access, and incommensurate representationin the state bureaucracy. For instance, they cited an inability to obtain primary and secondary education in Turkish for their children, but in many cases the children did not speak Turkish. The State has refused to offer instruction in a language the children

do not speak. Citizens have begun to teach their children Turkish in the hopes of reversing the decision.

In the past Serbs, who comprise 2 percent of the population, have also complained of discrimination. The constitution at the time of independence enumerated only substantial minority groups. Sespite the fact that Serbian minority rights have generally been observed, Serbs have demanded explicit constitutional recognition as a guarantee that they would have equal minority rights. An August 27 agreement between the Government and the ethnic Serbian community provided the latter equal rights with other minorities and specified an 18-month time frame for amending the Constitution. After Serbia/Montenegro criticized the agreement, a new Serbian leadership emerged and abrogated the agreement.

Popularly held prejudices were manifested in mid-February during a demonstration in the Gjorche Petrov suburb of Skopje against the construction of a refugee camp for Bosnian Muslims in the neighborhood. Police intervened to disperse demonstrators, and in the ensuing Macedonian-Bosnian Muslim melee 14 people, including 8 policemen, were injured. Parliament investigated police actions in the incident and exonerated the police of wrongdoing.

Roma comprise at least 3 percent of the population. and some estimates put their percentage as high as 10. President Gligorov has repeatedly and explicitly recognized Roma as full and equal citizens. There is a commendable lack of tension between the Romany population and the majority of Macedonian Slavs. There has been progress on concrete issues. For instance, educational issues are the paramount concern of the Roma in Macedonia, and there are frequent contacts and open communication between the Romany community and the Ministry of Education. A Romany primer has been prepared and will be printed shortly for use in schools. The Ministry and leading Romany educational experts have prepared a Romany educational program that would reportedly include 2 hours a week of instruction in the Romany language in grades one through eight. It is awaiting government approval. A 40,000-word Macedonian-Romany dictionary is under preparation, using the most widely spoken of the three main Romany dialects in the country. MRT provides some daily programming in the Romany language, offering instruction, news, and music.

The 13-member Council on Interethnic Relations, established in 1992 in accordance with the Constitution, is comprised of the President of the Assembly and two representatives each from six national and ethnic groups (Macedonians, Albanians, Turks, Serbs, Roma, and Vlach). The Council has not yet, however, demonstrated an ability to engage itself usefully in resolving ethnic conflicts.

People with Disabilities.—Social programs to meet the needs of the disabled exist in Macedonia to the extent that government resources allow. Discrimination on the basis of disability is illegal. So far as is known, there is no law or regulation mandating accessibility for disabled persons.

Section 6. Worker Rights

a. *The Right of Association.*—The 1991 Constitution guarantees citizens the right to form trade unions. There are restrictions on that right for military personnel, police, and government workers. However, the Government still has not enacted the required laws to implement the constitutional guarantees.

The Council of Trade Unions of Macedonia (SSSM) is the labor confederation that is the successor organization to the old Communist labor confederation. It continues to maintain the assets of the Communist group and remains the Government's main negotiating partner. An active observer of labor issues has termed it "independent of the Government and not associated with any party." The Union of Independent and Autonomous Trade Unions was formed in 1992. Perhaps as much as 80 percent of Macedonia's work force is unionized, though this situation is a result of the recent Socialist past. The absence of the necessary legal framework, combined with difficult economic conditions, have restricted labor activism.

The Constitution guarantees the right to strike. Strikes were common in 1993 because of difficult economic conditions as a result of the collapse of markets and limitations on access to raw materials, further aggravated by the strengthening of international sanctions against Serbia. During 1993 only one strike was declared illegal, and that action is to be challenged in the courts.

Trade unions are free to join international trade union organizations.

b. *The Right to Organize and Bargain Collectively.*—The Constitution implicitly recognizes employees' right to bargain collectively. Collective bargaining, however, is still in its formative stages. Formerly, public employee official unions, which encompassed the majority of unionized workers, established so-called collective agreements with the Government, which set minimum wages and various other standards. How this system is to be amended is still not resolved. As such, collective

agreements are still common, and they have virtually the status of law. Parliament has not yet approved legislation defining collective bargaining rights or prohibiting antiunion discrimination, but in practice, such discrimination has not been observed.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Legal prohibitions against forced labor are effectively enforced by the Ministries of Interior and Labor.

d. *Minimum Age for Employment of Children.*—The constitutional minimum age for employment of children is 15. Younger children, however, are often observed peddling items such as cigarettes, especially in the capital. Children may not legally work nights nor earn more leave than adults. They are permitted to work 42-hour weeks. Education is compulsory through grade eight. The ministries of labor and interior are responsible for enforcing laws regulating the employment of children.

e. *Acceptable Conditions of Work.*—The minimum wage, set in March, is approximately $50 (denars 1,500) per month. Negotiations involving the Government, employers, and labor organizations to increase this figure were under way in 1993, but agreement is proving elusive due in part to the serious economic conditions facing the country. Unions demanded an increase to $67 (denars 2,000). By law, in light of the fact that the average wage in July was denars 3,837, it should be raised to $76 (denars 2,302). Even if raised to the latter figure, however, the cost of living far exceeds the minimum wage.

Yugoslavia had extensive laws concerning acceptable conditions of work, including an official 42-hour workweek with a 24-hour rest period and generous vacation and sick leave benefits. Macedonia adopted many of these provisions, including specifically the workweek and rest period.

The Constitution guarantees safe working conditions, temporary disability compensation, and leave benefits. Although Macedonia has laws and regulations on worker safety remaining from the Yugoslav era, credible reports suggest they are not strictly enforced. The Ministry of Labor and Social Welfare is responsible for enforcing regulations pertaining to working conditions.

MALTA

Malta is a constitutional republic and parliamentary democracy. Executive power is vested in a President who appoints as Prime Minister the leader of the party that gains a plurality of seats in the quinquennial elections for the unicameral legislature. The two major political parties reflect widely divergent political views. The Nationalist Party, which was brought back to power in 1987 after 16 years of Labor Party rule, won reelection in 1992 with a three seat majority in Parliament.

Law enforcement and internal security are the responsibility of the Malta police under the command of a civilian commissioner. The Minister of Home Affairs and Social Development has jurisdiction over the police. Specially trained riot police form part of the regular police force. There were no allegations of human rights abuses by the police force during the year.

The Maltese economy is a mixture of state-owned and privately owned industry. Tourism and light manufacturing industry are the largest contributors to the economy. Foreign investment is actively promoted. The Government is attempting to develop Malta as a container transshipment point, as a center for offshore business and ship registration, and as a regional air transport center.

The Maltese Government is strongly committed to human rights. Constitutional protection for the fundamental rights and freedoms of the individual is upheld by an independent judiciary.

RESPECT FOR HUMAN RIGHTS

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

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

b. *Disappearance.*—There were no instances of political disappearance.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits inhuman or degrading punishment or treatment. These prohibitions are generally respected in practice. Several prison disturbances in 1993 resulted in a formal government inquiry into prison conditions. The inquiry report noted deteriorated conditions and proposed future remedial action. In response, the Government acknowledged the need for prison improvement and program reform and launched a facilities rehabilitation project and introduced educational programs. Although these initial efforts were largely superficial, attempts at more meaningful

change are under consideration. While prisons are old and lack other than essential facilities, prison conditions are not such as would inordinately threaten life or health.

d. *Arbitrary Arrest, Detention, or Exile.*—Freedom from arbitrary arrest and detention is provided for in the Constitution and generally respected in practice. The police may, on the basis of reasonable suspicion, arrest a person for questioning. Within 48 hours, persons so arrested must be brought before the court and charged or released. They have no right to legal counsel during this 48-hour period. Persons incarcerated pending trial are granted access to counsel, and periodic hearings are mandatory. Provision for bail exists.

Political exile is prohibited by law. No cases of exile were reported.

e. *Denial of Fair Public Trial.*—The Constitution requires a fair public trial before an impartial court. Defendants have the right to counsel of their choice, including court-appointed counsel at public expense, if necessary. Defendants enjoy a presumption of innocence, may confront witnesses and present evidence, and have a right of appeal. The courts' jurisdiction is limited in certain areas. Lay tribunals (e.g., the Industrial Tribunal and the Inheritance Partition Tribunal) have exclusive authority over certain judicial functions. Defendants before these tribunals may be represented by attorneys.

There are no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Privacy of the home is protected in the Constitution and generally respected in practice. Police officers of the rank of inspector and above may issue search warrants without a court order. Electronic surveillance is prohibited by law.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of expression in speech and press is protected by the Constitution and generally respected in practice. An exception is the 1987 constitutional amendment that bans foreign participation in local politics (e.g., guest foreign speakers sponsored by a political party) during the period prior to an election. Maltese libel law is largely modeled on British libel law. The dynamics of a small society result in some self-censorship, particularly on nonpolitical matters. Both major political parties either own or are affiliated with major daily newspapers and radio stations and openly criticize the other in the media and in public.

The 1991 Broadcast Law established pluralism in the broadcast media. Two government-owned stations, a Maltese/Libyan regional short-wave station, and eight private radio stations associated with political parties, the Roman Catholic Church and commercial interests, operated in 1993. In addition to the government-owned television broadcasting system, a commercial cable television company, which began operations in 1992, offers diverse broadcast options, including Italian, British, French, German, and American channels. In 1993 the Broadcasting Act was amended to allow holders of radio licenses to hold television licenses also. Some commercial interests, as well as one of the two major political parties, have since submitted applications for two available television licenses.

Eleven newspapers—three daily, seven weekly and one fortnightly—freely express diverse views. They are associated with political parties, labor unions, and the Roman Catholic Church, as well as with commercial interests.

Academic freedom is generally respected.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly. Police permits are routinely issued for political meetings and other public activities of political parties or groups of citizens.

Membership and participation in political parties are voluntary. However, strong societal (e.g., family or employment) pressure exists for affiliation with particular parties. A worker may not be fired for refusal to join a particular political party or be refused a job if not a party member.

c. *Freedom of Religion.*—The Constitution protects the freedom to practice the religion of one's choice and this is respected. The dominant religion is Roman Catholicism; small groups freely practice other religions. There are no laws prohibiting evangelizing or proselytizing. Government subsidies are granted only to Roman Catholic schools. Students enrolled in government schools have the option at any stage to decline instruction in the Roman Catholic faith.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Movement within the country, foreign travel, and emigration are generally not restricted, but civil rights groups, including the Association of Men's Rights, continue to criticize the "Impediments of Departure," a court action which may prohibit a person from departing the country for such offenses as nonpayment of debts or nonsupport of an estranged wife or children. Maltese emigrants who have acquired the citizenship of another country and have resided abroad for a min-

imum of 6 years may hold dual citizenship. Maltese born abroad must renounce their foreign citizenship by age 18 if they wish to retain Maltese citizenship.

Several hundred persons of various nationalities, many of them Iraqis, sought refuge in Malta in 1992, and the influx continued in 1993 to a level of approximately 700. Although foreign nationals seeking refugee status are not permitted to remain permanently in Malta, they often are granted employment permits (or undertake illegal employment) while awaiting resettlement in a third country. The Emigrants' Commission, which was established in 1987 as the local representative of the United Nations High Commissioner for Refugees (UNHCR), provides assistance and counseling for refugees while awaiting UNHCR review of their cases.

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

Malta is a parliamentary democracy in which the incumbent Nationalist Party and the opposition Malta Labor Party are important forces in daily life. Elections in which all parties participate freely are held every 5 years, with universal suffrage for those 18 years of age or over. In the 1992 election, 96 percent of the electorate voted.

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

Several human rights organizations and persons interested in promoting and protecting human rights operate freely. The Government, strongly committed to human rights, places no restrictions on investigations by international human rights groups.

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

Women.—All Maltese citizens have a legal right of access to housing, employment, and education on a nondiscriminatory basis. However, tradition and local culture have often separated women's rights from the overall concern for human rights, and enforcement of equal rights laws has been passive. Due to economic necessity and changing social patterns, women constitute a growing portion of the work force. Most women remain in traditional "women's jobs" such as sales clerks, secretaries, bank tellers, teachers, or nurses, or achieve success in family-owned businesses or selected professions (i.e., medicine). Women generally earn less than their male counterparts. In August Parliament passed legislation granting women equality in matters of family law. Similarly, a 1991 constitutional amendment which became effective in July 1993, commits the Government to promote equal economic, social, cultural, civic, and political rights for all persons regardless of sex and to undertake appropriate measures to eliminate discrimination between the sexes. Remnants of discriminatory language within existing laws are undergoing revision.

Victims of sexual discrimination have redress before the criminal courts. However, as no sexual discrimination cases have been argued before the courts, the actual limits of police or court support for such cases has not been tested. A pending case raises the question of a daughter's right to assume her father's union shipyard job after his death, a privilege previously accorded the eldest son.

Recent changes in the law appear to have had little effect on day-to-day life as many cultural patterns that appear discriminatory remain in place by general consensus. Women's primary accepted roles remain those of wife and mother. Cultural pressure reinforces these roles. Women continue to be underrepresented in management, government, and politics. Family violence against women and children has received increased attention, which has led in turn to an increased number of reported cases. A special police unit and several voluntary organizations provide support in cases of domestic violence. A government emergency fund and subsidized shelter for battered women offers assistance for verbally and physically abused women.

Trafficking in prostitution is a serious offense under Maltese law; traffickers are subject to heavy penalties. Rape and violent indecent assault likewise carry heavy penalties under the law. The law does not distinguish between rape inside and outside marriage.

Divorce is not legal in Malta.

Children.—The rights of children and their role in society have generally been viewed within the larger context of family law. The Government has preferred to remain neutral in such matters. However, legislation aimed at guaranteeing and protecting children's rights is under consideration. As public awareness has increased, so has the number of reported cases of child abuse. However, there is no indication that the actual number of cases has increased, but rather the number reported.

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People with Disabilities.—Numerous pieces of legislation exist to protect the rights of the disabled, including the 1969 Employment of Disabled Persons Act which ensures employment opportunities for the disabled. The 1992 Structure Plan set forth policies requiring accessibility to buildings and public transport. Basic educational and training programs for persons with physical and mental disabilities are available.

Section 6. Worker Rights

a. *The Right of Association.*—Labor rights are traditionally well protected in Malta. Workers have the right to associate freely and to strike, a right respected in practice. Only uniformed personnel of the armed forces and police are prohibited from striking. In 1993 there were 24 registered trade unions, representing about 50 percent of the work force. Although all unions are independent of political parties, the largest union, the General Workers' Union, is perceived as having a close association with the Malta Labor Party. During the year there were 10 strikes which resulted in the loss of 2,480 work days. The major strike was in public transport (bus service) with a loss of 1,300 workdays. Other strikes were centered on the banking, cargo handling (ports), and public works industries. Under the Industrial Relations Act of 1976, the responsible minister may refer disputes to the Industrial Tribunal for binding settlement. The International Labor Organization (ILO) Committee of Experts objected again in 1993 to the provision that permits compulsory arbitration at the request of only one of the parties, but local labor and employers appear to have no objection to it. No disputes were referred to the Industrial Tribunal in 1993. In practice, a striking union can ignore an unfavorable decision by continuing the strike on other grounds.

There is no prohibition on unions affiliating internationally.

b. *The Right to Organize and Bargain Collectively.*—Workers are free, in law and practice, to organize and bargain collectively. While most wages are negotiated between unions and employers, the Government in 1990 mandated a substantial nationwide wage increase after reaching agreement with the unions and employers. In December 1990 the Government, trade unions, and employers signed a comprehensive agreement regulating industrial relations and income policy. Cost-of-living increases are now established in accordance with government statistics based on the retail price index as calculated by a tripartite independent committee. During the agreement's 3-year term, which was due to expire in December, the Malta Council for Economic Development informs the partners semiannually of the projected changes in the price index. The projections served as a basis for negotiating collective agreements. According to the Industrial Relations Act, an employer may not take action against any employee for participation or membership in a trade union. Complaints may be addressed through a court of law or an industrial tribunal composed of one representative each of the employer, union, and government. As most disputes are resolved directly between the parties involved, few are brought before the court or tribunal. However, for the few which have been, both methods of negotiation proved effective. Complaints of discrimination may also be lodged with the Commission Against Injustices. Workers fired solely for union activities must be reinstated. An October 1993 Employment Commission decision awarded two Malta drydocks workers substantial compensation for having been routinely denied overtime opportunities because of their political beliefs. All workers, both union and nonunion, are protected from discrimination, although it has not been necessary for the Government to enforce the matter actively.

Malta has no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is prohibited by the Constitution and does not exist. Any claimed violations could be submitted for adjudication to the Constitutional Court.

d. *Minimum Age for Employment of Children.*—Children younger than 16 years may not legally be employed. The law is generally respected, although instances of employment of underage children as domestics, restaurant kitchen help, and venders during summer months occur. The Department of Labor, which is responsible for enforcement of the law, does so effectively. Due to economic necessity and the family nature of many businesses, enforcement of summer employment of underage youth is occasionally lax.

e. *Acceptable Conditions of Work.*—The legal minimum wage, $103 (40.33 Malta liri) per week, which is generally enforced, provides a decent standard of living for a worker and family when government subsidies for housing, health care, and free education are added. In addition to the minimum wage, employers are required to pay an annual bonus of approximately $295 (116 Malta liri), half payable in March and half in September. The Government pays a worker a marriage bonus of approximately $2.55 (1.00 Malta liri) weekly and an annual child assistance payment for each child under 16 years of age beginning at approximately $500 (195 Malta liri)

for the first child, $390 (153.40 Malta lira) for the second child, and $260 (101.40 Malta lira) for each additional child. The average Maltese family is commonly viewed as a working husband, wife and two children.

Hours of work are regulated by wage council orders for various trades. For most sectors the standard is 40 hours per week, but in some trades the standard before overtime is paid is 43 or 45 hours per week. Government labor regulations prescribe daily rest periods of 1 hour. The annual paid vacation mandated by law is currently 22 working days. In general, these laws and regulations are effectively enforced by the Department of Labor.

Despite several years' discussion, the government-proposed establishment of an authority for workers' health, safety, and welfare still has not occurred. Enforcement of occupational health and safety standards, the responsibility of the Department of Labor, has been lax. Reports of an increasing number of industrial accidents in 1993 add credence to the concerns of some that existing laws may be outdated and inadequate to protect workers effectively.

MOLDOVA

The Republic of Moldova declared independence from the Soviet Union in 1991. Most of the Republic was part of Romania between 1918 and 1940, and the majority of its population is Romanian-speaking.

The President, Mircea Snegur, was elected by Parliament in July 1990 and, seeking a stronger mandate, in direct elections in December 1991. Although opposition candidates withdrew and called for a boycott, Snegur won an overwhelming victory, which was interpreted as a show of support for an independent Moldova. The Government has not been able to assemble a working majority in Parliament. The Prime Minister is a leader of the Agrarians, the largest single group in Parliament. The numerous other parliamentary groups include several smaller parties, which support eventual unification with Romania, and a faction that includes mostly Russian-speaking deputies. Early parliamentary elections have been scheduled for February 27, 1994. They were considered necessary to end the parliamentary deadlock which slowed political and economic reform.

The Ministry of Internal Affairs has responsibility for the police, while the Ministry of National Security controls the security organs. There are mechanisms to provide for limited parliamentary oversight of the activities of the security organs. The Parliament has the ability to vote the dismissal of employees of the Security or Interior Ministries if employees have not correctly fulfilled their duties or have been involved in illegal activities. In principle, this gives the Parliament a means to affect the activities of the security organs. This power was not exercised in 1993.

Moldova's largely agricultural economy continues to suffer from the problems of privatization and lack of resources. The Government removed most subsidies from food and other products and launched the privatization of housing. The pace of agricultural privatization also accelerated.

As a result of the political deadlock, Moldova did not establish a legal framework to ensure protection for human rights in 1993. Nonetheless, Moldova made steady progress in improving respect for some human rights. Freedom of religion and freedom of movement were respected in practice. Ethnic relations improved as a genuine dialog began among the different groups, although language issues remain a source of tension. Other problem areas include an unreformed legal system that allows pretrial detention as long as 18 months; a judiciary that has yet to establish its independence; an unreformed prison system; instances of custodial abuse; and a significant degree of self-censorship that limits freedom of the press.

Two significant separatist movements within Moldova present problems that remain unresolved. In the Transdniester region, the separatist movement, led by a pro-Soviet group, initially sought independence for the region but has on occasion indicated a willingness to discuss federal or confederal solutions. There are continuing credible reports of human rights abuses in Transdniester, although the scale of serious abuses is much smaller than in 1992. The cease-fire of July 1992, which ended armed conflict between the two sides, was generally observed. Negotiations between Moldovan leaders and representatives of the other separatist movement, that of the Gagauz (Christian Turkic) minority, centered in 1993 on territorial and cultural autonomy, but Parliament rejected territorial autonomy.

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

a. *Political and Other Extrajudicial Killing.*—Politically motivated killings are not known to have occurred in 1993. Given the heightened tensions in many parts of the country due to the separatist conflicts and deteriorating economic conditions, the Ministry of Internal Affairs has instituted a policy that strongly discourages officers from using firearms in any but the most clearly life-threatening situations. Police recruits are reportedly tested on their ability to refrain from the use of armed force under provocation. There were no known claims of improper use of lethal force by police in 1993.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There were no allegations of torture of civil or criminal prisoners by Moldovan authorities in 1993, but there were credible reports that police sometimes beat prisoners in their custody. Prisoners complained of extremely harsh conditions in prisons, including inadequate sanitation, medical care, and food supplies, lack of bedding, and beatings by jailers, coupled with indifference on the part of the authorities to the condition of the prisoners. Prisoners also reported, credibly, that jailers did not intervene to prevent some prisoners from abusing others.

Police beat four ethnic Russians, formerly soldiers in the Russian 14th Army stationed in Moldova, while in custody on charges of car theft.

Independent human rights groups report that allegations that the Transdniester authorities mistreat prisoners are credible. A group of ethnic Romanians (the "Tiraspol Six"), arrested in 1992 and indicted for the assassination of two Transdniester officials, made extensive charges of mistreatment. They charged that during 10 months of pretrial detention they were beaten, subjected to mock executions, drugged, and attacked by dogs. There is special concern about the condition of one of the prisoners, Andrey Ivantoc, who appears to suffer from physical and mental illness requiring medical treatment. The separatist authorities initially refused to allow the International Committee of the Red Cross to visit these prisoners, and family members and lawyers were often refused access to the prisoners. Once the trial of the prisoners began in April, however, their treatment apparently improved, and they were usually permitted visits by family members and lawyers (see Section 1. e.).

d. *Arbitrary Arrest, Detention, or Exile.*—The former Soviet code on penal procedure remains in force, with some amendments. The prosecutor's office issues arrest warrants. A suspect may be held for 72 hours without charge and is normally allowed family visits during this period. This 72-hour time limit appears to be generally respected. If charged, a suspect may be released pending trial, often with the restriction that he or she not leave town. There is no system of bail, but in some cases a friend or relative, in order to arrange release, may give a written undertaking that the accused will appear for trial.

Suspects accused of violent or serious crimes are generally not released before trial; the prosecutor's office makes this determination without any judicial review. The code permits pretrial detention, at the prosecutor's discretion, for up to 18 months.

In 1992 the Penal Procedure Code was amended to permit suspects earlier access to an attorney. Formerly, an attorney could be present during official questioning only after an arrest or after the prosecution had completed its investigation and forwarded the case to the court. If a suspect were detained and under investigation but not formally arrested, he had no right to have an attorney present. Under the amended provisions, a suspect may have an attorney present during questioning from the moment the prosecutor files an "affidavit of retention," which restricts the suspect's movements without putting him under arrest. If a person is unable to afford a lawyer, one is provided at public expense.

e. *Denial of Fair Public Trial.*—The independence of the judiciary has increased since the dissolution of the Soviet Union; however, there is still no legal framework guaranteeing judicial independence. There are local courts on the city or rayon (district) level, with the Supreme Court acting as an appellate court. The Supreme Court is divided into two sections, one handling civil cases and the other criminal cases. In criminal cases, the defendant by law enjoys a presumption of innocence.

Generally, trials are open to the public. Defendants have the right to attend proceedings, confront witnesses, and present evidence. Defense attorneys are able to review the evidence against their clients when preparing their cases. The accused enjoys a right of appeal to the Supreme Court. In a number of cases, decisions of lower courts were overturned on appeal.

Members of the Russian-speaking minority have expressed concern that they have not received equal treatment before the courts. To date, no pattern of discrimination has emerged in the judicial system.

In the area of Moldova not under Transdniestrian control, no prisoners are known to have been convicted or to be serving sentences based on political charges. There have been credible charges, however, that local prosecutors have brought unjustified cases against individuals in retribution for their accusations of official corruption.

In the Transdniester region, the trial of the "Tiraspol Six", ethnic Romanians charged with assassinating two Transdniester officials, began in April, almost 10 months after their arrest. International human rights groups, including the Russian group Memorial, raised serious questions about the fairness of the trial. The legitimacy of the court has also been called into question. Separatist authorities have reportedly harassed and threatened attorneys for the defendants. One lawyer, an ethnic Russian, made a statement in court, protesting the actions taken against her and alleging that local security forces were following her. She withdrew from the trial. In December all the accused were found guilty; the leader of the group was sentenced to death, while several other defendants were sentenced to long prison terms. While the prisoners remained in detention at year's end, the formal sentences, including the death sentence, had not been carried out.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—According to the 1990 law on the police, the prosecutor's office issues search warrants. There have been instances when searches were conducted without warrants, and courts do not exclude evidence that was illegally obtained. There is no judicial review of warrants.

Some government critics claimed that they were followed by security forces and harassed. It was widely believed that the security forces continued to use electronic monitoring of residences and telephones in some cases, although evidence of such activities was lacking. By law, the prosecutor's office must authorize wiretaps and may do so only if a criminal investigation is under way. In practice, the prosecutor's office lacks the ability to control and check the security organs and police to prevent them from using wiretaps illegally.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Government did not actively repress freedom of speech and press during the year. Political parties and other groups published their own newspapers and freely criticized the Government. However, freedom of the press was limited by the lack of independent news media, especially broadcast media. The Government controls radio and television, and official or quasi-official entities such as government departments or Parliament own most of the major newspapers, resulting in significant self-censorship. Some writers report, for example, that editors encouraged them to mute criticism of individual political leaders or to cite the "authorities" rather than individual officials by name.

Sfatul Tarii, the parliamentary Romanian-language daily, ceased publication when Parliament cut off most of its funding. Parliamentary leaders claimed that they could not support two newspapers (the other is the Russian-language Independent Moldova). Editors of Sfatul Tarii charged that its funding was cut because of its criticism of the Government.

The Government does not restrict foreign publications. Newspapers from Russia are widely available in Moldovan cities. Those from Romania are available but are expensive and generally more difficult to obtain. Newspapers published by the separatist forces are not available in the rest of Moldova, although they arrive by mail without apparent interference. On the other hand, Romanian-language Moldovan newspapers are increasingly available in the separatist Transdniester region.

The Government controls radio and television. In the Transdniestrian area, the authorities continue to ban Moldovan radio and television. Moldova receives television broadcasts from Romania and from Russia.

b. *Freedom of Peaceful Assembly and Association.*—The right to peaceful assembly is protected by law. Permits for demonstrations are generally issued by the mayor's office, which may consult the national Government if the demonstration is likely to be extremely large.

There were few demonstrations in 1993; all were allowed to take place without police interference, although a large police contingent was occasionally deployed to protect the targets of demonstrations, such as the President's office. In a few cases, permits were denied for demonstrations, but no action was taken to interfere when demonstrations occurred anyway.

Private organizations, including political parties, are required to register, but applications appear to be handled routinely.

The Presidium of the Parliament ended the ban on the Communist Party.

c. *Freedom of Religion.*—The practice of religion is generally free in Moldova. Parliament passed a law on religion in 1992 which codified religious freedoms, although it contained restrictions that could inhibit the activities of some religious groups.

The law guarantees freedom of religious practice, including each person's right to profess his religion in any form. It also provides for alternative military service for conscientious objectors, protects the secrets of the confessional, allows denominations to establish associations and foundations, and states that the Government may not interfere in the religious activities of denominations.

The law, however, also requires that religious groups be recognized by the Government in order to function and that denominations obtain specific government approval to hire noncitizens. The law also prohibits proselytizing. In practice, street preaching and the holding of religious revivals have flourished, although there were unconfirmed reports of police preventing street preaching in some cases. Some Protestant denominations are concerned that the prohibition on proselytism could inhibit their activities. In addition, Parliament did not issue implementing regulations that provided a legal definition of proselytizing, leaving open the possibility of abuse. To date, no legal actions are known to have been taken against individuals for proselytizing, despite a substantial amount of such activity.

Although the Orthodox Church was not designated as the official religion of Moldova in the law on religion, it continued to be the strongest religious force and exerted significant influence. In December 1992, a group of (primarily ethnic Romanian) priests broke off from the Moldovan Orthodox Church, which is under the authority of the Patriarch of Moscow, and received recognition by the Romanian Orthodox Synod as a metropolitanate within the Romanian Orthodox Church. Some Moldovan congregations have chosen to join them. The Government, however, has not registered the new group, which advocates the union of Moldova with Romania. Priests who have joined the "Metropolitanate of Bessarabia-Old Style," as it is called, have made credible allegations that local authorities have sometimes harassed them. They also allege that priests remaining with the Russian Orthodox group have threatened and harassed them and their congregations, while local police have taken no action. Although the Ministry of Culture and Religious Affairs has supported the request of the metropolitanate to be registered, many high government officials appear to favor the Russian Orthodox group and to support the eventual creation of a single Moldovan Orthodox Church, independent of both Russia and Romania.

Protestant groups have increased their ties with coreligionists abroad; foreign missionaries are established in Moldova and maintain regular contacts with their missions.

The Jewish community, although small, increased its activities in 1993, and Jewish leaders report that their relations with the Government and local authorities are cooperative. Although there were occasional appearances of anti-Semitic graffiti, there was no organized anti-Semitism.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no closed areas or restrictions on travel within Moldova. Moldovans generally were able to travel and emigrate freely in 1993. While Soviet legislation is still in effect, exit visas, which are still required, are routinely issued with passports. Restrictions on emigration remain in force, including the requirement to gain the permission of close relatives in order to emigrate. One Moldovan citizen was initially denied the right to emigrate because she could not produce evidence of the concurrence of her father, who had left the family following a divorce, had not had any contact with the daughter for years, and was believed to have left Moldova. She was eventually granted permission to emigrate. At least one applicant was denied exit permission because he had access to state secrets. Such cases are, however, rare.

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

Parliamentary elections in 1990 and presidential elections in 1991 were Moldova's first steps toward permitting a fully functioning democratic system that would allow citizens to change their government.

As a result of frustration with the difficulties experienced by Parliament in resolving the most pressing problems facing Moldova, a group of deputies, supported by the parliamentary leadership and the President, has called for new elections in advance of the end of Parliament's term in 1995. They began a boycott of Parliament in September in order to force early elections, which were finally set for February 27, 1994. Parliament asked international groups to provide technical assistance for evaluation of the electoral laws, training of poll watchers, and civic education.

The electoral law adopted in October provides for elections on a multiparty basis. New presidential elections were also being considered. These new elections will be the first opportunity for the citizens to demonstrate their ability to effect a substantial change in their government.

There are no restrictions, in law or practice, on the participation of women in politics or government. Women are increasingly represented in important positions in ministries, including one Cabinet-level official. Women are also reasonably well represented in the judiciary. There are few women in leading positions in political parties, although a women's party will field a slate of candidates in the February elections. About 3 percent of parliamentary seats were held by women in 1993.

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

A local human rights group, Helsinki Watch, was formed in 1993 and operated without governmental interference. While it focused primarily on abuses in the Transdniester region by the separatist authorities, it increased its contacts with other groups and began to examine more controversial human rights issues, including minority issues.

Several international human rights groups were active during 1993, with the Government generally receptive to their activities. Parliament sent draft legislation to the American Helsinki Watch, the Council of Europe, and other international organizations for expert evaluation.

The Government welcomed and supported the work of the Conference on Security and Cooperation in Europe (CSCE), which has a mission in the country to assist with finding a resolution for the separatist conflict. In January 1993, the Government requested the CSCE to send a mission of experts to investigate and provide advice on current Moldovan legislation and "implementation of minority rights and interethnic relations." In response, the CSCE's Office of Democratic Initiatives and Human Rights (ODIHR) sent a team of experts to Chisinau from January 31 to February 4.

The Transdniester separatist authorities stated that they will cooperate with the CSCE mission. However, on several occasions mission members were impeded from traveling freely in the separatist region or threatened by militia or paramilitary forces.

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

Women.—Theoretically, women enjoy equal rights under the law. However, women are generally underrepresented in government and leadership positions and, according to statistics, have been disproportionately affected by growing unemployment. Several women's organizations are active politically and in charitable work.

Women who suffer physical abuse by their husbands have the right to press charges; prison sentences may be given to husbands convicted of such abuse (up to 6 months is not uncommon). Public awareness of the problem of violence in families generally is not very high, and no special government programs exist to combat spouse abuse.

According to knowledgeable sources, women do not generally appeal to police or the courts for protection against abusive spouses because they are embarrassed to do so. Police generally do not consider spouse abuse a serious crime, although, when cases do reach the court, they appear to be treated seriously. Spouse abuse is not identified by women or legal authorities as a common problem.

Children.—Moldova has extensive legislation designed to protect children, including extended paid maternity leave and government supplementary payments for families with many children. The health system devotes extensive resources to vaccination programs and child care. No special problems with child abuse were reported in 1993.

National/Racial/Ethnic Minorities.—Moldova's citizenship law, adopted in 1990, offered an equal opportunity to all persons resident in Moldova at the time of independence to adopt Moldovan citizenship. The CSCE's ODIHR praised the law as being very liberal. The law does not, however, permit dual citizenship except on the basis of bilateral agreement. No such agreements were in effect in 1993.

Moldova has a population of about 4.3 million, of which 65 percent are ethnic Romanians (also called Moldovans). Ukrainians (14 percent) and Russians (13 percent) are the two largest minority groups. A Christian Turkic minority, the Gagauz, lives primarily in the southern regions. They are largely Russian-speaking and represent about 3.5 percent of the population. Bulgarians, also mostly Russian speakers, represent about 2 percent of the population. About 600,000 people (14 percent of the total population) live in the Transdniester region, currently controlled by separatist

forces. In this region, about 60 percent of the population is Slavic-speaking and 40 percent ethnic Romanian.

While some groups within Moldova continue to advocate unification with Romania, this idea has generally lost popularity over the past several years. This, in turn, has led to some improvements in the relations between Romanian speakers and Russian speakers. The latter express serious concern about the situation of Russian speakers if unification were to take place. The leadership of the separatist "Transdniester Moldovan Republic" sought to capitalize on fears of discrimination to gain support from the majority Russophone population of the region.

Although the two sides held negotiations on several levels during 1993, they made little progress. In January an "experts commission," including officials of both sides, agreed on a set of basic principles to guide the negotiations; however, the Transdniester "Supreme Soviet" subsequently rejected these principles. In November a bipartite commission was formed with the participation of a Russian mediator. No results from this effort were reached by year's end.

In the south, an autonomous Gagauz republic was also proclaimed in 1990. Although no solution to the conflict with the Gagauz region has yet been found, serious negotiations took place during 1993. The Government and parliamentary leadership proposed a draft law which gained the concurrence of much of the Gagauz leadership. It would have permitted significant territorial and cultural autonomy and would have allowed the Gagauz area to withdraw from Moldova if Moldova united with Romania. Parliament, however, rejected this version and prepared its own proposal, which was sent to the Council of Europe for expert evaluation. This version provides for significant cultural autonomy but does not give the Gagauz the right to leave Moldova if unification occurs. The draft had not been voted on by the end of the year.

Language issues remain a source of tension. Before 1989, Russian was the dominant language in Moldova. Moldovans were forced to use the Cyrillic alphabet to write "Moldovan," which was officially declared to be a different language from Romanian, although they are in fact the same language. In August 1989, the then Supreme Soviet of Moldova adopted a law making Moldovan (Romanian) the official language of the Republic and replacing the Cyrillic alphabet with the Latin. Although the law contains significant protection for the use of Russian and other languages, it is widely criticized by Russian speakers, who fear that its real intent is to drive Russian speakers from the country.

The principle inherent in the language law is that, in dealing with any official or commercial entity, the citizen should pick the language to use and the entity should be in a position to accommodate him. Officials and employees are therefore obligated to know Romanian and Russian (and Gagauz, in the Gagauz regions) "to the degree necessary to fulfill their professional obligations." State enterprises, however, are expected to use Romanian as their working language, unless their local authorities obtain approval from the Government to use Russian or another local language (e.g., Gagauz). The law sets a deadline of January 1, 1994, for beginning to implement these requirements. Implementation of language testing to determine whether employees have reached the necessary levels of proficiency in the official language, however, was postponed to April 1994 by Parliament.

Russian speakers have criticized the Government for failing to provide sufficient support to those who want to learn Romanian. Officials note that they have tried to improve the assistance offered (usually to study groups in the workplace), but that requests for teachers and manuals have declined.

Moldova continues to offer Russian-language education through university level, although the number of places for Russian-speaking students has declined. The shortage of buildings for elementary and high schools contributes to the friction surrounding this issue. Education officials state that Russian will continue to be studied at all schools and that Romanian instruction in Russian-language schools will be improved. Although there is broad acceptance for continuing minority language education on the grade school level, there is less support for maintaining Russian-language sections in all disciplines at the state university.

In the Transdniester region, the separatist authorities have decreed that all schools must return to using the Cyrillic alphabet for the "Moldovan" language, which they insist is a different language from Romanian. Authorities have intensified efforts, begun last year, to confiscate textbooks in Romanian and have dismissed or threatened to dismiss teachers who oppose this policy. A number of students and teachers have protested, including by boycotting classes.

People with Disabilities.—While there is no legal discrimination against people with disabilities, there are no laws providing for accessibility for them, and there are few government resources devoted to training people with disabilities. The Government does provide tax advantages to charitable groups that assist the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—The 1990 Soviet law on trade unions, which was endorsed by Moldova's then Supreme Soviet and is still in effect, provides for independent trade unions. Moldovan parliamentary decisions in 1989 and 1991, which give citizens the right to form all kinds of social organizations, also provide a legal basis for the formation of independent unions. However, there have been no known attempts to establish alternate trade union structures independent of the successor to the previously existing official organizations which were part of the Soviet trade union system.

The successor organization, which at the republic level is called the Federation of Independent Trade Unions of Moldova (FITU), broke with the Moscow-based General Confederation of Trade Unions in 1992. The FITU's continuing role in managing the state insurance system and its retention of previously existing official union headquarters and tourist facilities provide an inherent advantage over any newcomers who might wish to form a union outside its structure. However, its industrial or branch unions are developing as more independent entities, maintaining that their membership in the FITU is voluntary and that they can withdraw if they wish. Several threatened to withdraw in 1992 in a successful effort to block the election of a former Communist party secretary to its presidency.

The FITU has insisted on the right to have union representatives involved in the negotiations to set the minimum wage. It has opposed government measures to raise prices before back salaries were paid. In these matters, it has begun to leave behind its role as an accessory of the Communist party and to work on securing better treatment for workers.

Government workers do not have the right to strike, nor do those in essential services such as health care and energy. Other unions may strike if two-thirds of their members vote for a strike in a secret ballot. There was a 1-day strike by trolleybus drivers in November. The Government considered this strike by public workers illegal. The strike ended after the Government offered a small wage increase and pledged to discuss working conditions.

Unions may affiliate and maintain contacts with international organizations.

b. *The Right to Organize and Bargain Collectively.*—Moldovan labor law, which is still based on former Soviet legislation, provides for collective bargaining rights, but collective bargaining is only just beginning. There were no known collective bargaining agreements in 1993.

There were no reports of actions taken against union members for union activities. The 1990 Soviet law on trade unions provides that union leaders may not be fired from their jobs while in leadership positions or for a period after they leave those positions. This law has not been tested in Moldova. There are no export processing zones in Moldova.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is not specifically prohibited; there were no instances reported.

d. *Minimum Age for Employment of Children.*—The minimum age for employment under unrestricted conditions is 18. Employment of those aged 16 to 18 is permitted under special conditions, including shorter workdays, no night shifts, and longer vacations. The Ministry of Labor and Social Protection is primarily responsible for enforcing these restrictions, and the Ministry of Health also has a role. Child labor is not used in Moldovan industry, though children living on farms do sometimes assist in the agricultural sector.

e. *Acceptable Conditions of Work.*—The minimum monthly wage, although it was more than tripled during the year, did not keep pace with inflation. It does not provide a decent standard of living for a worker and family. At the end of November, the minimum monthly wage was about $3 (10,000 rubles, or 10 Moldovan lei in the new currency introduced then). The Labor Code establishes a workweek of 41 hours, including at least 1 day off weekly.

The State is required to set and check safety standards in the workplace. The unions within the FITU also have inspection personnel who have a right to stop work in the factory or fine the enterprise if safety standards are not met. In practice, however, the declining economic situation has led enterprises to economize on safety equipment and generally to show less concern for worker safety issues.

MONACO

Monaco, with a population of 30,000, is a constitutional monarchy in which the sovereign Prince plays a leading role in governing the country. The Prince names the four-member Government, which is headed by a Minister of State, assisted by

Counselors of Government for the Interior, for Public Works and Social Affairs, and for Finance and the Economy. Each is individually responsible to the Prince. Legislative power is shared between the Prince and the popularly elected, 18-member National Council. There are in addition three consultative bodies, whose members are appointed by the Prince. These are the 7-member Crown Council, the 12-member Council of State, and the 30-member Economic Council, which includes representatives of employers and the trade union movement.

The national police force has four branches, including an investigative one. Security duty and ceremonial representation are carried out by the "Carabiniers du Prince." All these forces are controlled by and responsive to government officials.

The principal economic activities in Monaco are services and banking, light manufacturing, and tourism.

Individual human rights are provided for in the Constitution and respected in practice. The Constitution distinguishes between those rights that are guaranteed all residents and those that apply only to the 5,000 who hold Monegasque nationality. The latter include free education, financial assistance in case of unemployment or illness, and the right to vote and hold elective office. The 1993 National Council elections brought a second political party into the Council for the first time. Women traditionally have played a less active role than men in public life, but this is changing. Women currently hold both elective and appointive offices. The first female police officers were hired in 1993.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Such incidents are unkown in Monaco.

b. *Disappearance.*—There were no instances of disappearance or abduction.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Such practices are barred by the Constitution. These prohibitions are respected in fact. There is no public record of any complaint of police brutality.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution bars arbitrary arrest. Arrest warrants are required in all cases other than those in which the detainee is taken into custody while committing an offense. The detainee must be brought before a judge within 24 hours to be informed of the reason for the arrest and his rights under the law. Most detainees are released without bail, but an individual may be held in investigative detention if the investigating magistrate has reason to believe the person might flee or that his release would compromise the magistrate's investigation of the case. The initial 2-month period of detention may be renewed if necessary. Those detained have the right to counsel, at public expense if necessary.

Attorneys have access to detainees. Family members may see the detainee at the discretion of the investigating magistrate.

e. *Denial of Fair Public Trial.*—Under the 1962 Constituion, the Prince delegated his judicial powers to an independent judiciary which renders justice in his name. The right of fair, public trial is guaranteed in law and respected in practice. The defendant has the right to be present and the right to counsel, at public expense if necessary. As under French law, a three-judge tribunal considers the evidence amassed by the investigating magistrate and hears the arguments presented by the prosecuting and defense attorneys. The defendant enjoys a presumption of innocence. Exercise of the right of appeal must be made within 10 days in criminal cases and 30 days in civil ones.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The individual's right of privacy in personal and family life, at home, and in correspondence is guaranteed by the Constitution and respected in practice.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and the Press.*—Freedom of expression is guaranteed. The Monegasque Penal Code, however, prohibits public denunciations of the ruling family. Several local periodicals are published in Monaco. Foreign newspapers and magazines, including editions of French papers that specifically cover news in the Principality, circulate freely. Foreign radio and television are easily received. The television and radio stations that broadcast from the Principality operate in accordance with French and Italian regulations. Academic freedom is respected.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution gives Monegasque nationals the rights of peaceful assembly and association. Outdoor meetings require police authorization. Such authorization is not withheld for politi-

cal or other arbitrary reasons. Associations must be registered and authorized by the Government.

c. *Freedom of Religion.*—Roman Catholicism is the state religion. Free practice of all other religions is guaranteed in law and respected in fact.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Residents of Monaco move freely within the country and across its open borders with France. Monegasque nationals enjoy the rights of emigration and repatriation. They can be deprived of their nationality only for specified acts, including naturalization in a foreign state. Only the Prince can grant or restore Monegasque nationality. On such questions, he is obliged by the Constitution to consult the Crown Council.

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

The fundamental difference between the Monegasque Constitution of 1911 and the 1962 Constitution which replaced it is that the latter cannot be suspended, nor can it be revised except by common agreement between the Prince and the National Council. The Prince plays an active role in government, exercising his authority in conformity with the provisions of the Constitution and Monegasque law. Specifically, the Prince names the Minister of State (in effect, the Prime Minister) from among a list of names proposed to him by the French Government. He names as well the three Counselors of Government (of whom the one responsible for the interior is normally a French national). Together the four compose the Government. Each is individually responsible to the Prince.

Only the Prince may initiate legislation, although the 18- member National Council may send proposals for legislation to the Government for consideration. Passage of legislation and adoption of the budget require the assent of the Council. Elections, which take place every 5 years, are free and by secret ballot. All adult Monegasques have the right to vote. Two political parties are currently represented on the Council. There is one independent member.

The Constitution provides for three consultative bodies. The seven-member Crown Council (composed exclusively of Monegasque nationals) must be consulted by the Prince regarding certain questions of national importance (ratification of treaties, dissolution of the National Council). He may choose to consult it on other matters as well. The 12-member Council of State advises the Prince on proposed legislation and regulations. The 30-member Economic Council advises the Government on social, financial, and economic questions. One-third of its members come from lists proposed by the trade union movement and one third from those prepared by the employers' federation.

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

While the Government imposes no impediments, no local groups devoted to monitoring human rights exist. There have been no requests from outside groups to investigate human rights conditions in Monaco.

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

The Constitution provides that all Monegasque nationals are equal before the law. It differentiates between rights that are accorded nationals (including preference in employment, free education and assistance to the ill or unemployed) and those guaranteed to all residents (freedom of religion, inviolability of the home).

Women.—Women are becoming increasingly active in public life. The Mayor of Monaco is a woman, as is one member of the National Council. Six of Monaco's 19 lawyers are women, as are 6 of 41 physicians and 8 of 22 dentists. No comparable statistics are available for women in the business world, where women are not as well represented as in the professions. The law governing transmission of citizenship was recently revised to assure equality of treatment between men and women who are Monegasque by birth. However, women who acquire Monegasque nationality by naturalization cannot transmit it to their children, whereas naturalized male citizens can. Violence against women is unusual. Marital violence is strictly prohibited. Married women may bring criminal charges against their husbands should such incidents occur.

Children.—The Government is committed to protecting children's rights and welfare. Government subsidies to families with children begin with the birth of the first child.

People with Disabilities.—The Government has mandated that public buildings provide for access by the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—Workers have been free to form unions since the end of World War II. Fewer than 10 percent of workers belong to unions, and relatively few of these are resident in the Principality. Unions are independent of both the Government and Monegasque political parties. At its origin, however, the Monegasque trade union movement was assisted by the French General Confederation of Labor (CGT), which has links to the Communist Party. The Constitution specifies that workers enjoy the right to strike in conformity with relevant legislation. Government workers, however, may not strike. Several small strikes took place in 1993. The Monegasque Confederation of Unions has requested the Government to join the International Labor Organization (ILO), which it has yet to do. The Confederation itself sought membership in the European Confederation of Unions, but its initial application was refused, possibly because of its early association with the Communist CGT. A subsequent application was pending at year's end.

b. *The Right to Organize and Bargain Collectively.*—The law provides for the free exercise of union activity. Workers are guaranteed by law the same salary received by comparable workers in the neighboring area of France plus 5 percent. They are free to negotiate higher wages with their employers if they can. Agreements on working conditions are negotiated between organizations representing employers in a given sector of the economy and the union representing workers in that sector. Antiunion discrimination is prohibited. Union representatives can be fired only with the agreement of a commission that includes two representatives of the employers' association and two representatives of the labor movement. Allegations that an employee has been fired for union activity may be brought before the Labor Court, which can order, inter alia, the payment of damages with interest.

c. *Prohibition of Forced or Compulsory Labor.*—Such practices are outlawed in Monaco and do not exist.

d. *Minimum Age for Employment of Children.*—The minimum age for employment is 16 years. Special conditions apply to the employment of workers aged 16 to 18. Attendance at school is mandatory to age 16. The attendance requirement is enforced by the National Education, Youth, and Sports Agency.

e. *Acceptable Conditions of Work.*—The legal minimum wage for full-time work is $1,047 (6,180 French francs) per month. Most workers receive more than the minimum wage. The legal workweek is 39 hours. Health and safety standards are fixed by law and government decree. These standards are enforced by health and safety committees in the workplace and by the government Labor Inspector.

THE NETHERLANDS

The Netherlands is a constitutional monarchy with a parliamentary legislative system. Executive authority is exercised by the Prime Minister and Cabinet representing the governing political parties (traditionally a coalition of at least two major parties). The bicameral Parliament is elected through nationwide proportional voting. The police, Royal Constabulary, and investigative organs concerned with internal and external security are effectively subordinated to the executive and judicial authorities.

The Netherlands has an economy which is based on private enterprise but which also has extensive involvement by governmental entities. A complex social welfare system provides a high level of social benefits.

The Netherlands attaches great importance to human rights. Individual rights are protected by Dutch law and are widely respected in practice by both the State and the general public. The press, public interest groups, and domestic and international human rights organizations are quick to challenge practices which they believe violate established human rights norms. Any complaints are thoroughly discussed by the media and in Parliament and are often subjected to a judicial process.

There are no significant differences in human rights practices between The Netherlands proper and the autonomous regions of the Kingdom, i.e., Aruba and the five islands of the Netherlands Antilles.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—No politically motivated killings by the Government or domestic political groups are known to have occurred.

b. *Disappearance.*—No known abductions, secret arrests, or clandestine detention by police or other official security forces took place.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture and cruel or inhuman punishment are prohibited by law and were not known to occur in The Netherlands proper. An impartial Netherlands Antilles Commission of Inquiry constituted to investigate the claims of police brutality in 1991 and previous years concluded in September 1992, after extensive investigation, that the charges were unsubstantiated. However, according to Amnesty International, the Commission in August 1992 reported that "it found evidence of unlawful use of violence by the police on every island but Saba. The violence consisted of beatings with truncheons and, occasionally, fists." Further, "the Commission stated that neither disciplinary nor criminal action had been taken in obvious cases of serious police violence." Complaints about prison conditions on Curacao and St. Maarten in 1993, including allegations of beatings, lack of access to medical personnel and overcrowding, have prompted an ongoing official investigation by the public prosecutor's office.

In 1992, at the instigation of the Dutch Government, the Government of the Netherlands Antilles established The Roemer Commission to look into reports of police brutalities in the Antilles and Aruba, and the structure of the police environment there. Subsequently, and in cooperation with the Governments of the Netherlands Antilles and Aruba, the Dutch Government encouraged the initiation of training courses for Antillean and Aruban police designed in part to prevent any future mishandling of prisoners.

d. *Arbitrary Arrest, Detention, or Exile.*—Freedom from arbitrary arrest is provided for by law and respected in practice. Preventive detention is permitted only in an emergency declared by national or municipal authorities, and even then the detention may be for only a limited time. Under normal circumstances a suspect may be held for no longer than 6 hours (or 9 hours if arrested at night) before charges must be brought. Persons suspected of having committed serious crimes may be held in custody for 48 hours with the agreement of the public prosecutor, who is authorized to decide on an extension of the detention for an additional 48 hours. Any further decision on extending detention is made by an investigating judge. Search and arrest warrants issued by the judiciary are required in most criminal cases. There are no political prisoners. Forced exile is not practiced.

e. *Denial of Fair Public Trial.*—The court system provides the right of appeal in all civil and criminal cases. The judiciary is independent. The right to a fair public trial is guaranteed by law and respected in practice. Defendants are presumed innocent until proven guilty. Charges must be formally stated. Defendants have the right to counsel. A system of free or low cost legal assistance exists for those defendants unable to pay. However, The Netherlands was criticized in September 1993 by the European Commission for Human Rights for limiting the right of an attorney whose client is not present for the trial to speak in court.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—A judicial warrant is required to enter a person's home or to monitor private correspondence or telephone conversations. Such warrants are granted upon the presentation of sufficient justification to judicial authorities. The State respects individual freedom of choice in family matters.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—A functioning democratic political system, an independent press, and an effective judiciary ensure freedom of speech and press. Dutch media policy allocates broadcast time to a wide range of social, political, and ethnic groups, ensuring that minority viewpoints are heard. In addition, a cable system brings in numerous television and radio broadcasts from neighboring countries.

There are no prepublication restraints on any of the media. A traditional consensus precludes the mainstream media from disseminating sensitive information involving national security, defense, or the Royal Family. Violent or sensational crimes are treated with discretion, with suspects and victims often identified only by their initials. In ongoing investigations, only minimal personal data are released on criminal suspects, both to maintain the privacy of the suspect and his family and to protect the integrity of the investigation. Discrimination and incitement of hatred are prohibited under law. While courts may ban political parties at the request of the public prosecutor on the grounds of a party's racist, violent, or discriminatory character, there has never been an attempt to do so.

b. *Freedom of Peaceful Assembly and Association.*—Freedom of assembly and association is virtually unrestricted. For large assemblies and demonstrations of a political nature, permits from local governmental authorities are required. These permits are routinely granted, but may be denied when authorities believe that "public order and safety" cannot be guaranteed as a result of a rally or demonstration. Public meetings of extreme rightist or racist groups have been prohibited from time to

time. The Government does not arbitrarily impede membership in, or the formation of, organizations.

c. *Freedom of Religion.*—There is full freedom of religion. State subsidies are provided to religious organizations which maintain educational facilities.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There is freedom of domestic and foreign travel, emigration, and repatriation. In May 1992, The Netherlands began to recognize dual citizenship and to make it easier for former Dutch citizens to reclaim their citizenship.

The Netherlands has elaborate procedures for deciding asylum applications; these take into account conditions in the applicant's country of origin. Applicants who do not meet the criteria for political asylum are nevertheless permitted to remain in the Netherlands provisionally without refugee status if conditions in their country of origin are so violent or unsettled that returning them to that country would place them in danger. However, rules regarding asylum seekers which were proposed by the Ministry of Justice and approved by Parliament in September proscribe consideration of an asylum request if the applicant has had a previous request turned down or arrives from another country where he or she could have applied for asylum.

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

The Netherlands is a functioning multiparty democracy. Elections are based on proportional representation. There is universal suffrage for citizens aged 18 and older. Foreign residents may vote in municipal elections after 5 years of legal residence. Citizens elect the Second Chamber (House of Representatives) of Parliament generally every 4 years (sooner if a government resigns or falls due to a parliamentary vote of no confidence). The most recent national elections, held in September 1989, resulted in a formation of a center-left coalition, with Prime Minister Ruud Lubbers remaining in office. Four major and five minor political parties have seats in Parliament, representing the political spectrum from far left to far right. National elections are next scheduled for May 1994.

There are no restrictions in law or in practice on the participation of women and minorities in government and politics. The Government has encouraged women to seek elected office by, among other things, a preferential hiring and promotion policy. Furthermore, political parties have made strong efforts to ensure greater representation of women on their election lists. The Second Chamber of Parliament now counts 44 women among its 150 members.

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

Human rights groups, the media, and other interested parties are free to pursue inquiries into human rights issues, and Dutch authorities readily assist international and nongovernmental organizations in their investigations.

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

Women.—According to a study of violence against women, financed by the Ministry of Welfare, Health, and Culture and published in 1989, 20.8 percent of Dutch women in heterosexual relationships were victims of violence. Slightly over half of these (11 percent) experienced repeated severe violence.

The Government supports programs to reduce and prevent violence against women. Battered women find refuge in a network of government-subsidized women's shelters offering the services of social workers and psychologists. In addition, battered women who leave their domestic partners become eligible for social benefits which include an adequate basic subsidy as well as an allowance for dependent children. There are also organizations that advise and assist women who have been victims of sexual assault. Spousal rape is a crime and carries the same penalty as rape. Likewise, spousal abuse carries the same penalty as assault.

Traditional cultural factors and inadequate child care facilities can discourage women, especially women with young children, from working, although part-time job opportunities are often filled by women with families. The Dutch tax system could be another obstacle to both spouses working, but only if they are in different tax brackets. In practice, this is not frequent because, since 1990, there have been only three tax brackets, and 80 percent of the working population is in the hightest tax bracket. The trend—especially for younger women—is toward a higher level of employment.

Net participation of women rose by 180,000 labor years in the period from 1988 to 1991, a rise of 4.5 percent per year, compared to a 1 percent annual growth in male participation. Nearly one-third of all workers in the Dutch economy work part-

time. Many of these part-time jobs are held by women who seek part-time, rather than full-time, work because of family demands on their time and lack of adequate childcare facilities. Social services lag behind the demand caused by the large increase in the number of working women with children. In 1992, 46 percent of women aged 15 to 64 had full- or part-time jobs, and about 40 percent of the work force was female. The unemployment rate of women reentering the labor market is high; most of the jobs available to them are in low administrative and service categories. Women have less chance of promotion than do men.

In 1988 the Government started positive action programs for women, and a study of 1990 collective labor agreements by the Social Affairs Ministry showed that almost all of these contracts included one or more schemes to strengthen the position of women. Legislation mandates equal pay for equal work; prohibits dismissal because of marriage, pregnancy, or motherhood; and provides the basis for equality in other employment-related areas. A legislatively mandated Equal Treatment Commission actively pursues complaints of discrimination in these areas as well as allegations of pay differentials.

Women have full legal and judicial rights and enter marriage with the option of choosing community property or separate regimes for their assets.

Women's groups dedicated to such issues as equal rights in social security, the legal position of women, sexual abuse, taxation, education, work, and prostitution operate freely throughout The Netherlands. In February 1991 the Equal Rights Council, in a report entitled "Sexual Intimidation in Work Situations," called for tougher legislation to control sexual harassment in the workplace. Nevertheless, a study published in January 1992 showed that 20 percent of working women said they had been a victim of sexual harassment in the workplace. This figure rose to 29 percent for women in the 25 to 34 age group. The Government has launched publicity campaigns to increase awareness of the problem. As the biggest employer in the country, it has taken measures to counter harassment among civil servants, for example, in the police force.

Children.—The Government is committed to ensuring the well-being of children through numerous well-funded health, education, and public information programs. The Council for the Protection of Children, operated through the Ministry of Justice, enforces child support orders, investigates cases of child abuse, and recommends remedies ranging from counseling to withdrawal of parental rights. In addition, the Government has set up a popular children's hotline and a network of pediatricians who track suspected cases of child abuse on a confidential basis.

National/Racial/Ethnic Minorities.—Integration of racial and ethnic minorities into the social and cultural mainstream remains a difficult domestic issue. Incidents of violence against foreigners are relatively rare and isolated. In November 1993, for example, a group known as White Power took credit for an arson attack on a Rotterdam store owned by a Pakistani as well as a series of threatening letters to minority families. The Government has tried to increase public awareness of racism and discrimination through, among other media, television specials, billboard campaigns and public speeches. In February, following years of debate, Parliament approved an Equal Rights Act which bans discrimination on the basis of sex, race, nationality, creed, sexual, or political preference, and allows those who believe they have been discriminated against to take the offender to court under civil law.

There was a small number of isolated anti-Semitic incidents at soccer matches, involving rascist chants and Nazi gestures. As a result of a year long study on racism and soccer, the Royal Dutch Football Union on January 22 announced a series of measures designed to combat hooliganism and racial incidents at soccer games, including a threat to stop matches if racial taunting was heard. No further incidents of racial taunting have occurred since that time.

Some 264,000 persons from the former Dutch colony of Suriname have come to live in the Netherlands since 1975. There are also approximately 85,000 persons from the Netherlands Antilles and Aruba. In addition, there are about 207,000 Turkish and 168,000 Moroccan workers and family members. These groups face some de facto discrimination in housing and employment, as well as practical limits on opportunities for economic and social advancement as a result of educational and skill levels which do not compare favorably with those of the majority of Dutch citizens.

Unemployment among large minority groups is four times higher than the national average. Government, employers, and union leaders agreed in November 1990 on a series of measures designed to reduce minority unemployment levels to the national average. The goal was to increase minority employment by 15,000 jobs per year over a 4-year period. The Government continued to work with employers to meet this goal. It announced in July that the number of jobs held by ethnic minorities increased by 38,000 during the same period. Anecdotal evidence suggests the

unemployment rate of minorities in the larger cities has steadily increased and now is estimated to stand at 35 to 40 percent in Amsterdam and Rotterdam, compared with the national unemployment rate (ILO criteria) of 7 to 8 percent. The unemployment rate is highest among Moroccans and Turks, and substantially higher for the female population or both communities.

The municipalities of Rotterdam and Amsterdam have a number of programs to promote integration of ethnic minorities. Several seek to keep minority children in school and provide them with the skills they need to enter the labor force. Others seek to bring persons of different cultures together and prevent flare- ups in certain neighborhoods. Many of these programs receive funding from the national Government. Although police forces in Rotterdam and Amsterdam have outreach programs, efforts to hire minorities for the police forces have been largely unsuccessful. For example, Amsterdam has only two Turkish speaking policemen on its police force. While the Government has said it will refrain from using contract compliance measures or imposing quotas, the Second Chamber of Parliament approved legislation in July which will oblige businesses to report to labor councils on the number of ethnic minority personnel they employ. Minorities now comprise 3 percent of the personnel employed in the national Government; the stated goal is to raise this to 5 percent by 1995.

The National Advisory and Consultation Board on Minority Policy addresses the problems of minorities in the fields of health, education, employment, and the law. Chaired by the Minister of Internal Affairs, it includes representatives of seven ethnic minority groups and acts as a consultative body to the Cabinet on minority issues and as a conduit to the Government for the expression of minority concerns. Currently represented on the Board are the Surinamese, Turks, Moroccans, Indonesians, legally admitted refugees, Antilleans and "Northern Mediterraneans." Administrative tribunals have been set up for filing claims of discrimination both against employers and the Government and in housing matters. They provide a practical means of redress for discrimination claims.

People with Disabilities.—The Netherlands has made an effort to ensure that the needs of disabled people are met. The government-funded programs for the disabled included subsidies to adapt housing and public transportation, day activity centers, and incentives to employers to hire people with disabilities. Local governments are increasingly mandating access to public buildings for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—The active trade union movement includes in its membership about 25 percent of the employee work force, but the collective labor agreements negotiated by the unions cover about 76 percent of all paid workers.

Dutch trade unions used to be confessional, related to the three pillars of old Dutch society—Protestant, Catholic, and non-affiliated/Socialist. This clear division no longer exists. The largest labor federation is the Federated Dutch Trade Union Movement (FNV), created in 1982 by a merger of Catholic and Socialist unions. About 60 percent of all trade union members are in the FNV. About 20 percent of union members belong to the Christian National Trade Union Confederation (CNV), which is mainly but not exclusively Protestant. The Trade Union Confederation which covers middle management and managerial staff has about 7 percent of the union membership. Other union members belong to smaller, independent unions. Members of the Dutch armed forces may belong to unions.

Unions are entirely free of control by the Government and political parties. They may and do participate in political activities. Several Labor Party (PVDA) Members of Parliament have a background as union activists.

With the exception of most civil servants, all workers have the right to strike, and this right is exercised freely. In 1992 there were 23 labor disputes involving 52,419 workers with 85,416 workdays lost. Disputes involving civil servant complaints may be appealed to an arbitration panel. The Government and unions continue to discuss their longstanding differences over the issue of the right of civil service workers to strike and the definition of "essential" civil services.

b. *The Right to Organize and Bargain Collectively.*—The right to organize and bargain collectively is recognized and well established. Discrimination against workers because of their union membership is illegal and does not exist in practice.

Collective bargaining agreements are negotiated in the framework of the social partnership in industrial relations developed among trade unions, private employers, and the Government. These three participants in the Social Economic Council meet every autumn and discuss labor issues, including the state of the economy, appropriate wage levels for existing conditions, and maintaining international competitiveness. They develop a "central accord" with agreed social and economic goals for

the coming year. A central tripartite body, the Labor Commission, oversees implementation of the industrial relations system.

Under this umbrella agreement, unions and employers' associations negotiate collective bargaining agreements on a sectoral basis. The Government can, and usually does, extend these agreements to all companies in the sector. As a result, approximately 76 percent of workers are covered by collective bargaining agreements.

Government, unions, and employers recognize the seriousness of the unemployment problem (some of it structural and common to certain other industrialized countries) and the need to maintain Dutch competitiveness by moderating wage demands and keeping labor costs as low as possible. The Government announced in September that it would freeze wages, by legislation if necessary, to put pressure on employer groups and unions to reach collective bargaining agreements which do not include wage increases. This announcement created controversy because of commitments arising from International Labor Organization (ILO) conventions and the Social Charter of the Council of Europe. The social partners agreed that in any case wage increases should not rise above the rate of inflation.

The Government has been asked by ILO committees to amend the Wage Determination Act of 1970, which gave the Government the power to freeze terms and conditions of employment in the public sector in the face of compelling reasons of national economic interest. At year's end, the Government was in the final stages of amending the Act to remove these sections.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited by the Constitution and does not exist.

d. *Minimum Age for Employment of Children.*—The minimum age for employment is 16. At that age, young people may work full time only if they have completed the mandatory 10 years of schooling. Those still in school at age 16 may not work more than 8 hours per week. People under the age of 18 are prohibited by law from working at night, working overtime, or working in areas which could be dangerous to their physical or mental development. The laws are effectively enforced by the Labor Commission, a tripartite entity which monitors hiring practices and conducts inspections.

e. *Acceptable Conditions of Work.*—The minimum wage for adult workers is established by law and can be adjusted at government discretion every 6 months to reflect changes in the cost of living. Since 1982, few adjustments have been made; had adjustments been made consistently, it is estimated that the minimum wage would be about 15 percent higher than it is. There is a reduced minimum wage for workers under 23 which ranges from 33 percent of the adult minimum wage for workers aged 16 to 85 percent for those aged 22. The purpose of the reduced minimum wage law is to provide incentives for the employment of young people, one of the demographic groups with the highest rate of unemployment. The legislated minimum wage, together with social benefits available to all minimum wage earners, provides an adequate living for workers and their families.

The actual working week in the Netherlands, according to European Union (EU) figures, is 35.8 hours, compared to the EU's average of 38.8 hours. This figure partly reflects the high level of part-time work done in the Netherlands. Maximum work hours are now legislated at 48 hours a week with strict rules about working hours at night, Saturday afternoon, and Sunday. At year's end the Government was preparing to introduce a bill to permit more flexible working hours, although the maximum number of hours per week will still be limited. Full time workers over age 16 receive, on the basis of 38 hours a week, 152 hours of vacation a year. However, the usual vacation period is 24.2 days or 190 hours a year. There are also generous welfare provisions for workers who become sick or disabled. For unemployed workers, there is an extensive system of benefits that allows recipients to maintain an adequate standard of living.

Working conditions, including comprehensive occupational safety and health standards set by law and regulation, are actively monitored by the Labor Commission. Enforcement is effective. Workers may refuse to continue work at a hazardous work site. The Ministry of Social Affairs also polices standards through its Labor Inspectorate.

NORWAY

Norway is a parliamentary democracy and constitutional monarchy with King Harald V as the Head of State. Norway is governed by a Prime Minister, Cabinet, and a 165-seat Storting (parliament), which is elected every 4 years and cannot be

dissolved. The police, security forces, and the military are scrupulous in their protection of human rights. The Government (including the judicial system and the Storting) exercises firm control over these organizations and investigates thoroughly any allegations of human rights violations.

Norway is an advanced industrial state with a mixed economy combining private, public, and state ownership. Personal freedoms, such as freedom of association and of speech and the right to pursue private interests and to hold private property, are protected by the Constitution and respected in practice.

Deeply rooted democratic principles, a strong egalitarian tradition, an independent press, and highly developed educational and social welfare systems have made Norway a leading practitioner of human rights.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Such killings did not occur.

b. *Disappearance.*—Secret arrests and detentions did not occur.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture and other cruel, inhuman, or degrading treatment or punishment on the part of law enforcement or armed services personnel do not occur in Norway. Generous furlough and visitation rights characterize the penal system, which emphasizes rehabilitation. The maximum sentence for any crime is 21 years.

d. *Arbitrary Arrest, Detention, or Exile.*—Norwegian law provides for arrest warrants, which are used except in circumstances such as hot pursuit. Persons may be detained for up to 4 hours without being charged. A person charged with a crime has the right, observed in practice, to appear before the judge for arraignment within 24 hours. If charges are formalized at the arraignment, the judge then determines whether the detainee should be kept in custody or released pending trial. Bail need not be posted. A strong case must be made to justify detention. Possible grounds include fear of flight, the needs of the investigation, and fear that a detainee will commit further crimes.

Any person held in pretrial detention appears before a judge every 4 weeks for a determination of the necessity of continued detention. There is no legal limit on the time a prisoner may be held before trial; however, lengthy pretrial detention is rare. Preventive detention also exists but is used infrequently. There is no exile.

e. *Denial of Fair Public Trial.*—The right to a fair, public trial is ensured by law and honored in practice. Only in certain cases, including those involving state security or private family matters, are trials closed. In criminal cases, all Norwegian citizens and aliens are entitled to free counsel. Indigent persons are granted free counsel in certain civil cases as well.

Norway has a three-tiered system of district and city courts, high courts, and the Supreme Court—all of which deal with both criminal and civil cases—as well as special courts, including the Labor Disputes Court and the Social Insurance Court. The judiciary is independent of both the legislative and the executive branches of the Government and tries military and security as well as civil and criminal cases. The Labor Court mediates industrial relations disputes.

Persons refusing both military service and alternative civilian service have been held in prison for up to 16 months (a period equivalent to military service) without a trial. Detention is based on an administrative rather than a judicial decision, and prisoners held in this manner receive the salary and benefits normally accorded to military recruits during their period of confinement.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The privacy of the family and the person is free from arbitrary interference by the Government. Police may conduct searches of the home only with court approval and in instances of hot pursuit or when they fear evidence is being destroyed. There were no allegations of forced entry into Norwegian homes in 1993. In most cases, wiretaps are prohibited by law, but they may be used in cases involving state security or narcotics offenses when officially approved by the court within carefully drawn legal guidelines. Correspondence may be opened only by court order in cases involving state security.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and press is protected by the constitution and respected in practice. In addition to restrictions on slander and libel, Norwegian law forbids racist or sexist remarks in print or public speech. It is forbidden to publish information concerning national defense that could prove damaging to Norwegian security. Norway has an active and diversified press, and many papers are sustained by government subsidies. Some newspapers are loosely

connected to various national political parties. Norway's state broadcasting company is the more prominent of two national television networks (the other is private) but the Government does not exercise editorial control over programming. Private local radio stations and one private national radio station exist, as do privately owned local and national cable television stations. Foreign television networks are also available on cable throughout the country.

Certain restrictions apply to the showing of films. The Film Control Board, appointed by the Ministry of Culture, has the authority to censor or ban any film deemed overly violent, pornographic, or blasphemous. The blasphemy clause in the censorship law, however, has not been used in the last 20 years. There is no evidence that any films have been censored because of political content.

b. *Freedom of Peaceful Assembly and Association.*—Norwegians exercise these freedoms without restraint. Permits for public demonstrations are granted routinely.

c. *Freedom of Religion.*—The state church is the Evangelical Lutheran Church of Norway, which is financially supported by the State, and to which 93 percent of the population nominally belongs. There is a constitutional requirement that the King and half of the Cabinet belong to the state church. The Workers' Protection and Working Environment Act permits prospective employers to ask job applicants whether they respect Christian beliefs and principles when applying for a job in private, religious-run schools and day-care centers.

Approximately 4 percent of the population are registered members of 20 other denominations which operate freely and may proselytize. Foreign clergy are welcome in Norway. No religious community is required to register with the Government unless it desires state support, which is provided to all registered denominations on a proportional basis in accordance with membership. Although the state religion is taught in all public schools, children of other faiths are allowed to be absent from such classes upon parental request. If there are enough students of the same faith, the school will arrange classes in that faith. Workers belonging to minority denominations are allowed leave for religious holidays.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government does not impede foreign or domestic travel. The right to voluntary repatriation is guaranteed. Refugees and asylum seekers are provided generous benefits, including social services, free medical care, and education while awaiting decisions on their asylum applications. In 1993 Norway involuntarily repatriated rejected asylum seekers from the province of Kosovo in Serbia. This caused protest from churches which offered "asylum" from Norwegian authorities to these individuals. Repatriations occur only after asylum applications have been denied, and appeals and reviews have been completed. There are approximately 400 rejected asylum seekers in church asylum nationwide.

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

Norway is a multiparty democracy. Eight parties are represented in the Storting where distribution of seats is based upon proportional representation by district. The Storting may reject or modify government proposals; if a government loses a vote on a major issue of confidence, it resigns, and a new government is formed. The minimum voting age is 18, and voter turnout in the 1993 parliamentary elections was about 76 percent. Foreigners who have resided in Norway for at least 3 years, and are otherwise eligible, have the right to vote in local elections only.

In addition to participating freely in the national political process, Norwegian Sami (Lapp) elected their own constituent assembly, the Sameting, for the second time in 1993. The 39-seat body is a consultative group which meets regularly to consider issues of importance to the Sami people. According to the law establishing it, the Sameting deals with "all matters which in (its) opinion are of special importance to the Sami people." In practice, the Sameting has been most interested in protecting the group's language and cultural rights and in influencing decisions on resources and lands where the Sami are a majority.

There are no restrictions, in law or in practice, on the participation of women in government or in the political arena generally. Norway has a female Prime Minister and women lead the other two most prominent political parties.

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

A number of public and private organizations monitor alleged human rights abuses either inside or, more often, outside the country. The Government cooperates with nongovernmental investigations of alleged violations of human rights and, in recent years, has cooperated with both the European Commission of Human Rights

and the United Nations High Commissioner for Refugees. Norway is an active participant in international human rights organizations.

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

Through a highly developed social welfare system that reflects a long tradition of egalitarianism, the Government provides for the health, education, retirement, and other needs of its people, regardless of race, religion, sex, ethnic background, physical disability, or political opinion.

Women.—The rights of women are protected under the Equal Rights Law of 1978 and other regulations. Under that law, "women and men engaged in the same activity shall have equal wages for work of equal value." An Equal Rights Council monitors enforcement of the 1978 law, and an Equal Rights Ombudsman processes complaints of sexual discrimination. There were 303 complaints in 1992, and, as of November, 213 in 1993. The Government provides liberal maternity leave and time off for either parent to care for their children.

Crime against women is not widespread. Increases in the crime rate have included crimes against women, although police authorities believe that much of the increase in reported rapes and incidents of wife beating is due to a greater willingness among women to report these crimes than has been the case in the past. The police vigorously investigate and prosecute such crimes and have instituted special programs for rape and domestic violence prevention and for counseling victims. Public and private organizations run several free shelters which give battered wives an alternative to returning to a violent domestic situation after an incident of wife beating.

Children.—The Government is highly committed to the welfare of children, reflecting a similar profound commitment in Norwegian society. Among the many features of a comprehensive system of child welfare benefits are governmental maintenance of generous maternal and paternal leave policies to assure the health and welfare of the newborn, and provision of stipends to parents based on the number of children they have. An independent children's ombudsman office assures the protection of children in law and practice.

Indigenous People.—Apart from an extremely small Finnish population in the northeastern corner of the country, the Sami (Lapp) people were Norway's only significant minority group until the influx of immigrants during the 1970's. In recent years, the Government has taken steps to protect the cultural rights of the Sami by providing Sami-language instruction at schools in Sami- inhabited areas, radio and television programs broadcast or subtitled in the Sami language, and subsidies for the publication of newspapers and books oriented toward the Sami (see also Section 3).

National/Racial/Ethnic Minorities.—There is continuing political debate on whether current restrictions on non-Nordic immigration, in effect since 1975, are racially motivated and whether immigrant minority groups such as Pakistanis, Vietnamese, Turks, and Africans are accorded equal rights by Norwegian authorities. Eligibility for citizenship is based on residency. The Government provides legal protection for the rights of all minorities and has taken active measures to help these groups adjust to Norwegian society, including free Norwegian-language instruction for any foreign resident and funding of nongovernmental organizations such as the Anti-Racism Center.

As the result of a decade-long parliamentary study, the Storting in 1988 significantly revised the Norwegian immigration law. Among the major changes was an effort to link refugee and asylum processing more closely to the definitions and processes established under the U.N. Convention on Refugees. The current law provides that asylum may no longer be granted solely on humanitarian grounds to those applicants who had been determined not to have a well-grounded fear of persecution. The law, while limiting the number of those granted asylum, continues to safeguard the rights of those asylum seekers allowed to remain in Norway. Refugee policy continues to be a significant political issue; some groups call for reducing the inflow of refugees and others—human rights groups and political parties—urge the Government to accept more refugees. Although some individual asylum cases have caused problems, Norway has a well-organized system which includes advance planning, careful dispersion of refugees throughout the populace, and generous welfare, educational, and vocational training programs.

People with Disabilities.—The physically disabled are fully integrated into social, economic and political life, and are provided full health care and other social benefits. They are not discriminated against in employment, education or the provision of any state service. Accessibility is mandated in new construction. In existing buildings, accessibility is mandated if the building is refitted for new uses.

Section 6. Worker Rights

a. *The Right of Association.*—The law provides to workers the rights to associate freely and to strike. There were several short strikes in 1993, settled through normal means. The Government, however, has the right, with the approval of the Storting, to invoke compulsory arbitration under certain circumstances. This procedure, which was invoked several times in the 1980's, particularly in the oil industry, was criticized repeatedly by the Committee of Experts of the International Labor Organization (ILO), which argued that the situations were not a sufficient threat to public health and safety to justify the action. The Government again invoked this procedure in 1993 to stop an oil workers' strike. A case against Norway is pending in the ILO Committee on Freedom of Association, awaiting information from the Norwegian Government. This case is based on a strike by a small union, the Maritime Engineers.

With membership totaling about 60 percent of the work force, unions play an important role in political and economic life, and are consulted by the Government on important economic and social problems. Although the largest trade union federation is associated with the Labor Party, all unions and labor federations are free of party and government control. Unions are free to form federations and to affiliate internationally. They maintain strong ties with such international bodies as the International Confederation of Free Trade Unions.

b. *The Right to Organize and Bargain Collectively.*—All workers, including government employees and military personnel, exercise the right to organize and bargain collectively. Collective bargaining is widespread, with most wage earners covered by negotiated settlements, either directly or through understandings which extend the contract terms to workers outside of the main labor federation and the employers' bargaining group. There have been no complaints of antiunion discrimination in recent years. If there were such complaints they would be dealt with by the Labor Court.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Compulsory labor is prohibited by law and does not exist. The Directorate of Labor Inspections ensures compliance.

d. *Minimum Age for Employment of Children.*—Children aged 13 to 18 may be employed part-time in light work that will not adversely affect their health, development, or schooling. Minimum age rules are observed in practice and enforced by the Directorate of Labor Inspections. Nine years of education is compulsory in Norway.

e. *Acceptable Conditions of Work.*—Normal working hours are mandated by law and do not exceed 37.5 hours per week. The law also provides for 25 working days of paid leave per year (31 for those over age 60). A 28-hour rest period is legally mandated on the weekend and for holidays. There is no minimum wage as such, but wages normally fall within a national wage scale negotiated by labor, employers, and the Government. The average annual per capita income, not including extensive social benefits, is adequate to provide a worker and his or her family a decent living.

Under the Workers' Protection and Working Environment Act of 1977, all employed persons are assured safe and physically acceptable working conditions. Specific standards are set by the Directorate of Labor Inspections in consultation with nongovernmental experts. According to the Act, working environment committees, composed of management, workers, and health personnel must be established in all enterprises with 50 or more workers, and safety delegates must be elected in all organizations. Workers enjoy strong rights to remove themselves from situations which endanger their health. The Directorate of Labor Inspections ensures effective compliance with labor legislation and standards.

POLAND

Four years after the fall of communism, Poland is a parliamentary democracy based on a multiparty system and free and fair elections. A popularly elected President shares power with a Prime Minister and bicameral Parliament.

The coalition government led by Prime Minister Hanna Suchocka and the Democratic Union party fell in May on a vote of no confidence which passed by one vote, and President Lech Walesa dissolved Parliament. In parliamentary elections held in September, the Democratic Left Alliance, a successor to the former Communist party, won a plurality of the votes and formed a coalition Government with the Polish Peasant Party. The Government, headed by Prime Minister Waldemar Pawlak of the Peasant Party, has a comfortable majority both in the Sejm (the lower house) and the Senate (the upper house).

The Polish armed forces and the internal security apparatus are subject to governmental authority and under civilian control. There is some ambiguity over how the President and the Prime Minister share power over the military. This issue is to be addressed with new legislation which President Walesa and the Pawlak Government are considering and ultimately with a new constitution. Regular police were accused of using excessive force to disperse demonstrations in Warsaw on three occasions and of brutality in dealing with homeless people and foreigners.

Poland's fledgling market economy provided opportunity to associate with others, pursue private interests, and own private property. However, the struggle to continue the rapid pace of transition from a centrally planned economy to a market-oriented system caused a steady rise in unemployment, with women and younger workers suffering disproportionately. Discontent among Poles who believed that the reform process left them worse off than before contributed to an increase in voter support for leftist parties which promised to cushion the pain of economic reform while preserving democratic institutions.

Some infringements of the rights of free speech and assembly occurred in 1993. Polish courts handed down convictions based on a section of law that imposes fines and prison sentences on persons who criticize a state body. A new broadcast law went into effect in March, and some of its provisions were criticized for potentially impinging on the freedom of the electronic media. On occasion police used excessive force to disperse demonstrators who, they claimed, violated the rules governing public demonstrations. Women continued to be hampered in their struggle for equality in the workplace by the lack of legal redress. Regulations on religious education in schools, supported by the rightist Christian National Union (ZChN), a member of Prime Minister Suchocka's coalition, fueled much controversy, and the Ombudsman raised the question of their legality to the Constitutional Tribunal which ruled, in part, in his favor. An attempt in the Sejm to recall the Ombudsman was frustrated by the dissolution of Parliament.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of politically motivated killings, but in July police allegedly beat to death two homeless people living in Warsaw's central train station. The Warsaw district prosecutor opened a special investigation into the incident.

b. *Disappearance.*—There were no reports of abductions, secret arrests, or clandestine detention by police or official security forces.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—No allegations of torture were reported. Some incidents of police brutality received wide publicity in the Polish press in 1993. Members of a Carmelite monastery that provides medical aid to the homeless living around the train station reported that the people in their care often claim to have been beaten by police. The district police commandant acknowledged to the press that it is standard police procedure to use force with homeless people under certain circumstances, including when trying to compel them to vacate public areas.

Police also used force to disperse public demonstrations. In June police broke up a demonstration of center-right parties in Warsaw's Castle Square by beating demonstrators with nightsticks. The Commissioner for Civil Rights Protection (or Ombudsman) asked the prosecutor's office to begin an investigation into the incident. In September police dispersed a demonstration organized by a pacifist group protesting obligatory military service by beating protesters with nightsticks and shoving them into police and unmarked vehicles. There were no arrests.

On the night of the September parliamentary elections, members of a center-right party held an impromptu demonstration in the streets of Warsaw; police also used force to disperse them. According to the official account of the incident, demonstrators resisted police when they were asked to move to the sidewalk; however, a journalist reported that demonstrators in fact obeyed the police and moved to the sidewalk; nevertheless, police dragged them into squad cars, beating them with nightsticks. No charges were brought by the victims.

The Ombudsman's office reported that it examined over 40 complaints of police brutality against foreigners in 1993.

Overall, prison conditions continued to improve in 1993. The Ombudsman presented proposals for more lenient sentencing to the Ministry of Justice and the Central Board of Penal Institutions to reduce overcrowding in prisons. The Ministry of Justice had not taken action by year's end. However, conditions in juvenile detention centers remained poor. The Helsinki Committee reported that financial difficulties resulted in a lack of food for detainees in some institutions, and personnel were

generally more abusive toward detainees than prison guards were toward prison inmates. Human rights organizations reported that they have permanent passes to visit prisons and juvenile detention centers and that they can monitor their operations freely.

No laws currently exist regarding the rights of psychiatric patients admitted to mental hospitals. A press report in September stated that, of some 142,000 Poles admitted yearly to mental health facilities, over 20,000 were placed there against their will. Under current procedures, a doctor's order alone suffices to have a patient confined to a mental institution.

d. *Arbitrary Arrest, Detention, or Exile.*—No arbitrary arrests were reported in 1993. Polish law allows a 48-hour detention period before authorities are required to bring formal charges, during which detainees are normally denied access to a lawyer. Once a prosecutor presents the legal basis for a formal investigation, the law provides the detainee access to a lawyer. A detainee may be held under "temporary" arrest for up to 3 months and may challenge the legality of his arrest through appeal to the district court. A court may extend this pretrial confinement period every 3 months until the trial date. Human rights organizations reported that most detainees were released on bail pending trial, although in a few instances detainees were held in jail for over a year awaiting trial.

The Ombudsman worked to improve detention facilities in 1993. His office submitted proposals to allow detainees access to telephones, which are still relatively difficult to obtain for average Poles. A change in procedure required that an investigator be present at the time a detainee is charged with a crime.

In September the Ombudsman demanded publicly that policemen, public prosecutors, and judges provide prisoners of foreign nationalities with information on their legal rights in languages understandable to them. He asked that prison authorities ensure that prisoners are not served meals banned by their respective religions; he said that they should also be guaranteed access to their native press and literature. The Government took no action by year's end.

There is no exile.

e. *Denial of Fair Public Trial.*—Poland has a three-tier court system, consisting of regional and provincial courts and a Supreme Court which is divided into five divisions—military, civil, criminal, labor, and family. A Constitutional Tribunal may offer opinions on legislation but has no real authority. It is elected by the Sejm, which can overrule the Tribunal's findings. Judges are nominated by the National Judicial Council and appointed by the President. They serve until the age of 65 and may apply for an extension until age 70, after which they are retired.

All defendants are presumed innocent until proven guilty. At the end of a trial, the court renders its decision orally and then has 7 days to prepare a written decision. A defendant has the right to appeal a decision within 14 days of the written decision. Appeals may be made on, among other grounds, the basis of new evidence or procedural irregularities.

Criminal cases are tried in regional and provincial courts by a panel consisting of a professional judge and two lay assessors. The seriousness of the offense determines which of these is the court of first instance. Once formal charges are filed, the defendant is allowed to study the charges and consult with an attorney, who is provided at public expense if necessary. Once the defendant is prepared, a trial date is set. Defendants are required to be present during trial and may present evidence and confront witnesses in their own defense. The right to testify is universal.

Trials in Poland are normally public. The court, however, reserves the right to close a trial to the public in some circumstances, such as divorce cases, trials in which state secrets may be disclosed, or cases whose content might offend "public morality." The court rarely invokes this prerogative.

The Senate Office of Intervention reported that it received some complaints in 1993 that Polish judges released or convicted defendants at their whim. According to the Office of Intervention, the majority of Polish judges are holdovers from the Communist era when their verdicts were influenced by the Communist party, and therefore they do not have the proper training to implement the law.

An amendment to the law on the court system, which went into effect in September, made it possible for the Ministry of Justice to recall a judge if a disciplinary commission demonstrates that the judge violated the principle of "court independence." In effect this amendment gives the executive branch the power of recall over the judiciary. From the day the appeal is filed, the judge in question is suspended from duty. The motion is then considered by five judges from the disciplinary commission, who are selected by the Polish General Assembly of Judges. The president of the Warsaw district court resigned in protest over the amendment, and both the Association of Polish Lawyers and the Ombudsman protested its implementation. In August the Ombudsman challenged the amendments before the Constitutional Tri-

bunal, which had already opened proceedings on the constituionality of the amendments.

On July 1 a law went into effect introducing appellate courts into the Polish judicial system for the first time since before World War II. These courts deal with appeals based on procedural issues only, not on the substance of a particular case.

The controversy about former Communists and secret collaborators continued after the fall of the Olszewski government in 1992. A special committee was formed in the Sejm to consider the various draft bills that would have instituted systems of political screening for public officials. It did not complete its work prior to the dissolution of the Sejm. A screening provision, however, was written into the electoral law of 1993, requiring that all parliamentary candidates sign a statement that they had never collaborated with the secret police. Some individuals have been tried or are being investigated for state crimes under communism. Adam Humer, a former employee of the state security bureau, was tried for torturing and killing prisoners; the trial was unfinished at year's end. Thirteen more former state security agents are currently awaiting trial on similar charges.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Government does not arbitrarily monitor private mail or telephones. There is no Polish legislation that guarantees the right to privacy, although Poland has signed the European Convention on Human Rights, in which Article 8 guarantees that right. Poles do have the legal right to privacy of correspondence, and police are not legally able to enter a private residence without a search warrant, but nothing prohibits the Government from creating a bank of information on its citizens. Because of the lack of an overall revision of the Penal Code, some laws concerning interference with correspondence remain in effect which do not conform to international human rights standards; however, they are no longer enforced. Under Articles 30 and 31 of the Polish Penal Code, a prison inmate must seek the permission of a prison warden to contact a human rights organization. The Ombudsman lodged a protest in 1993 with the Minister of Justice to have these articles rescinded.

Polish law forbids arbitrary forced entry into homes. Search warrants issued by a prosecutor are required in order to enter private residences. In emergency cases when a prosecutor is not immediately available, police may enter a residence with the approval of the local police commander. In the most urgent cases, in which there is not time to consult with the police commander, police may enter a private residence after showing their official identification. No allegations that Polish police abused search warrant procedures in 1993 were reported.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Although these freedoms are generally provided for in the Constitution, they are subject to some restriction in law and in practice.

Polish citizens may generally express their opinions publicly and privately. Article 270 of the Penal Code, however, states that anyone who "publicly insults, ridicules, and derides the Polish Nation, Polish People's Republic, its political system, or its principal organs is punishable by between 6 months and 8 years of imprisonment." The Government continues to use this law against its critics. Article 273 imposes a prison term of up to 10 years for a person who commits any of the acts prohibited by Article 270 in print or through the mass media. In March two students in the town of Brzeg who admitted to shouting "Down with Walesa—Communist agent" at a demonstration were fined the equivalent of an average Polish monthly salary for "abusing and discrediting" the President. This decision was overturned on appeal in July. In June, 12 people were arrested for putting up posters announcing a demonstration; the posters claimed that members of the Government had collaborated with the secret police under communism. Helsinki Watch and the Free World Fund, both New York-based human rights monitoring groups, have called on the Polish Government to rescind Article 270 but have received no response from the Government.

The Penal Code stipulates that offending religious sentiment is punishable by a fine or a 2-year prison term. Under this provision of the law, in late 1992 the Christian National Union (ZChN), a political party, brought charges against the rock group Piersi for a song called "The ZChN is Coming." The song, which is sung to the tune of a religious hymn, describes a priest who gets drunk and crashes his car, and his parishioners lament that they will have to finance the cost of a new one. Five persons complained to the Warsaw district prosecutor that the song had offended their religious feelings. The prosecutor's office announced in April that it would not press charges, and the ZChN is appealing the decision. A radio producer was fired for playing the song on Polish Radio 3, a government-owned station, but was reinstated after members of the Democratic Union Party intervened.

In March a ZChN deputy unsuccessfully sued the Poznan weekly Poznaniak over the publication of a satirical picture of the Madonna and Child with the deputy's face superimposed on the face of the baby Jesus. In May ZChN deputies reportedly sought to sue a Poznan movie theater for showing the film "The Last Temptation of Christ"; the deputies admitted they had never seen the film, and none of the film's 600 Poznan viewers signed the deputies' complaint. The Poznan district prosecutor declined to pursue the case.

The print media in Poland are uncensored and independent, although they may be subject to prosecution under the Penal Code provisions described above. The majority of today's periodicals have a left-of-center slant; the spectrum of political opinion was reduced in 1993 because of the closure of several right-of-center publications for financial reasons. The Government owns a controlling interest (51 percent) in one major newspaper, Rzeczpospolita, which serves as the semiofficial newspaper of record. No barriers exist to the establishment of private newspapers other than readership demand and capital. Journals also appear regularly on newsstands. Books expressing a broad range of political and social viewpoints are widely available, as are foreign periodicals.

Citizens have access to foreign publications and foreign radio broadcasts.

Television is still mainly under the control of the Government. However, regional television centers are more autonomous and active; some are cooperatively owned and control their own budgets and in some cases even their own frequencies. An ever-increasing segment of radio media is independently owned and self-financing and exposes its listeners to a broad array of points of view.

In March a new broadcast law took effect to regulate the licensing of the numerous private radio and television stations which began broadcasting after the fall of communism without sanction, in the absence of any legal means to obtain a license. The law stipulates the formation of a National Broadcasting Council (NBC) to implement the law. The NBC has very broad prerogatives: it is to supervise programming, allocate broadcasting frequencies and licenses, and apportion subscription revenues. It may interpret these prerogatives at its discretion. As of year's end, the NBC had granted two licenses. Unlicensed stations are not being shut down.

The NBC is nominally an apolitical body. Although the nine people nominated to the NBC were obliged under the law to suspend any membership in political parties or public associations, they were in fact chosen for their political allegiances, nominated by the Sejm, the Senate, and the President following political bargaining. This raised serious questions about the independence of broadcasting from government influence. Private broadcasters were concerned that the awarding of licenses for the limited number of broadcast frequencies available could be politically motivated.

Private broadcasters whose applications for licenses are rejected may appeal to the Administrative Court, which is empowered to rule solely on whether the procedural process by which the NBC reached its decision was in keeping with the law, not to examine the reason for the application's rejection.

The law stipulates that programs should not promote activities that are illegal or against Polish state policy, morality, or the common good. The law also requires that all broadcasts "respect the religious feelings of the audiences and in particular respect the Christian system of values." This particular provision was the source of much controversy before the Sejm finally approved it. Human rights organizations charged that the law does not fully define the term "Christian values," thus requiring media owners themselves to reconcile different interpretations of religion in order to determine what such values constitute. Since the NBC has ultimate responsibility for supervising the content of programs, these restrictions could be used as a means of censorship. The penalty for violating this provision of the law is up to 50 percent of a broadcaster's annual fee for the transmission frequency, plus the prospect of having the license withdrawn or experiencing difficulty in renewing the license when it expires.

b. *Freedom of Peaceful Assembly and Association.*—Poles enjoy the freedom to join together formally and informally to promote nonviolent causes and protest government policies. Permits are not required for public meetings but are required for public demonstrations; demonstration organizers must obtain these permits from local governing authorities if the demonstration might block a public road. For large demonstrations, organizers are also required to inform the local police of the time and place of their activities and their planned route. Every gathering must have a chairperson who is required to open the demonstration, preside over it, and close it.

In June police used force in Warsaw's Castle Square to disperse a demonstration of center-right parties who were questioning the Government's ties to the former Communist security apparatus. The organizers had obtained permission for a demonstration and parade originating from a different location. The Ombudsman asked

the prosecutor's office to investigate whether the demonstrators' rights were violated.

Just after the September parliamentary elections, members of the center-right Center Alliance party held an impromptu demonstration on one of Warsaw's main thoroughfares; police arrested 10 people in connection with the incident, including a journalist, allegedly for disturbing the peace. The Ombudsman asked the Constitutional Tribunal to adjudicate the rules for demonstrations, complaining that the rules do not specify if district authorities may set a different route and different destination for demonstrators. He also claimed the rules do not specify whether, in a situation in which the demonstration is not dissolved, police may intervene to disperse demonstrators who refuse to change the site of their protest (see also Section 1.c.). There has been no government response.

Private associations need governmental approval to organize and must register with their district court. The procedure basically requires the organization to sign a declaration that it will abide by the laws of Poland. In practice, however, the procedure itself is complicated and may be subject to the whim of the judge in charge. The Helsinki Foundation noted three instances in 1993 in which organizations experienced problems in obtaining court approval. The first was in Opole, where a German organization was denied the right to change its charter to include citizens of countries other than Poland. The German organization filed a lawsuit to have the charter changed and won its suit in a higher court, but the Opole judge, who initially denied the change, filed for extraordinary powers to regulate the group, fearing a rise in the influence of the German minority in the region. The second occurred in Kielce, where a society of Gypsies (Roma) ran into difficulty in gaining court approval because of a local judge's refusal to grant such approval to Roma; eventually, the group did gain approval. The third instance involved a group of veterans of the German Wehrmacht army, forcibly conscripted Poles as well as Germans, who wanted to form a society and were denied permission; the case had not been resolved by year's end.

A German minority organization in Opole experienced difficulty when it applied to drop the word "minority" formally from its name. The Government refused to allow the designation to be dropped, even though equivalent Belarusian and Lithuanian groups do not have the word "minority" in their names. The Government also ruled that only Polish citizens could join German minority groups; this is not a requirement for other minority groups, which may induct members regardless of their citizenship status.

c. *Freedom of Religion.*—The Constitution provides for freedom of conscience and belief, and citizens enjoy the freedom to practice any religion. Religious groups may organize, select, and train personnel, solicit and receive contributions, publish, and engage in consultations without government interference. There are no government restrictions on establishing and maintaining places of worship.

The vast majority of Poles are Roman Catholic, but Eastern Orthodox, Ukrainian Catholic, and much smaller Protestant, Jewish, and Muslim congregations meet freely. The Catholic Church maintains over 16,000 churches, schools, and other institutions and continues to build new ones. It also publishes significant numbers of books and periodicals, as does the independent Catholic press. The Constitution provides for the separation of church and state. State-run radio broadcasts Catholic mass on Sundays.

As a result of the 1989 roundtable negotiations, the Catholic Church is authorized to issue licenses to radio and television stations which are equivalent to licenses issued by the National Broadcasting Council; it is the only body outside the NBC allowed to do so. The broadcast law incorporated this roundtable decision.

A controversial ordinance regulating religious education in schools, which was signed by the Minister of Education and went into effect in April 1992, was also strongly supported by the Catholic Church. In August 1992, the Ombudsman filed a list of eight objections to the directive with the Constitutional Tribunal on the grounds that the directive violated the principle of separation of church and state. In April 1993, the Tribunal ruled that it was against the law to demand declarations from parents or older schoolchildren that the children were not going to take part in religion classes at school or that they attended religion classes elsewhere. It also decreed that it was illegal to give a grade in religion or ethics on the official school certificate if the subject was taught outside the school. The Tribunal further supported the Ombudsman's objection that if a bishop withdrew his recommendation for a religion teacher, this could mean that the teacher would lose his or her job. On the other hand, the Tribunal ruled that hanging religious symbols in classrooms is legal, as is a prayer at the beginning of classes. Debate in Parliament over the future of the directive was suspended after President Walesa dissolved the Sejm in May, leaving the rest of the directive in effect.

In July the Government signed a Concordat with the Vatican which, while specifying that the Roman Catholic Church and the State are "autonomous and independent," nevertheless confirmed the Church's right to "maintain religious instruction in schools," permitted church marriages to be legally binding without a civil ceremony, and obligated the State to subsidize the Pontifical Theological Academy of Krakow and the Catholic University in Lublin, as well as to contribute to the maintenance of properties belonging to the Church. The Concordat had not been ratified by year's ond.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Within the country Poles move freely and easily and may freely change their place of residence. Foreign travel is unrestricted, and Poles may obtain passports easily. Citizens who have left Poland have no trouble returning. There are no restrictions on emigration.

During the first part of 1993, Poland continued to serve as a country of transit for illegal migrants headed to the West, particularly citizens of the former Soviet Union, Romania, and Bulgaria seeking to apply for asylum in Germany. The flow of asylum seekers across the border in 1993 reached a high in April, when border guards caught 2,186 people attempting to cross the Polish-German border illegally. In May Poland signed a migration agreement with Germany, as an amendment to the 1991 Schengen accord, to readmit immigrants who crossed the Polish border illegally into Germany. The agreement specified a 6-month time period from the day of crossing into Germany during which the German authorities are allowed to return an immigrant. The agreement went into effect on July 1 in conjunction with a new German law that severely tightens asylum procedures.

Poland's position on East-West migration thus changed from a point of transit to a potential country of first asylum. Since implementation of the new German asylum policy began, the number of people illegally crossing the German border from Poland has declined greatly, and the leading Polish official for refugee affairs reported that there had not been a corresponding rise in the number of refugee applicants in Poland. According to the Warsaw representative of the United Nations High Commissioner for Refugees (UNHCR), however, the Polish Government actively discouraged some refugees from applying for asylum, especially citizens of the former U.S.S.R., Bulgaria, and Romania. Although Poland signed the 1951 Geneva Convention on refugees in 1991, since March the Government has stopped issuing permanent residence documents to registered refugees (one of the provisions of the Convention), thus limiting a refugee's ability to seek gainful employment. The Government has further refused to allow undocumented refugees to apply for asylum, contrary to another provision of the Convention.

There was one known report indicating mistreatment of asylees. The UNHCR reported that the Government deprived two Bosnian Gypsy families of refugee status and privileges after they had already been accepted for asylum and were living in a government refugee facility. According to the UNHCR, the decision to deprive the families of status stemmed from the refugees' social behavior and therefore was not reached in accordance with standard procedure: the daughter of one family had attempted to commit suicide, while another Bosnian Gypsy refugee, who was not part of either family but shared the same nationality, was supposedly involved in a brawl, an allegation that was disputed by witnesses.

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

Poles have the right and ability to change their government. This right is guaranteed in the Constitution and exists in practice. Poland is a multiparty democracy in which all citizens 18 years of age and older have the right to vote and to cast secret ballots.

Governmental power is divided between the President and Parliament, which is composed of an upper house (the Senate) and a lower house (the Sejm). The Constitution provides for parliamentary elections at least every 4 years. The President, elected for 5 years, has the right to dissolve Parliament when Parliament loses confidence in the Government or when Parliament fails to pass a budget, and Parliament may impeach the President.

In November 1992, President Walesa signed into law the so-called Little Constitution, which is a transition document to be replaced when a "large," or permanent, constitution is eventually ratified by Parliament. The Little Constitution specifies the division of powers among the President, Prime Minister, and Parliament and delineates ways in which a government may be formed or dissolved. The constitutional balance of power among the presidency, government, and legislature remains amorphous, pending the adoption of a formal constitution.

In May President Walesa dissolved the Sejm following a motion of no confidence in the Suchocka government, which passed by one vote. The Suchocka government was the fourth to fall since Poland's first freely elected Sejm took office in 1991. In the resulting elections, held in September, the Democratic Left Alliance, a successor to the former Communist party, won 171 seats out of 460 in the Sejm (20.4 percent of the vote) and formed a coalition with the Polish Peasant Party (132 seats, or 15.4 percent of the vote), with Waldemar Pawlak of the Peasant Party as Prime Minister. The Democratic Union of former Prime Minister Suchocka, which obtained 74 seats, based on 10.6 percent of the vote, is the major opposition party. Only three other parties exceeded the threshold of 5 percent for representation in Parliament, a requirement of the 1992 electoral law aimed at avoiding the fragmentation of political representation in Parliament. This requirement eliminated most center and right-of-center parties that had failed to form electoral alliances.

The electoral law strictly limited the amount of broadcast time the parties could buy and provided that all parties registered on the ballot nationwide were entitled to the same amount of free television time. State television provided 90 minutes daily of free time over a 14-day period prior to the election. President Walesa used his office to campaign on the broadcast media's regular programming for the Nonpartisan Bloc in Support of Reform (BBWR), which he created in the wake of the dissolution of the Suchocka government as an alternative to the existing parties. The other parties complained about this discrepancy, and the electoral commission allotted them the equivalent amount of time at a later date. According to the election law, no opinion polls were to be released publicly beginning 12 days before election day. However, one major newspaper illegally ran a poll the day before the elections and was consequently fined.

Women comprised some 10 percent of the candidates for Parliament and approximately 15 percent of the candidates elected. A special provision in the electoral law exempted national minority parties from the 5-percent threshold; four members of the German minority were elected under this provision.

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

The Helsinki Committee, a major nongovernmental organization, conducted human rights investigations without government interference in 1993. Leading members of the Committee reported that the Government displays a generally positive and helpful attitude towards human rights investigations.

Two governmental organizations monitor human rights in Poland. The Office of the Commissioner for Civil Rights Protection (the Ombudsman), established in 1987, is an independent internal body with broad authority to investigate alleged violations of civil rights and liberties. The Ombudsman has no legislative authority and is sworn to act apolitically. He registers each case that is reported to his office and files grievances, when appropriate, with the relevant government office.

According to the Ombudsman's office, the Interior Ministry and the armed forces have the quickest rates of response to grievances. There were 1,325 cases still pending in September, however, some dating back to 1988; most of these dealt with the issue of compensation for land that was taken over by the Communist government.

The Ombudsman conducted aggressive investigations of human rights infringements in 1993 in spite of an increasingly negative governmental attitude towards his role under the Suchocka government. Under the law, the Sejm can vote to recall the Ombudsman if he proves himself "unfaithful to his oath" to keep faith with the Constitution of the Republic of Poland, safeguard the rights and liberties of citizens, and carry out his duties impartially. As a result of the Ombudsman's eight complaints concerning the Minister of Education's 1992 ordinance regulating religious education in schools (see Section 2.c.), the ZChN led the more conservative parties in the Sejm in accusing the Ombudsman of being "unfaithful to his oath." Nearly 80 deputies from right-of-center parties filed a motion for a vote of no confidence in him in April. The Ombudsman fought back, saying his oath compelled him to promote the separation of church and state. The motion died when President Walesa dissolved the Sejm in May.

The second governmental institution, the Senate Office for Intervention, investigates a wide range of grievances. In addition to responding to grievances, it may also investigate judicial proceedings. Created in 1989, the Office conducts investigations and refers legitimate cases to senators whom the investigator feels will be sympathetic to the grievance, regardless of their district or political affiliation. If a senator does not wish to become involved in the case, the Office presents it to another senator or senators until it finds someone willing to pursue the matter. The Office does not release public reports.

There are no restrictions on visits by international organizations.

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

Women.—The Constitution provides for equal rights regardless of sex and grants women equal rights with men in all fields of public, political, economic, social, and cultural life, including equal pay for equal work. In practice, however, women are sometimes paid less, hold lesser positions, are discharged more quickly, and are less likely to be promoted than men. There are no laws providing explicit legal redress for women subjected to such discrimination.

Women are employed in a broad variety of professions and occupations, and a handful of women occupy high positions in many branches of government and in the private sector. However, certain Polish laws discriminate against women.

Under retirement laws, women may retire earlier than men, and human rights organizations reported that, as a result, employers were generally more hesitant to hire women. Polish law does not adequately address equality in hiring practices. Women are banned by law from working in 90 occupations in 18 fields of industry, health care, forestry, agriculture, and transportation, but unions support the desire of women to gain entry into these occupations.

Unemployment disproportionately affects Polish women, who are more likely to lose their jobs than their male colleagues if an employer is forced to scale down, an ever-increasing phenomenon in the transition economy. The Senate Office of Intervention reported that women often do not take advantage of sick leave from work so that they will appear healthier to their employers than their male counterparts.

Although women with infants are eligible to receive a maintenance allowance from the State, the amount of the allowance has not kept pace with inflation. The Helsinki Committee reported that some progress had been made in improving working conditions for women in 1993, and the Government had taken some steps to improve labor laws for women. A law providing that only women could take a leave of absence from work to care for a sick child was amended to include men as well.

The Helsinki Committee pointed out that men must be 21 years of age to marry, while women need only be 18. According to the Helsinki Committee, it is impossible to estimate the likely extent of violence against women and spouse abuse, although it is certainly a problem in Poland, and the cases that are reported are probably but a fraction of the real number. Police do intervene in cases of domestic violence, and husbands can be convicted for beating their wives. A first offender is put on probation; the penalty for a second offense is from 8 to 12 months in prison.

Children.—No special laws exist to ensure the protection of children. Child abuse is very rarely reported, and convictions for child abuse rarer still. Under the law there is no special distinction between children and adults. Until the age of 18, parents have the right to make all decisions concerning their children's medical treatment; the Helsinki Committee reports cases of children being forced to have cosmetic surgery by their parents or of parents deciding whether or not their child will have an abortion. However, education is compulsory until the age of 16. In divorce cases, children have no say over which parent will be granted legal guardianship. There are no procedures in schools to protect children from abuse by teachers; in fact, the teachers' work code guarantees a teacher legal immunity from prosecution for the use of corporal punishment in classrooms. Infant mortality is higher in Poland than in developed countries. According to Polish government sources, this is because of the inadequate availability of acute postnatal care and the conditions in maternity hospitals. A center in Laski for children with the human immunodeficiency virus (HIV) was closed following the burning down of one its buildings. The children have been dispersed throughout Poland.

National/Racial/Ethnic Minorities.—Poland's population is 97-percent ethnically homogeneous, although small Ukrainian, Belarusian, Slovakian, and Lithuanian minorities reside along the borders, and a German minority is concentrated near the southwest city of Opole. There are no restrictions on Polish citizens from non-Polish ethnic groups holding office. The new electoral law exempted ethnic minority parties from the requirement to win 5 percent of the vote nationwide in order to qualify for seats in individual districts. Four members of the German minority party were elected to Parliament in September.

Ethnic tensions exist in the province of Opole, which is approximately 30-percent German. Many of the minority Germans charge Polish citizens and the Government with discriminating against them. Disputes centered over efforts to restore monuments built to honor World War II German soldiers and to put up bilingual street names, which the regional governor claimed were prohibited by law. Controversy also centered on the number of qualified German-language teachers provided by the Government and the weekly number of hours of German-language training provided in schools.

According to the Krakow prosecutor's office, seven "skinheads" were arrested in Krakow in connection with the murder of a German truckdriver in 1992. They have been held in detention ever since. No charges have been formally brought against them because the Krakow prosecutor's office and the court medical doctors are at odds as to the actual cause of the truckdriver's death.

All minority groups were concerned about education in public schools of their native language and customs. Approximately 30,000 ethnic Slovaks live in Poland, mostly in the southeast. Their main concern is that not enough Polish schools in the region teach the Slovak language. Only about 500 Slovak students are enrolled in Polish schools. The Government operates two elementary schools and one high school in which classes are taught exclusively in Slovak. The Slovak minority also wants the Government to allow trained Slovakian priests to come to Poland so there can be more masses said in Slovak.

Several persons were tried for desecrating the Soviet soldiers' cemetery in Elblag during 1992. In September 1993, two men were convicted of vandalizing it, and both were sentenced to 1 year in prison, suspended for 4 years, the performance of public works, and a fine of about $50 to the city. Investigations into vandalism of Soviet soldiers' graves at two other cemeteries continued.

Roma reported that they were often victims of random acts of violence in 1993. Many of these were minor acts, such as rocks being thrown through house windows. One example of serious crime, though, was a raid on a Gypsy camp outside Warsaw in September, in which one of the participants was dressed in a police uniform. According to the Helsinki Committee, the police investigation is being conducted seriously and properly. No outcome had been noted in the press by year's end, and it was unclear whether the person involved was actually a police officer. In a public forum of national minority organizations, which was held with the Ombudsman in July at the behest of the Helsinki Committee, Roma leaders claimed that they continued to experience difficulty seeking compensation for damage suffered by Roma during the 1991 anti-Roma riots in Mlawa.

The Ombudsman received 122 complaints from foreigners, of which 35 percent dealt with police brutality. Foreigners also complained that they were detained without being informed of the charges against them and for excessive periods of time and that court interpreters were poor.

Religious Minorities.—Under communism many church properties were absorbed by the State. It is generally more difficult for the Orthodox Church in eastern Poland than for the Catholic Church to obtain compensation for, or the return of, its properties, the Helsinki Committee reported. (See Section 2.c. for discussion of government involvement in religious affairs.)

Jewish groups have complained about a playground installed on Kalisz' former Jewish cemetery grounds. There has been no resolution of this issue.

Violent anti-Semitic incidents are rare in Poland, and none was reported in 1993. Despite occasional anti-Semitic rhetoric at political rallies and demonstrations, there are no significant anti-Semitic political parties. The neo-Fascist Polish National Community is weak and has no seats in Parliament. Anti-Semitic graffiti sometimes appear in Polish cities, including on Holocaust monuments, and Jews are sometimes subjected to anti-Semitic remarks on the street. The press reported in December that some Poles had complained about an anti-Semitic requirement in Poland's passport application procedure. The requirement specified that people who emigrated from Poland in 1968 on a one-way passport had to sign a special declaration that they had not gone to Israel or that they had not accepted Israeli citizenship. A subsequent investigation by the Ministry of Foreign Affairs revealed that this requirement had actually been overturned in 1984, but the change was never implemented. In December the Ministry of Foreign Affairs announced that the requirement had been overturned permanentley. A major tension in Catholic-Jewish relations was defused when the Pope intervened to instruct Carmelite nuns to leave their convent at Oswiecim (Auschwitz), which was located in the "Old Theater" immediately outside the former concentration camp.

People with Disabilities.—Poland has no laws guaranteeing rights for the disabled. Neither buildings nor public transportation are generally accessible to the handicapped.

Section 6. Worker Rights

a. *The Right of Association.*—All workers, including the police and frontier guards, have the legal right to establish and to join trade unions of their own choosing, the right to join labor federations and confederations, and the right to affiliate with international labor organizations. Following negotiations with trade unions and employers in 1992–93, the Suchocka government sent new legislation to Parliament concerning trade union rights and collective bargaining under the terms of the so-

called Pact on State Enterprises. Parliament was dissolved on May 31 before the legislation could be approved.

As few as 10 persons may form a trade union, and a founding committee of 3 persons must register the union in the court of the province where that union's headquarters is located. A decision of the court refusing registration may be appealed to an appeals court. Interbranch national unions and national interbranch federations must register with the provincial court in Warsaw. As of September, 4 national interbranch industrial unions were registered, along with some 17 other major independent industrial branch unions and 3 agricultural unions.

The Independent Self-Governing Trade Union (NSZZ) Solidarity is affiliated with the International Confederation of Free Trade Unions and the World Confederation of Labor. Solidarity has a membership of 2.2 million (with roughly 81 percent paying dues). Spin-offs from mainstream Solidarity include the Christian Trade Union Solidarity (16,200 members) and Solidarity '80 (156,000 members), a militant rival from which a group broke away to form "August 80."

The National Alliance of Trade Unions (OPZZ), the Communist-inspired trade union, was registered in 1983 as the sole legal alternative to the then repressed NSZZ Solidarity. According to trade union legislation of 1991, OPZZ was obligated by law to relinquish "inherited" properties and return assets it acquired (or an approximation of their value at the time they were seized) following the imposition of martial law. The OPZZ did not have sufficient funds to pay Solidarity's claim outright; consequently, negotiations throughout 1993 centered on property claims, some of which had already been improperly transferred either to private hands or to branch unions no longer affiliated with the OPZZ. As a general rule, Solidarity has rejected the OPZZ's suggestion that Solidarity's claims be paid out of the state budget. In a complaint to the International Labor Organization (ILO), the OPZZ alleged that the amount of zlotys (Polish currency) it had been assessed to pay back had been unduly indexed, but the ILO Governing Body found that indexation by the Government was not inconsistent with the requirements of freedom of association in principle.

The OPZZ claims a membership of 4.7 million, a figure that independent observers reject as inflated. Solidarity's continued support for the new collective bargaining legislation is contingent on provisions to verify union membership claims. Until then, Solidarity refuses to join negotiations with the OPZZ on the grounds that its inflated membership figures exaggerate its strength at the bargaining table. Among several other independent industrial branch unions, the largest and most influential is the Free Miners' Trade Union, which claims more than 300,000 members.

All these trade union organizations operate independently of state control. In alliance with the Social Democrats of the Republic of Poland, the OPZZ, the National Teachers' Union, and several others won 63 seats in the September parliamentary elections under the banner of the Democratic Left Alliance. The Solidarity trade union ran a full slate of candidates independent of any political parties but failed to meet the necessary threshold of 5 percent of the national vote. It will only have nine representatives in the Senate, the upper house of the new Parliament.

The Trade Union Act of 1991 is less restrictive than the 1982 version passed soon after the imposition of martial law, but it still prescribes a lengthy process before a strike may be launched. During this period, the law, when strictly adhered to, provides several opportunities for employers to challenge a pending strike—including the threat of legal action. An employer—the Act makes no distinction between state-owned and private firms—must start negotiations the moment a dispute begins.

Negotiations end with either an agreement or a protocol describing the differences between the parties. If negotiations fail, a mandatory mediation process ensues; the mediator is appointed jointly by the disputing parties or, lacking agreement between them, by the Minister of Labor and Social Policy. If mediation fails, the trade union may launch a warning strike for a period of up to 2 hours or seek arbitration of the dispute. Both employers and employees have frequently questioned the impartiality of the mediators.

A full-fledged strike may not be launched until 14 days after the dispute is announced (strikes are prohibited entirely in the Office of State Protection, in units of the police, firemen, military forces, prison services, and frontier guards). A strike may be proclaimed by the trade union after approval by the majority of voting workers and should be announced at least 5 days in advance. If the strike is organized in accordance with the law, the worker retains his right to social insurance benefits but not pay. If a strike is "organized contrary to the provisions of the law," the workers may lose social insurance benefits; organizers are liable for damages and may face civil charges and fines. Laws prohibiting retribution against strikers are not consistently enforced; the fines imposed as punishment are so minimal that employers can easily afford to pay them.

The Government anticipated that the Trade Union Act would discourage labor disputes, but in fact the absence of a stable process for resolving them contributed to a worsening of tensions on the shop floor in 1993. The Suchocka government hoped that the collective bargaining aspects of the Pact on State Enterprises would help remedy that situation, but shop floor tensions turned into full-fledged strikes before the legislation could be passed. The Government faced a major strike in the Silesian coal basin in January and only narrowly avoided a simultaneous stoppage by public service workers. Tensions in the latter sector led to another strike in April, culminating in a successful no confidence motion in the Government launched by Solidarity parliamentarians in May.

b. *The Right to Organize and Bargain Collectively.*—The May 1991 law on trade unions and collective disputes generally creates a favorable environment to conduct trade union activity through provisions for time off with pay, as well as facilities and technical equipment in the enterprise. Notable weaknesses in the law include minor penalties for antiunion discrimination and, given Poland's ongoing economic transition, the lack of specific provisions to ensure that a union has continued rights of representation when a state firm undergoes privatization, bankruptcy, or sale.

Unions, management, and workers' councils set wages in ad hoc negotiations at the enterprise level; collective bargaining as such does not exist. When formal agreements have been reached, they are routinely ignored and overtaken by enterprise-level disputes. In response to complaints from the Federation of Mining Unions and the Occupational Union of Employees in the Copper Industry regarding the refusal of the Government to negotiate with the strike committee of miners and copper works group unless Solidarity also participated, the ILO Governing Body urged the Government to begin negotiations with the complainants with a view to concluding agreements on the procedure for settling collective disputes and in order to dispel any possibility of discrimination against them.

A common complaint voiced by organized labor is that the Polish laws concerning trade unions and collective disputes presume a fully developed market economy with private employers as negotiating partners. Because the State still is the dominant employer in Polish industry, government ministers get drawn into routine labor disputes, thereby unduly politicizing the process of labor-management relations. The Pact on State Enterprises, initialed by several of the major trade unions in 1992, is designed to address these weaknesses by codifying labor's involvement in the process of enterprise restructuring and privatization. As it stands, however, the law does not take into account the special circumstances created by Poland's transformation from a Socialist centrally planned economy to a market-oriented system in which many grievances arise from Poland's massive, structural economic adjustment. Women, for example, are generally the first fired in a mass layoff because it is assumed that men are the principal wage earners in a family.

Throughout 1993, the Government continued to impose a ceiling on wages in state enterprises through a penalty tax, the so-called popiwek, in an effort to link wages to increases in productivity and reduce inflationary pressures in the state industrial sector. The penalty tax is charged on any state company (which does not produce for export) that increases its average wage in excess of a government-set "inflation coefficient." The enforcement of the popiwek tax on excessive wage growth effectively discouraged enterprise or sectoral-level collective bargaining on wages.

Current government policy aims to liberalize investment procedures for both domestic and foreign firms rather than to promote special incentive programs. Special duty-free zones exist in or have been contemplated for some 15 to 20 locations throughout Poland but, with the exception of one zone in Poznan and one in Mielec (near Krakow), have not thus far attracted much attention. Thus, traditional export processing zones that relax legal guarantees do not, at this time, constitute a threat to workers' rights to organize. As in all other areas, however, collective bargaining does not exist.

c. *Prohibition of Forced or Compulsory Labor.*—Compulsory labor does not exist in Poland, although it is not prohibited by law. The Polish Government has signed the ILO Convention, which prohibits compulsory labor.

d. *Minimum Age for Employment of Children.*—The Labor Code forbids the employment of persons under the age of 15. The employment of persons aged 15 to 18 is permitted only if that person has completed basic schooling and if the proposed employment constitutes vocational training. The age floor is raised to 18 if a particular job might pose a health danger. The Government enforces legal protection of minors, but its inability to monitor the growing private sector leaves officials less certain that the problem does not exist.

e. *Acceptable Conditions of Work.*—A national minimum wage is negotiated every 3 months by the Ministry of Labor and Social Policy and trade unions. Minimum wages for state-owned enterprises are roughly $85 (Zl 1,650,000) per month at the

October 1 exchange rate, which is insufficient to provide a worker and family a decent standard of living. The minimum wage has the force of law, but a significant number of foreign guest workers receive less than the minimum wage, especially in the construction industry. The average monthly wage is roughly $197 (Zl 3,845,000).

There is a standard legal workweek of 42 hours which allows 6- or 7-hour days, including at least one 24-hour rest period.

The Legal Code defines minimum conditions for the protection of workers' health and safety; a new draft of that code was approved by Parliament. Enforcement is a growing problem because an ever-increasing portion of Polish economic activity is in private hands and outside the purview of the State Labor Inspectorate, which is unable to monitor both the state and private sectors of the economy. In addition, there is a lack of clarity concerning which government or legislative body has the responsibility for enforcing the law. About 102,944 serious work-related accidents were reported in 1992, involving 644 deaths and 3,380 cases of dismemberment. This represents a downward trend in work-related accidents, but as the Government itself has noted, work conditions in Poland are poor. Standards for exposure to chemicals, dust, and noise are routinely exceeded.

PORTUGAL*

The Republic of Portugal is a parliamentary democracy with a President and Legislative Assembly freely elected by secret ballot. Former Prime Minister and Socialist Party head Mario Soares was elected Portugal's first civilian president in 60 years in 1986 and reelected by a wide margin in 1991. In legislative elections in 1991, Prime Minister Cavaco Silva and his Social Democratic Party (PSD) were returned to office with an increased majority in Parliament.

Internal security is primarily the responsibility of the Ministries of Justice and Internal Administration. Security forces are fully controlled by and responsive to the Government.

Portugal has a market-based economy and is a member of the European Community. An increasing proportion of the population is employed in services, while employment in the agricultural sector continues to decline and employment in the industrial sector has been static.

Portuguese citizens enjoy a broad range of civil and other human rights. Civil rights are outlined in the Constitution with specific reference to the Universal Declaration of Human Rights. An Ombudsman, chosen by the Assembly of the Republic (legislature) to serve a 4-year term, is Portugal's chief civil and human rights officer. Any citizen may apply to the Ombudsman for relief. The Ombudsman receives about 3,000 complaints annually, most of them concerning cases of alleged misadministration by Portugal's cumbersome bureaucracy and delays in the judicial process. A government investigation of allegations of police brutality, begun in 1992, continued, in 1993 with no results announced by year's end.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no known instances of government-sanctioned political or other extrajudicial killings. No killings were attributed to domestic terrorist groups.

b. *Disappearance.*—Government or police authorities do not abduct, secretly arrest, or otherwise illegally detain persons.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution forbids torture, inhuman or degrading treatment or punishment, and the use of evidence obtained under torture in criminal proceedings. The Ombudsman investigates complaints of mistreatment by police and prison authorities. A formal investigation by the Provedor de Justica of allegations of police brutality and mistreatment of prisoners, including the seven unresolved complaints cited in Amnesty International's (AI) Annual Report, began at the end of 1992. This investigation continued through 1993, with no announced results. In 1993 Portugal submitted to the Geneva-based Committee Against Torture a report on torture and mistreatment allegedly inflicted by Portuguese public security forces. AI, an observer at the proceedings in Geneva, criticized this report as lacking detailed information and statistics, particularly concerning alleged incidents involving public security po-

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*A separate report on Macau, a dependency of Portugal off the southern coast of China, follows this report.

lice (PSP). AI noted also the lack of results from the Provedor de Justica's inquiry. The PSP responded through a press release by noting improvements in its selection and training processes, internal disciplinary actions taken against agents accused of maltreatment of citizens, and the dismissal of 64 PSP members between 1991 and 1993 for disciplinary reasons.

d. *Arbitrary Arrest, Detention, or Exile.*—Under Portuguese law, an investigating judge reviews the case against a person under arrest to determine whether that person should be detained, released on bail, or released outright. Persons may not be held for more than 48 hours without appearing before an investigating judge. Investigative detention is limited to a maximum of 6 months for each suspected crime. If a formal charge has not been filed within that period, the person detained must be released. In cases involving serious crimes, such as murder or armed robbery, or in cases involving more than one suspect, investigative detention is permitted for up to 2 years and may be extended by a judge to 3 years in extraordinary circumstances. A suspect must be brought to trial within 18 months of being formally charged if the suspect is held in preventive detention. If not held, there is no specified period within which the suspect must be brought to trial. The justice system has been subjected to considerable criticism for a reported backlog of half a million cases awaiting trial. The Government is taking no specific actions to eliminate the backlog, which exacerbates the problem through further buildup. Detainees have access to lawyers, who are generally effective in protecting their clients' rights. Defendants who cannot afford representation have a lawyer appointed for them by the presiding judge, who chooses from a list maintained by the Lawyers Association. Fees are paid by the Government.

Exile and incommunicado detention are illegal and not practiced.

e. *Denial of Fair Public Trial.*—Portugal has an independent and impartial judicial system. All trials are public except those which may offend the dignity of the victim, such as in cases involving the sexual abuse of children. The accused is presumed innocent unless proven guilty. In trials for serious crimes, a panel of three judges (which does not include the investigating judge) presides. In trials for lesser crimes, a single judge presides. A ministerial delegate assists the judges in reviewing the evidence. At the request of the accused, a jury may be used in trials for major crimes. In practice, requests for jury trials are extremely rare. Sentence may be passed only in the presence of the defense attorney.

Portugal holds no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution forbids forced entry into homes and searches without a judicial warrant. In addition, entry into a person's home at night requires the consent of the occupant. The State does not intercept private correspondence or place wiretaps except with a court order.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and press is provided for in the Constitution and respected by the State. The constitutionally mandated High Commission for Social Communication acts as a watchdog to protect freedom of speech and access to the media. The Commission, members of which are chosen by the Government and by the Assembly of the Republic, makes recommendations to the Assembly and has enforcement powers. The academic community is free to express its views.

The State owns two television channels. However, the provision of the Constitution making television a state monopoly was removed in 1990, and two privately owned television channels now operate. One of them is owned by the Catholic Church.

In principle, the Government does not exercise direct control over the state-owned television channels, though it does wield considerable influence through personnel appointments. Opposition parties sometimes charge that the state network ignores or distorts opposition views and activities; station news directors defend their decisions as based on editorial judgments, not political partisanship. All political parties, even very small ones, use their legal right to "antenna time" during prime viewing and listening hours.

Privately owned radio stations have operated in Portugal since1989. More than 250 local privately owned stations are on the air. The entire spectrum of political thought is represented in the press. There is no press censorship. All newspapers are privately owned.

"Fascist" organizations are prohibited by law, although some small, extreme right-wing groups hold meetings of their members and run candidates for public office without interference. In September, however, the Constitutional Court began for the first time to consider whether a group—the National Action Movement—should be

banned as Fascist and for its involvement in violent incidents. The Court did not reach a decision in 1993.

The law provides that a person may be prosecuted for "insulting" certain state authorities if the "insult" is intended to undermine the rule of law. There were no known prosecutions for "insult" in this sense in 1993.

b. *Freedom of Peaceful Assembly and Association.*—People have the right, in law and practice, to associate formally or informally to promote nonviolent causes. Public meetings or protests require 24-hour advance notice to the civil governor of the region in which the event is to be held. Permission is routinely granted. The official registration of a new political party requires 5,000 signatures.

c. *Freedom of Religion.*—Portugal does not have a state religion. The Government does not interfere with the free practice of religion, missionary work, or religious publications. These freedoms extend to the foreign clergy, many of whom work in Portugal. Organized religious groups may establish places of worship, train clergy, and proselytize without government interference. To qualify as tax-exempt institutions, religious groups must be established as nonprofit, private societies.

Roman Catholicism is the predominant religion. Catholic religious instruction is offered as an elective course in public schools. Other denominations offer religious education in their own institutions without interference. Success in a civil, military, professional, or political career does not depend upon adherence to a religious creed. There were no reported cases of religious persecution in 1993.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for the right of freedom of movement, foreign travel, and emigration. There are no restraints on domestic travel or on the right of a person to change his domicile. Citizenship is not revoked for political reasons.

Displaced persons who qualify as refugees as defined by the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol are entitled to permanent resident status and work permits. Such displaced persons are not forced to return to the country from which they fled.

Faced with a rapidly increasing number of asylum requests, which the Government characterized as 98- or 99-percent economically motivated, and a burgeoning illegal immigration problem, Portugal tightened its lenient 1980 asylum law in September 1993. Under the new law, Portugal continues to meet its international obligations concerning refugees but provides for more rapid processing of applicants. The possibility of permanent residence is retained. The law places the decision on granting asylum with the Interior Ministry instead of the judicial system.

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

Portugal is a multiparty, participatory democracy. Candidates for president and for legislative, regional, and municipal offices are freely nominated and are elected by secret ballot on the basis of universal suffrage.

The unicameral Assembly of the Republic is the legislative body. The Prime Minister is the head of the Government. Opposition parties and candidates operate freely and enjoy access to the media. General elections are held at least once every 4 years. The President has a 5-year mandate and may not serve more than two consecutive terms.

Women and minorities participate in the political process without restriction. Women are represented in the Parliament, holding 24 out of 230 seats, including the office of Vice President of the Assembly.

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

Local and international human rights groups operate freely in Portugal. The Government cooperates with independent outside investigations of human rights conditions and actively participates in the monitoring of human rights by the Council of Europe.

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

The Constitution forbids discrimination based on ancestry, sex, race, language, territory of origin, religion, political or ideological convictions, education, economic situation, or social condition.

Women.—Various women's groups in Portugal have drawn attention to the largely hidden problem of violence against women, particularly within the family. Portuguese law provides for criminal penalties in cases of violence between husbands and wives without referring specifically to violence against wives. Women's groups point out that traditional attitudes discourage many women who suffer such violence from seeking recourse in the judicial system. They complain that Portugal

lacks institutions established specifically to provide relief to battered women. No specific institutions were established in 1993 to provide such relief. However, when complaints are brought, the judicial system is not reluctant to prosecute those accused of abusing women.

The Civil Code provides for full legal equality for women. Women are increasing their representation in universities, business, science, government, and the professions. Traditional attitudes of male dominance persist but are changing gradually. The Commission for Equality and Rights of Women, an official organization established in 1976, is a leading advocate of women's rights.

The Commission for Equality in Work and Employment, an entity of the Ministry of Employment and Social Security, commissioned a study, completed in 1993, entitled "Sexual Harassment in the Workplace." The study reported that 72 percent of respondents believed incidents of sexual harassment in the workplace were frequent and 87 percent believed the incidents that occurred were serious. The study noted that the reaction of victims of such harassment was characterized by passivity. The study concluded that sexual harassment and its usual nonrecognition, as well as the absence of legal means to fight harassment, are factors in discrimination that injure the dignity of female workers in Portugal.

Children.—The government entity to promote the welfare of children is the Institute for Support of Children. According to the Institute, it has been allocated inadequate funds. Most of the funds it does receive are spent on publicity campaigns against the abuse of child labor. It attempts to discourage the use of children as a means of reducing labor costs in low-technology, home-based industries (see Section 6.d.).

National/Racial/Ethnic Minorities.—The principal minority groups are immigrants, legal and illegal, from Portugal's former African colonies (Angola, Cape Verde, Guinea-Bissau, Mozambique, and Sao Tome and Principe). Cape Verdeans comprise the largest such group, over 25,000. There is also a resident Gypsy population. Societies for African immigrants publicize the problems of their members, including those stemming from what they perceive as racism. The Government denies that racist actions are taking place. The press reported, however, a number of racially motivated incidents in 1993 that were apparently perpetrated by small, loosely knit "skinhead" groups. In a September incident with racial overtones, the Embassy of Sao Tome and Principe claimed that one of its diplomats was assaulted without provocation by a policeman in a Lisbon train station. Although he did not admit intentional wrongdoing by the police, President Mario Soares closed this incident with an apology to the Government of Sao Tome and Principe.

People with Disabilities.—While there have been no reported allegations of discrimination against persons with disabilities in the areas of employment or provision of state services, handicapped individuals consider there is much room for improvement. Legislation mandates access to public facilities for persons with disabilities, and it is generally complied with. No such legislation covers private businesses or other facilities. While there is no legislation prohibiting discrimination against persons with disabilities, the Portuguese Government has issued administrative decrees and regulations to that effect.

Section 6. Worker Rights

a. *The Right of Association.*—Workers in both the private and public sectors have the right to associate freely and to establish committees in the workplace "to defend their interests." The Constitution provides for the right to establish unions by profession or industry. Trade union associations are guaranteed the right to participate in the preparation of labor legislation. Strikes are permitted for any reason, including political causes. They are common and are generally resolved through direct negotiations between management and the unions involved. Lockouts are prohibited. These constitutional guarantees are respected in practice.

There are two principal labor federations. The General Union of Workers (UGT) is a pluralist democratic federation affiliated with the International Confederation of Free Trade Unions and the European Trade Union Confederation (ETUC). The General Confederation of Portuguese Workers Intersindical (CGTP-IN) is linked to the Communist Party and engages freely in cooperative activities with the formerly Soviet-controlled World Federation of Trade Unions (WFTU). The CGTP was expected to enter the ETUC in 1993 but this did not occur, partly as the result of conflicts within the CGTP itself.

Both federations and their affiliates function free from government control but are closely associated with political parties. The CGTP-IN generally supports the Communist Party's policies and causes, but this position continued to be openly criticized by elements of the membership in 1993. UGT leaders are associated with either the Socialist or the Social Democratic Party. Although some UGT leaders serve in the

Assembly of the Republic, the Federation pursues a generally independent path that occasionally puts it in conflict with the Socialist or the Social Democratic Party or both, as well as the Government. The labor movement in Portugal exercises significant influence on areas of social and economic policy-making.

b. *The Right to Organize and Bargain Collectively.*—Unions are free to organize without government or employer interference. Collective bargaining is guaranteed by the Constitution and practiced extensively in the public and private sectors. Collective bargaining disputes rarely lead to prolonged strike action. Should a long strike occur in a key sector (for example, health or transportation), the Government is empowered to order the workers back to work for a specific period. The Government has rarely done so, in part because most strikes are limited to periods of 1 to 3 days. Under a modification of the strike law, a "minimal level of service" must be provided during certain strikes, including those in the public health, energy, and transportation sectors. The modified law was first applied in a rail workers strike in March. Minimal levels of service were successfully established by common agreement with the Government. When collective bargaining fails, the Government, at the request of either management or labor, may appoint a mediator.

Union officials and members are protected by law against antiunion discrimination, and this law is observed in practice. Complaints are promptly examined by the General Directorate of Labor.

Portugal has no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is prohibited and does not exist in Portugal. This prohibition is enforced by the General Labor Inspectorate.

d. *Minimum Age for Employment of Children.*—The minimum employment age has been 15 years since 1992. It is to be raised to 16 when the period of 9 years of compulsory schooling takes effect on January 1, 1997.

The UGT and CGTP-IN have charged that a number of "clandestine" companies in the textile, shoe, and construction industries in northern Portugal exploit child labor. It is difficult to quantify the extent of child labor exploitation because much child labor has been transferred to home facilities. Government inspection teams can enter such facilities only with search warrants. In practical terms, control is extremely difficult because of the dispersed nature of the problem and the administrative complexity of police entry for investigative purposes. Control of underage employment is thereby frustrated. According to the Government's General Labor Inspectorate, which is responsible for enforcement of child labor laws, between 30,000 and 35,000 children from 12 to 15 years of age are working in Portugal. The Inspectorate's funding has been increased, and the number of inspectors is growing. Since the law was changed to raise the maximum fine, the Inspectorate has begun to levy large fines on employers found to be using child labor. The Government has yet to allocate resources sufficient to cope effectively with the problem, however, which has thus remained essentially unresolved.

e. *Acceptable Conditions of Work.*—Minimum wage legislation covers full-time workers, as well as rural workers and domestic employees aged 18 or over. The current minimum monthly wage of about $278, established on January 1, 1993, is generally enforced. Even with rent control and various social assistance subsidies, it is difficult for a single-income family to maintain a decent standard of living on the minimum wage income, particularly in urban areas.

Current legislation limits regular hours of work to 8 hours per day and 44 hours per week, but agreement has been reached to reduce the workweek to 40 hours by 1995. Overtime is limited to 2 hours per day, up to 200 hours annually. Work on a normal day off is restricted to 8 hours. These limits are respected in practice. Workers are guaranteed 30 days of paid annual leave per year. The Ministry of Employment and Social Security monitors compliance through its regional inspectors.

Employers are legally responsible for accidents at work and are required by law to carry accident insurance. Portugal has developed a body of legislation that regulates safety and health. Labor unions consider these regulations inadequate and continue to press for stiffer legislation. The General Directorate of Hygiene and Labor Security develops safety standards, and the General Labor Inspectorate is responsible for enforcement but, as in the case of alleged child labor abuses, the Inspectorate lacks sufficient funds and inspectors to combat the problem effectively. Accidents average between 70,000 and 75,000 per quarter. These figures have focused government attention particularly on the construction industry. Poor environmental controls on the textile industry, concentrated in the north of Portugal, caused considerable concern. The ability of workers to remove themselves from situations where these hazards exist is limited, but it is difficult to fire workers for any reason. Civil lawsuits are rarely initiated in accident cases.

MACAU

Macau, a tiny enclave comprised of a peninsula and two islands on the south China coast and encompassing only 6 square miles, is recognized by both China and Portugal as Chinese territory under Portuguese administration. The "Organic Statute" of 1976, which serves as Macau's Constitution, grants it considerable administrative, financial, and legislative autonomy. Legislative power is shared by the Portuguese Government and the territory's Legislative Assembly. Macau's Governor, appointed by the Portuguese President, holds expansive powers under the statute. Portuguese metropolitan law serves as the basis for the legal system, which features an independent judiciary and jury trials. The police force is firmly under the control of the civilian authorities. Macau's economy is fueled by legalized gambling, which has produced a thriving tourist industry, and by the export of textiles and other light industrial products. With a population of less than half a million people, Macau has a per capita gross domestic product of over $13,500.

Under the 1987 Sino-Portuguese Joint Declaration, Macau will become a Special Administrative Region (SAR) of China on December 20, 1999, and operate under a principle of "one country, two systems," to remain unchanged for 50 years. The Macau SAR's future Constitution, called the "Basic Law," was promulgated on March 31, 1993.

Citizens of Macau enjoy a wide range of rights and freedoms. The human rights provisions of the Portuguese Constitution apply in Macau, while Article 40 of the International Covenant on Civil and Political Rights has been incorporated into the Basic Law. The principal human rights problem in Macau involves the inability of citizens to change their government or determine their political future: the Governor is appointed by the Portuguese President, only a third of legislators are directly elected, and the territory's future path has been set largely by Lisbon and Beijing.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Government authorities do not practice these abuses.

b. *Disappearance.*—The authorities do not practice or condone secret arrests or clandestine confinements.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Such abuses are prohibited by law and were not known to occur in 1993.

d. *Arbitrary Arrest, Detention, or Exile.*—Legal prohibitions against arbitrary arrest exist and are honored. The examining judge, who conducts a pretrial inquiry in criminal cases, has a wide range of powers to collect evidence, order or dismiss indictments, validate and maintain the detention of suspects, and determine whether to release accused persons. Persons remanded in custody must be presented to an examining judge within 48 hours of being detained. The accused's counsel may examine the evidence. If the judge is not convinced that the evidence is adequate, he may dismiss the accused. Exile is not practiced.

e. *Denial of Fair Public Trial.*—Fair trial is guaranteed and practiced. The courts are independent of the executive, and juries determine questions of fact in criminal cases. At present, Macau's courts are integrated into the Portuguese judicial system, and decisions are appealable to the superior Portuguese courts. Macau's Supreme Court, established in April, gives Macau nearly complete judicial autonomy, although in cases involving "basic rights of the citizen" defendants may appeal to Portugal's Constitutional Court, which may overturn all lower court rulings.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Laws provide for the inviolability of the home and of communication, the right of ownership of private property and of enterprises, and the freedom to marry and raise a family. There is no indication of any abuses of these rights by the Government.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Independent or critical opinions receive consistent airing on radio and television and in public forums. The Government owns a majority share of the radio and television service and ensures that all candidates receive equal time during election campaigns. However, freedom of the press is more restricted. Most of Macau's newspapers are pro-China publications that do not give equal coverage to liberal and prodemocracy forces. Self-censorship is growing among newspaper reporters, some of whom express fears that they will lose their jobs if they criticize China or government policy. The academic community is free to express its views, though some academics report that they avoid research on topics that entail criticism of China.

b. *Freedom of Peaceful Assembly and Association.*—Legal guarantees of these freedoms are largely observed. However, the Government restricts demonstrations to a limited number of "approved locations" with sufficient space to accommodate the crowds and continues to ban any protests within 50 meters of government buildings. This ban effectively excludes demonstrations from the city center and relegates them to the outlying islands.

c. *Freedom of Religion.*—Macau is a predominantly Buddhist society. Members of other religions exist and practice their religion freely.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no restrictions on movement within the enclave; emigration and foreign travel are unlimited. The Government reports that about 105,000 of Macau's 400,000 inhabitants have the right of abode in Portugal.

The Government's official policy since 1982 has been to refuse asylum to all Vietnamese boat people arriving in Macau waters and redirect them to nearby Hong Kong territorial waters. There were no arrivals of boat people in Macau in 1993. While awaiting third-country resettlement, the 10 remaining boat people in Macau live in public housing and work in the local economy.

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

Citizens have only a limited ability to change their government. In a by-election in the summer of 1992, 6 members were added to the legislative assembly (2 appointed, 2 elected, 2 indirectly elected through functional constituencies). The 23-member Legislative Assembly is composed of 8 members elected in universal, direct elections; 8 indirectly elected by local community interests; and 7 appointed by the Governor. The Consultative Council, an advisory group to the Governor composed of elected and appointed members, also provides some measure of popular representation. The Government, by tradition, also consults informally on a regular basis with local business and cultural leaders.

Although women traditionally have played a minor role in local political life, they increasingly are being found in senior positions throughout the administration. A woman is the President of the Legislative Assembly, the second most senior position in Macau after the Governor, and the Under Secretary for Health and Social Affairs is a woman.

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

Local human rights organizations operate freely in Macau. The Government received an Amnesty International delegation sent to study a final draft of the Basic Law.

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

Women.—Women are becoming more active and visible in business and government, and some enjoy considerable influence and responsibility in these areas. Anecdotal information indicates women do not receive equal pay for equal work, but firm statistical evidence on this issue is not available.

Cases of violence against women are not common. For cases that are reported, Macau's criminal statutes prohibiting domestic violence are enforced and violators prosecuted. Police and doctors report abuses to the Social Welfare Department, which investigates them. If hospital treatment is required, a medical social worker counsels the victim and informs her about social welfare services. Until their complaints are resolved, battered women may be placed in public housing, but no facilities are reserved especially for them.

Children.—Child abuse and exploitation are not widespread problems in Macau. While some funds for children's welfare and protection services are provided by the Government, most such services are provided by nongovernmental entities such as churches and community organizations. Moreover, the Government has not promulgated any statutes specifically to protect the rights of children, relying on the general framework of civil and political rights legislation to protect all citizens.

National/Racial/Ethnic Minorities.—Freedom from discrimination is guaranteed by law. However, in practice Macau's governmental and legal systems place a premium on knowledge of the Portuguese language, which is spoken by less than 4 percent of the population. Thus, about 60 percent of the approximately 130 senior government officials come from Portugal. Most of the other middle and upper ranking civil servants are Macanese-Eurasians of Chinese and Portuguese descent. There is significant public pressure for the Government to speed up the process of making the civil service more representative of the population. In January the Government gave the Chinese language official status and the same legal force as Portuguese.

People with Disabilities.—The extent to which physically disabled persons are discriminated against in employment, education, and the provision of state services is not known. There does not appear to be much governmental concern about the subject, and there is little funding for special programs aimed at helping the physically and mentally disabled gain better access to employment, education, and public facilities. Accessibility for the disabled has not been mandated legislatively or otherwise.

Section 6. Worker Rights

a. *The Right of Association.*—Macau labor law recognizes the right and freedom of all workers to form and join trade unions and of private sector unions to strike. The Government neither impedes the formation of trade unions nor discriminates against union members. A garbage strike was the only major strike in 1993. The police are legally prohibited from striking but occasionally engage in massive "job actions" which are strikes in all but name.

Local trade union activities, including the selection of union leadership, are heavily influenced by mainland Chinese interests, which stress the importance of stability and minimum disruption of the work force. Nearly all of Macau's 7,000 private sector union members belong to a pro-China labor confederation. Many local observers claim that this organization is more interested in furthering the Chinese political agenda in Macau than in addressing classic trade union issues. A few private sector unions and two of the four public sector unions are outside of Chinese control.

Macau unions may freely form federations and affiliate with international bodies. Three civil service unions are affiliated with the major non-Communist Portuguese Union Confederation, which itself has international labor ties.

b. *The Right to Organize and Bargain Collectively.*—Unions tend to resemble local traditional neighborhood associations, promoting social and cultural activities rather than issues relating to the workplace. Local customs, moreover, normally favor employment without the benefit of written labor contracts—except in the case of importation of labor from China. Reflecting influence by China, unions traditionally have not attempted to engage in collective bargaining. While Portuguese laws protecting collective bargaining apply to Macau, the Government does not impede or discourage it.

There are no government mechanisms to promote voluntary negotiations.

The law prohibits antiunion discrimination, and there were no complaints about it in 1993.

There are no export processing zones in Macau.

c. *Prohibition of Forced or Compulsory Labor.*—Compulsory labor is illegal and does not exist.

d. *Minimum Age for Employment of Children.*—Minors under the age of 15 are forbidden to work except in businesses operated by their families. The law is enforced by the Macau Labor Department, which refers offending employers to the judicial authorities for prosecution. The Labor Department claims that the incidence of child labor has declined radically since effective enforcement began in 1985. There were two prosecutions for child labor violations in 1992.

e. *Acceptable Conditions of Work.*—In the absence of any statutory minimum wage or publicly administered social security program, some large companies have provided private welfare and security packages. Calls for labor reform, medical insurance, a social security system, and increases in employee compensation figure regularly in political campaign platforms. To offset a current labor shortage, the Government allows the importation of labor from China under contract, while at the same time imposing heavy fines on employers harboring illegal immigrants. Roughly 12,000 imported Chinese laborers are now in Macau, most of them working on construction of the new airport. The number of imported workers in other jobs totals between 2,000 and 3,000 out of an estimated work force of 195,000.

Labor legislation provides for a 48-hour workweek, an 8-hour workday, overtime, annual leave, medical and maternity care, and employee compensation insurance. The Department of Labor provides assistance and legal advice to workers on request but government enforcement of labor laws is lax because of limited resources.

Laws on occupational safety and health are enforced by the Department of Labor, which reported 1,171 infractions of occupational safety and health laws through mid-November, mostly in the construction sector. Failure to correct infractions leads to government prosecution.

ROMANIA

Romania is a constitutional republic with a multiparty parliamentary system. In the 1992 presidential election, Ion Iliescu was reelected President with 61 percent of the popular vote. In November 1992, President Iliescu's designee for Prime Minister, economist Nicolae Vacaroiu, won a vote of confidence with a government composed of technocrats and members of the Party of Social Democracy of Romania (PDSR), formerly the Democratic National Salvation Front.

Romania continued to struggle in 1993 with the political, economic, and social pressures produced by its transition from a totalitarian state with a centralized economy to a democratic system of government with a free market economy. These pressures contributed to ethnic tensions, social unrest resulting from rising unemployment and inflation, and an increase in crime.

The Ministry of Internal Affairs supervises the police, who are charged with maintaining law and order. There were credible reports of police abuse of detainees and prisoners in 1993 (see Sections 1.a and 1.c). The 1992 law governing the Romanian Intelligence Service (SRI) establishes oversight through a parliamentary joint committee, created in June 1993. The law allows the SRI to justify otherwise prohibited actions on broadly defined national security grounds. There were no substantiated reports of human rights abuses by the SRI in 1993, and allegations of surveillance or harassment of political activists decreased in 1993.

The transition to a market economy continued to be painful and slow. However, after 4 years of continuing economic decline, there were signs that the rate of decline had slowed. The process of privatizing small and medium-size state enterprises continued on a modest scale. According to government estimates, the private sector now contributes between 15 and 25 percent of the gross domestic product and more than 40 percent of retail sales. Some 80 percent of arable land is now in the hands of private farmers, although the plots average only 3.9 acres, and clear titles have been issued to less than a fifth of successful claimants. Unemployment hovers near 10 percent, with inflation in the range of 300 percent by year's end.

Romania continued efforts to move from its authoritarian past to a democratic system. In a significant move to deal with minority issues and problems, the Government established a consultative Council for National Minorities to serve as a forum for the discussion of minority issues and problems and to make recommendations to the Government. Headed by the Secretary General of the Government, the Council is composed of representatives from all 16 officially recognized minorities and 12 government ministries. It made several recommendations on the resolution of specific issues, which remain before the Government for final approval. However, on August 31, the Hungarian Democratic Union of Romania (UDMR) withdrew its representatives from the Council on the grounds that it had yet to achieve concrete results.

Discrimination against Roma (Gypsies) continued, and there were complaints of discrimination against ethnic Hungarians. One instance of mob violence against Roma resulted in the deaths of three Roma. The Government quickly condemned the violence and took disciplinary actions against police for their passivity. Government money allocated to assist the victims had not yet been disbursed at year's end. Societal discrimination and violence against women remain a problem. Press and radio continued to operate free of political pressure, but there was concern about the independence of state-owned television, the primary broadcast medium.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reported political or other extrajudicial killings in 1993. There were credible accounts of police brutality contributing to the death of at least two detainees. A police officer was arrested for abusive treatment following the death of a beggar who had been beaten. The General Prosecutor was investigating the death of an arrestee in Dorohoi who died, ostensibly of heart failure, after a week in police custody.

b. *Disappearance.*—No instances of disappearance were reported in 1993.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture and inhuman or degrading punishment or treatment. However, Helsinki Watch reported in January 1993 that the beating of detainees during arrest or when first taken to police stations was widespread. Romanian human rights organizations corroborated these reports. The office of the military prosecutor, responsible for legal oversight of the police, has investigated a number of these cases, usually without result. A human rights organization was told by

the prosecutor's office that nearly 20 police officers are awaiting trial for violent treatment of detainees.

Several human rights organizations reported abuses in Romanian prisons, including overcrowding and reliance on a cell boss system, which one group termed "inherently abusive." The use of leg irons seems to have continued in some prisons, despite a 1992 government order banning their use on pretrial detainees.

There were credible reports that in several instances police beat detainees charged with committing homosexual acts, illegal under Article 200 of the Romanian Penal Code, to force them to confess to this crime. Allegedly fearful of retaliation, such detainees have not filed charges against police. The Foreign Ministry Office of Human Rights contends that allegations of abusive investigations have proved baseless.

The number of instances in which policemen were fined or imprisoned for misconduct was minimal in 1993, in part due to the failure of military prosecutors to conduct thorough investigations (see Section 1.d.).

d. *Arbitrary Arrest, Detention, or Exile.*—Romanian law forbids the detention of anyone by police for more than 24 hours without an arrest order from a prosecutor, who may order detention for 30 days. Detainees have the right to apply for bail and may ask for a hearing before a judge. The case must be heard within 24 hours of such a request. (In the absence of a request, however, a person may be held for up to 65 days without a court order, and it is clear that many citizens are not adequately informed of their rights in this regard.) The Government is liable for damages to persons held in violation of these provisions.

The authorities are required to inform an arrestee of the charges. He or she also has the right to have an attorney present at all stages of the legal process, and police must notify the defendant of this right, in a language the defendant understands, before obtaining any statement from the arrestee. However, the prosecutor's office may delay action on a request for a lawyer for up to 5 days from the date of arrest. The local bar association provides attorneys to indigents and is compensated by the Ministry of Justice. The Government acknowledges that the police sometimes failed to inform arrestees of their right to counsel in a timely manner.

Exile was not used as a means of punishment in 1993.

e. *Denial of Fair Public Trial.*—The 1992 law on the reorganization of the judiciary, which officially took effect on July 1, 1993, provides for the establishment of a four-tiered legal system, including the reestablishment of appellate courts, which ceased to exist under Communist rule in 1952. The final recourse is to the Supreme Court or, for constitutional matters, to the Constitutional Court, established in 1992.

The provisions concerning the reestablishment of appellate courts were not implemented in 1993 because of insufficient personnel and material resources, according to government officials. The shortage of lawyers willing to work for the Justice Ministry and to fill positions in the new courts mandated by the law was exacerbated by the fact that private practice is much more lucrative.

Cases involving military personnel, criminal acts against the State (including treason and espionage cases), and acts committed by police (considered to be military personnel) are tried in a three-tiered military court system. This system draws criticism from local and international human rights groups, especially regarding investigations conducted by the military prosecutor's office against police personnel accused of abuses. They claim these investigations are unnecessarily lengthy and often purposefully inconclusive.

Under the Constitution, the Ministry of Justice controls the selection and promotion of judges. The Constitution and the 1992 law authorize life tenure for judges, who are appointed by the President upon recommendation from a panel of judges and prosecutors selected by Parliament. The panel, comprised of 10 judges and 5 prosecutors, together with the Justice Minister, has broad disciplinary authority over judges.

The Constitutional Court, six of whose members are chosen by Parliament and three by the President, has judicial responsibility for constitutional issues, but its decisions on the constitutionality of laws may be overridden by a two-thirds vote of both chambers of Parliament.

Under the terms of the 1992 law, the courts are independent of the executive branch. On July 14, however, 2 weeks after the provisions on accountability went into effect, the Minister of Justice relieved the president of the Bucharest municipal court, Corneliu Turianu, of his duties, allegedly for "politicizing the judiciary." Although the terms of the law did not apply to Turianu, since he had not been appointed by the President, the media and human rights groups criticized this action as politically motivated. Some labor unions alleged that the courts tend to side with the Government when they rule on the legality of strikes and other labor actions.

The Prosecutor General is appointed by the President and is responsible for the administration of the law, as well as for criminal prosecutions. The Prosecutor General, who reports to the Minister of Justice, appoints local prosecutors throughout the country. A civilian was named to the post of Prosecutor General in May following a recommendation from the Council of Europe that members of the armed forces not hold this office.

Defendants benefit from a presumption of innocence. The Criminal Code requires that, if a defendant cannot afford legal representation or is otherwise unable to select counsel, an attorney will be appointed for him. Either plaintiff or defendant may appeal. In practice, these provisions of the law were respected.

There were no known political prisoners in 1993.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for legal protection against the search of a residence without a warrant, but this protection is subordinate to "national security or public order." The National Security Law of July 29, 1992, defines national security very broadly and lists as threats to national security not only crimes such as terrorism, treason, espionage, assassination, and armed insurrection but also totalitarian, racist, and anti-Semitic actions or attempts to change the existing national borders. Entry into residences without prior authorization from a prosecutor is possible if a threat to national security is "imminent."

The Constitution states that the privacy of legal means of communication is inviolable. While the SRI is legally prohibited from engaging in political acts, e.g., monitoring the communications of a political party, the laws on national security allow it to engage in such monitoring on national security grounds. Similarly, although the SRI is required to obtain a warrant from a prosecutor to carry out intelligence activities involving "threats to national security," it may engage in a wide variety of operations, including "technical operations," in order to determine if a situation meets the legal definition of a "threat to national security."

In 1993 there appeared to be little arbitrary interference with individual citizens' rights to privacy; however, a few nongovernmental organizations (NGO's) claimed to have had their mail opened or their phones tapped. They attributed these alleged actions to current or former employees of Romanian intelligence services.

The Government took some measures to investigate reports of continuing abuses. In the summer of 1993, for example, the Prosecutor General's office began an investigation of the Hunedoara branch of the SRI for illegal wiretapping. In early 1993, the mass circulation, sensationalist daily Evenimentul Zilei, claimed it had detected the presence of bugging devices in its offices, as well as in the offices of several prominent organizations and political parties. Police examined the premises and found no such devices.

The legacy of abuses carried out by the Communist-era internal intelligence service, the Securitate, heightens sensitivity to potential misconduct by the security services . The 1992 law governing the SRI addresses some past abuses. It provides for the establishment of a parliamentary joint committee to oversee the SRI, which came into being through legislative action on June 17. The committee has the power to approve the appointment and tenure of the SRI director, as well as to dismiss him; however, it does not have full budgetary control over the SRI. In October the committee approved the formal appointment of current SRI director Virgil Magureanu. Parliament in joint session debated the annual SRI report. The SRI law prohibits the SRI from hiring most former Securitate officers. Parliament turned over the old Securitate files to the SRI to be kept within its own archives for 40 years, after which they will become public. The SRI director controls access to them.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Article 30 of the Constitution provides for freedom of expression and prohibits censorship. Romanians generally are free to express any opinions they wish. However, the same article qualifies freedom of expression by prohibiting "defamation of the country." While this provision could be construed to restrict criticism of the Government, in practice this did not occur in 1993.

In 1993 the press was free of state censorship or interference and published a wide variety of opinions, although some publishers accused the Government of manipulating the price and supply of newsprint to the detriment of opposition newspapers. Libel law is vague and potentially subject to abuse, particularly if the full Parliament should approve a Senate measure that would provide criminal penalties, including jail terms of from 3 months to 3 years, for published or broadcast "insult and calumny."

The League for the Defense of Human Rights (LADO), a Romanian human rights organization, reported that Lucia Hossu-Longin, director of a powerful television documentary series called "The Memorial of Pain," received death threats from un-

known sources. Her work focuses on the abuses of communism, especially on political prisoners and forced collectivization. Critics have called for legal action against Hossu-Longin for "inciting national hatred." However, no such action was taken.

Doina Cornea, an internationally known Romanian human rights monitor, received a summons to report to the Prosecutor General's office in Bucharest on February 8 to answer allegations that she had attempted to undermine the State when she called on the people to take action against the Government during the September 1991 miners' incursion into Bucharest. The President and Government publicly deplored the issuance of the summons. The Prosecutor General's office represented the incident as a mistake, withdrew the summons, and sent a junior prosecutor to interview her at her home in Cluj. This visit ended the affair, and no charges were brought against her. However, Cornea and others described the original issuance of the summons as a warning to all dissidents and as an attempt to intimidate Cornea in particular.

Mihaela Germina Nicolae was accused of shouting obscene slogans at President Iliescu when he visited the city of Cluj in June 1992. Charged under Law 61 of 1991, which makes it an offense to use vulgar or insulting language when referring to public personalities, and also charged with holding an illegal counterdemonstration, she was acquitted on both counts.

Romanian State Television (RTV) remained the only domestic television broadcaster with nationwide facilities. Although the Government does not directly control RTV, its director, appointed by the President, has been accused of using the facility to support the Government and its program. The director resigned under pressure on January 10, 1994. The National Union of Theater Professionals protested the director's decision to prohibit a television production on the grounds that it cast unfavorable light on Romania's image abroad. RTV's first channel reaches the entire country, while its second extends to about 30 percent of the population. Unlike the press or radio, Channel 1 was subject to both subtle and overt political pressures, which at times resulted in unbalanced news programs and occasional instances of censorship and harassment of reporters. Channel 2 transmits in full each evening the nightly news broadcasts of Moldovan television and two Western European networks (in their original languages). Channel 2 also carries approximately 60 hours of programming weekly by the independent Romanian SOTI station.

Private broadcasting was in a state of flux, following passage of an audiovisual law in 1992. The law created an 11-person National Audiovisual Council (NAC), which began issuing licenses to private television and radio broadcasters in November of that year. The official criteria for allocating licenses include programming quality and diversity and political and cultural pluralism, as well as technical and financial standards. The Council was accused of ignoring its own criteria in several early decisions (for example, favoring a station that now broadcasts 20 hours of CNN daily over those with a more local focus). By September 1993, the NAC had issued more than 40 television licenses, and 14 stations were already broadcasting. However, the Ministry of Telecommunications limited private television stations to low power and a restricted broadcast range. Most of these use state-owned transmitters during the off-hours when the public network is not broadcasting. The NAC has also granted licenses to about 200 cable companies. An estimated 200,000 private satellite dishes capable of picking up foreign broadcasts had been installed by 1993.

State-owned radio operates three nationwide programs which are considered to be the country's most reputable information media. By September 1993, the NAC had issued 82 licenses to independent radio stations, of which 29 were already broadcasting. The new stations featured mostly popular music, but several also carried foreign news bulletins in Romanian.

Foreign publications are freely imported and distributed, although their high cost limits their circulation. Academic liberty, in terms of freedom of expression both within and outside the classroom, is respected.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly. In addition, the law on public assembly provides for the right of Romanians to assemble peacefully while unarmed and states that meetings must not interfere with other economic or social activities. Meetings also may not be held near locations such as hospitals, airports, or military installations.

Organizers of demonstrations must inform local authorities and police before the event. The authorities may forbid a public gathering by notifying the organizers in writing within 48 hours of receipt of the request to hold it. The law prohibits the organization of or participation in a counterdemonstration held at the same time as a scheduled public gathering. Sorin Eduard Titei was sentenced to 333 days in jail by a local court for violating this prohibition, but due to legal irregularities Titei filed an extraordinary appeal, and all charges were subsequently dropped.

Public gatherings to espouse Communist, racist, or Fascist ideologies or to commit actions contrary to public order or national security are forbidden. Unauthorized demonstrations or other violations of this law are punishable by imprisonment and fines. Constitutional provisions and laws on free assembly were generally respected in 1993.

Romanians participated in numerous rallies in support of a broad spectrum of organizations, including trade unions, opposition parties, and minority groups, in 1993. Romanians may form associations, including political parties, and may obtain legal status for them by proving membership of at least 251 persons.

c. *Freedom of Religion.*—The Constitution provides for religious freedom, and the Government does not impede tho observance of religious belief.

There are 15 religions, officially recognized under a 1948 decree, whose clergy may receive state financial support. Another 120 faiths and denominations have received licenses from the State Secretariat for Religious Affairs under a 1930's law on clubs and associations, entitling them to juridical status as well as to exemptions from income and customs taxes. The Romanian Orthodox Church, of which approximately 86 percent of the population are at least nominal members, is predominant. Approval of new applications for official registration is very slow due to bureaucratic problems. An application by the Mormon church was approved in 1993. At year's end, Parliament was still considering draft legislation on religion which was first introduced in 1990.

The dispute between the Byzantine-rite Catholic (or Uniate) Church, dissolved by the Government in 1948 and restored in 1990, and the Romanian Orthodox Church over restitution of the physical assets of the former remained unresolved in 1993. The Uniates claimed the State favored the Orthodox Church on the property issues in dispute.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government places no restrictions on travel within Romania, except in the case of certain small areas used for military purposes, nor do Romanian citizens who wish to change their places of work or residence face any official barriers. Romanian law stipulates that Romanian citizens have the right to travel freely abroad, to emigrate, and to return to Romania. In practice, Romanian citizens travel freely both within and outside the country, and the right to emigrate and to return is respected.

In 1993 approximately 30,000 Romanian citizens whose requests for refugee status had been rejected were returned from Germany under the terms of a 1992 bilateral agreement. According to German government statistics, 40 percent of those returned are ethnic Roma. They received little or no resettlement assistance. Reintegration is complicated by various types of discrimination against Roma (see Section 5).

In 1991 Romania signed the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol but still does not have legislation or an effective program to implement the Convention. In 1993 the Government was extremely backlogged in its procedures for ensuring asylum applicants even temporary legal status until their cases could be processed. Approximately 10 percent of the 1,172 registered asylum applicants were housed in camps under inadequate conditions, while others were left to fend for themselves, as they all awaited decisions from the Romanian Commission for Migration. The wait has been over a year in many cases. It appears that Romanian officials are just beginning to establish a standard procedure for refugee processing.

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

Citizens have the right to change their government. Despite some allegations of fraud and various procedural irregularities,most international observer groups considered that the 1992 parliamentary and presidential elections met international standards of freedom and fairness. Opposition groups currently have 47 percent of the seats in Parliament.

The Constitution and electoral legislation grant each recognized ethnic minority political party one representative in Parliament's Chamber of Deputies, provided that the party obtain at least 5 percent of the average number of valid votes needed to elect a deputy outright (only some 1,100 votes in the September elections). Parties representing 13 minority groups elected deputies under this provision in 1992. The Hungarians, represented by the UDMR, obtained 27 seats in the Chamber through the normal electoral process. Roma (Gypsies) are underrepresented in Parliament, partly due to their low turnout and to divisions within the Roma community which work against the consolidation of votes for one candidate.

There are no legal restrictions on the participation of women in government or politics. However, there are only a few women in Parliament and none in the current Cabinet, a situation that reflects prevailing social attitudes.

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

Domestic human rights monitoring groups that were formed after December 1989 include the League for the Defense of Human Rights (LADO), the Pro-Democracy Association, local chapters of Helsinki Watch and the Helsinki Committee, the Independent Romanian Society for Human Rights, the Romanian Institute for Human Rights, and the Association of Former Political Prisoners. Other groups, including political parties and trade unions, also have human rights sections that monitor human rights observance.

These groups and international human rights organizations were able to function freely without government interference. International groups were free to meet with Romanian human rights organizations and were able to meet with detained and arrested persons and to visit prisons.

The Constitution mandates an Office of the People's Advocate, an ombudsman with responsibility to "defend the rights and liberties" of Romanians. The People's Advocate has no legal authority to redress grievances but, in reports to Parliament, may provide recommendations regarding legislation or other measures for the protection of the rights and liberties of citizens. Legislation implementing this position was not completed by the end of 1993.

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

The Constitution forbids any discrimination on account of race, nationality, ethnic origin, language, religion, sex, opinion and political allegiance, wealth, or social background. It also states that citizens are equal before the law and public authorities. The Government has frequently stated that its policy is to guarantee and protect the rights of all citizens, regardless of ethnic, cultural, or religious background. In practice, however, Roma and other minorities are subject to various forms of extralegal discrimination. There are approximately 22 ethnic minority groups in Romania, representing 10 to 12 percent of the population.

Women.—Legally, women are accorded the same rights and privileges as men in all areas, including education, access to employment, and wages. However, in a difficult economic climate and in a society where traditionally the economic role of women has been considered less important than that of men, women are often the first to be dismissed from employment. There are few women in positions of importance in government or industry. Women's issues receive little attention or resources from the Government.

A few cases of on-the-job sexual harassment were reported in the press. In most of these cases, male superiors extorted sexual favors from women as a condition of continued employment or with the promise of career advancement. One renowned allegation led to the resignation of the Minister of Culture after a Senate committee concluded from its investigation that his "confused behavior" during the night in question harmed the interests of the Ministry, although the committee did not make a determination on the charge of sexual harassment. There is currently no specific law to cover sexual harassment, nor is there any organization that defends women's rights in this area.

There is little official initiative on issues affecting women, including family planning, crimes against women, and domestic violence. Violent crimes against women were reported with increasing frequency during the year. According to Ministry of Interior statistics, 1,065 rapes were committed in Romania in 1992, and 670 in the first 6 months of 1993. For the most part, women do not report rape. The rape victim receives little sympathy from the community. Bringing a case of rape to trial is very difficult. The woman's claim that she was raped is not sufficient evidence, even if she is able to identify the perpetrator. Witnesses are required.

There are no statistics available on the incidence of domestic violence, although the director of LADO reported that over 60 percent of their cases were brought by women who wanted to document beatings for their divorce hearing.

Children.—The Government has increased its attention to the problem of children, including by establishing a new program for street children and by improving conditions for children in institutions. The manpower and resources for these projects continue to flow mainly from international agencies and nongovernmental organizations. Domestic resources for these children remain few. Orphanage conditions, grossly neglected under the Ceausescu regime, have improved. A Council of Europe commission, assigned to evaluate the conditions in Romania's orphanages,

found that conditions in the majority were in line with average Romanian living standards and that 15 percent were substandard. The United Nations Children's Fund (UNICEF) held several seminars during the year to sensitize Romanians to the issue of children's rights, using the United Nations charter on children's rights as a standard.

A new law on the abandonment of children, adopted on July 8, requires orphanage directors to notify child welfare authorities or the local court if an institutionalized child's parents demonstrate an "obvious lack of interest" (not precisely defined) in the child for a period of more than 6 months. The court then makes a determination as to whether or not the child has been abandoned. If the court finds that the child has indeed been abandoned, the child's name is given to the Romanian adoption committee as a candidate for adoption. Family members have the right to appeal the court's decision until the child is adopted.

There was no apparent pattern of societal abuse against children in 1993. Nevertheless, there were numbers of impoverished and apparently homeless street children in the larger cities. No statistics concerning this problem are currently available. A new department of the Ministry of Youth and Sports was set up to assist NGO's already working on this problem, but resources are limited. Romanian youth organizations remained concerned about the impact of deteriorating economic conditions, which contributed to the rise in juvenile delinquency and vandalism.

National/Racial/Ethnic Minorities.—The Government created a consultative Council for National Minorities in April. Its purpose is to provide a forum for dialog between the Government and all official minorities and to make recommendations to the Government regarding minority issues. Headed by the Secretary General to the Government, the Council is comprised of 60 delegates: 48 representing the 16 officially recognized minorities and 12 representing various ministries. These 12 ministries together are entitled to only 1 vote, while each minority also has 1 vote. Decisions require a two-thirds majority and may be vetoed by the government representatives or by the representatives of any minority directly affected. If veto power is not exercised, Council decisions are referred to the Government for approval or disapproval.

In the area of Romanian-Hungarian ethnic relations, the Council on August 18 adopted a recommendation to require the use of bilingual or multilingual signs in localities where a minority represented more than 10 percent of the population. (The Government was given the option of altering the percentage in question to 20 or 30.) The Council also adopted a proposal to allow schoolchildren in grades one through four to receive instruction in history and geography, in addition to all other subjects, in their mother tongue, and agreed to provide 300 places for ethnic Hungarian-teaching students at Babes-Bolyai University in Cluj. The Minister of Education had implemented the third proposal, but as of October the Government had not yet acted on the first two, due in part to vociferous public objections (including the threatened introduction of a no confidence motion in Parliament) by the nationalist parties. On August 31, the delegates of the Hungarian Democratic Union of Romania (UDMR) withdrew from the Council, claiming that it had failed to make any substantive progress and characterizing it as a "sterile club."

Roma (Gypsies), estimates of whose numbers in Romania range from 427,000 (according to the 1992 census) to 3 million (according to some Roma representatives), continued to suffer many forms of discrimination which the Government is often unable to prevent or unwilling to redress. The Ministry of Education has instituted a pilot program to train Roma teachers to provide mother-tongue instruction to Roma children in an effort to keep such children in school.

Since the revolution of December 1989, a number of incidents have sparked "vigilante-style" attacks against Roma communities. One such incident in 1993 occurred in the village of Hadareni, Mures county, on September 20. An argument broke out in the street between a Roma and an ethnic Romanian, culminating in the fatal stabbing of the Romanian. The Roma and his brother fled for refuge to a Roma home. An angry crowd of villagers forced the two men out of the house and beat them fatally. Other Roma houses were set afire, and one other Roma died in the flames. Police officers and the fire department intervened late and ineffectively.

In reaction to this incident, the Government for the first time issued a strong statement condemning all such "antisocial" acts and warning that vigilantism was intolerable. The Government pledged to punish the guilty, irrespective of ethnicity. It acknowledged that Roma faced special problems, promised to develop adequate social integration programs, and pledged to use government funds to rebuild the destroyed homes and care for the displaced children in the meantime. Investigations were begun immediately by the police and prosecutor's office. The commander of the county police was dismissed, and three noncommissioned officers were transferred and punished.

A government decision in November allocated 25 million lei (Romanian currency) were allocated toward rebuilding homes, and an emergency medical center was established in a nearby village. However, according to Gypsy and human rights organizations, no other relief measures have yet been taken, nor has rebuilding begun. Roma organizations have protested in a press conference and several demonstrations against the Government's lack of responsiveness.

Several pre-1993 incidents of vigilante violence against the Roma remained unresolved. Investigations by the Ministry of Defense and the military prosecutor's office of a July 1992 attack on Roma in a Bucharest city market, allegedly committed by a group of masked military policemen, have yet to be completed. The ethnic Federation of Roma reported that the military prosecutor's office is using the excuse that the Roma victims were unable to identify their assailants as a motive for not concluding the investigation. The rebuilding of approximately 20 Roma homes burned by Romanian villagers in a 1991 vigilante attack in Valeni Lapusului remains incomplete. Houses in the Roma community in Mihail Kogalniceanu near Constanta have now been rebuilt following 1990 mob violence.

Roma continued to face discrimination in workplaces and schools. For example, a 1991 International Labor Organization (ILO) commission found that Roma suffered both direct and indirect discrimination in the workplace and were relegated to low-paying, low-status jobs. It also reported that Roma were excluded from educational and work opportunities that might lead to higher paying or skilled jobs, and such discrimination perpetuated their low status in society. In 1993 the Government initiated some job training programs for Roma and began experimental classes in the Roma language for Roma children. A June 1993 ILO report concluded that the situation had improved somewhat and praised the Government's general responsiveness to the problem. Some Roma leaders charged that the government television station was unwilling to broadcast any Roma-oriented educational programs.

Hungarians, the largest ethnic minority, number 1.6 million, according to the 1992 census, or more than 2.2 million, according to Hungarian estimates. They are concentrated in Transylvania. Instruction in the Hungarian language is available in primary and secondary schools when there are at least 7 elementary students or 15 secondary students to form a Hungarian-language class. Some university courses are taught in Hungarian in Cluj and Tirgu Mures. Ethnic Hungarians, who were unhappy with the constitutional text declaring Romania a "unitary state," fear a gradual process of cultural assimilation and seek additional Hungarian-language postsecondary instruction and use of Hungarian (rather than Romanian with interpretation, as is currently provided by law) in the courts.

In the Transylvanian city of Cluj, Gheorghe Funar, elected mayor in February 1992 as candidate of the nationalist Party of Romanian National Unity (PUNR), continued his anti-Hungarian provocations. He took unsuccessful steps to evict a number of publications from their offices, including a Hungarian-language newspaper. The central Government, acting through the local prefect (district head), declared several of Funar's actions null and void, but the municipality continued to use local statutes and regulations to harass local Hungarians.

In July 1992, under pressure from Romanian nationalists, the Stolojan government had removed the ethnic Hungarian prefects of Covasna and Hargita counties, the two counties where ethnic Hungarians constitute a clear majority. Following antigovernment protests, Stolojan agreed to a compromise arrangement, appointing coequal prefects, one ethnic Hungarian and one ethnic Romanian, in each of the counties. This solution proved to be unsatisfactory to representatives of both ethnic groups. On March 24, 1993, the Vacaroiu Government, again due to pressure from Romanian nationalists, ended the multiethnic arrangement by appointing ethnic Romanian prefects in each county. The UDMR protested this change vehemently and refused the Government's offer to name ethnic Hungarians as deputy prefects.

The UDMR condemned the Supreme Court's June 7 rejection of an appeal in the case of Pal Cseresznyes, an ethnic Hungarian serving a 10-year sentence for attempted murder as a result of his involvement in the Tirgu Mures incidents of March 1990. Cseresznyes participated in the savage beating of an ethnic Romanian, which an international journalist captured on film. The UDMR's complaint centered on the length of his sentence and on the fact that he was the only one of those filmed who was brought to trial. The court maintained that, regardless of the fates of the others involved, Cseresznyes had received a fair trial and was guilty as charged. Thus it found no legal reason to grant an appeal.

Religious Minorities.—Physical attacks directed against Jewish persons or institutions are not known to have occurred in 1993, nor are graves or synagogues known to have been desecrated. However, the extreme nationalist press continued its anti-Semitic harangues. Both the President and the Prime Minister have publicly condemned anti-Semitism, other types of racism, and xenophobia. The President at-

tended a ceremony to commemorate Holocaust day at the Bucharest synagogue in April, the first time a Romanian Head of State has ever attended a Jewish religious service.

People with Disabilities.—Postrevolutionary Romania inherited a legacy of neglect of the severely handicapped population, both children and adults. To redress the situation, the Government set up special programs for the handicapped, including vocational training and special schools for handicapped children. In addition, handicapped children are now given precedence in foreign adoption placements. The law does not mandate accessibility for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—Labor legislation, adopted in 1991, guarantees the right of workers, except government employees and military and police personnel, to associate freely, organize and join labor unions, and engage in collective bargaining. The right to strike is specifically guaranteed, and several major strikes or demonstrations occurred in 1993. The primary exceptions are employees in certain critical industries involving the public interest, such as defense, health care, transportation, and telecommunications, in which there are limitations on the right to strike.

Most unions took a critical view of labor legislation. They complained, in particular, about the legal requirement calling for submission of grievances to government-sponsored conciliation prior to initiating a strike as interference in their freedom of action. Moreover, trade unions voiced increasing frustration with the judiciary's propensity to declare illegal virtually every major strike on which the courts have been asked to rule. An ILO Committee of Experts (COE) report in 1992 also registered concern that the current laws fall short of ILO standards in several areas, including the free election of union representatives, binding arbitration, and financial liability of strike organizers. Government officials, especially in the Ministry of Labor and Social Protection (MOLSP), recognize these and other deficiencies in labor legislation, but the Government has not yet moved to amend the laws.

In May the country's largest trade union confederations threatened to launch a nationwide general strike to protest rapidly rising inflation and falling standards of living for their members. The unions sought steep wage hikes to compensate workers for continual economic dislocations accompanying Romania's transition to a free market economy. The strike was averted at the 11th hour when union and government negotiators agreed to a package of concessions. However, one confederation and several smaller labor organizations engaged in sporadic strike activity until they negotiated a separate agreement with the Government several days later.

In August railway locomotive engine drivers launched a week-long, economically damaging strike. Union leaders initially defied a Supreme Court ruling to suspend the strike for 80 days. At the conclusion of the strike, the National Railway Company (CFR) began to fire union leaders around the country and filed suit against other top leaders in an effort to recover economic damages. Romania's major trade union confederations, along with some political opposition parties and human rights groups, interpreted the CFR's harsh actions as union-busting tactics. Tension was reduced after the Government fired the CFR president and 10 members of the company's board of directors. The CFR then decided to reinstate the fired union leaders, although it has not yet done so, and to suspend the suit against others. Prime Minister Vacaroiu pledged in December that no members would be fired before the courts had ruled on their appeals. In an action, pending since 1992 and involving the CFR's dismissals of four union leaders accused of leading strikes against the company, a neutral commission established by the Government ruled in the unionists' favor.

The 1991 legislation stipulates that labor unions are independent bodies, free from government or political party control. The Government routinely consults with unions on labor issues, though it frequently disregards union recommendations. No worker may be forced to join or withdraw from a union, and union officials who resign from elected positions and return to the regular work force are accorded protection against employer retaliation.

The majority of Romania's approximately 10.8-million working people are members of about 18 nationwide trade union confederations and smaller independent trade unions. In June two of the nation's largest labor confederations—the National Confederation of Free Trade Unions (CNSLR) and Fratia—formally merged into the CNSLR-Fratia. The new formation boasts a membership of 3.5 million members, representing over half of the unionized work force. Like most membership figures in Romania, however, this is probably exaggerated.

None of the trade union organizations engaged in direct political activity in 1993, but in November and December several of the larger confederations organized demonstrations calling for the resignation of the Vacaroiu Government.

Labor unions have the right to affiliate internationally, and representatives of foreign and international organizations freely visit and advise Romanian trade unionists. Alfa Cartel and Fratia are affiliated with the World Confederation of Labor (WCL) and the International Confederation of Free Trade Unions (ICFTU), respectively. CNSLR was accepted as an ICFTU member in December as a result of its merger with Fratia.

In June the ILO conference noted the steps Romania had begun to take to implement the recommendations of an earlier Commission of Inquiry, particularly the establishment of a Council for National Minorities, and urged further measures in law and practice to eliminate discrimination based on political opinion, religion, race, sex, national extraction, and social origin. The workers' member representing Romania alleged at the ILO Conference that in some enterprises managed by technocrats of the old regime collective agreements were implemented in a discriminatory way by the directors, who favored house unions over independent ones and who dismissed members of independent trade unions and women before all others.

b. *The Right to Organize and Bargain Collectively.*—The 1991 legislation permits workers to bargain collectively. The lack of any procedure to define which unions are recognized by management as negotiating partners did not cause major problems in 1993, unions and management generally finding pragmatic accommodations. There were sporadic allegations that union leaders are often the first to be laid off. Workers who are illegally dismissed have recourse to the courts, which have ordered the reinstatement of such employees, including in the CFR case.

Continued state control over most industrial resources and the absence of independent management representatives complicated collective bargaining efforts. In addition to basic wage scales established through collective bargaining, most workers as well as pensioners receive thrice-yearly increases indexed to prospective price increases. In 1993 workers received additional compensation to cushion the economic blows caused by the lifting of official subsidies for basic consumer items in May and the introduction of a national value-added tax in July.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor. The MOLSP effectively enforces this prohibition, and no instances of such practices were recorded in 1993.

d. *Minimum Age for Employment of Children.*—The minimum age for employment is 16, although children as young as 14 or 15 may work with the consent of their parents or guardians but only "according to their physical development, aptitude, and knowledge." Working children under 16 have the right to continue their education, and employers are obliged to assist in this regard. The MOLSP has the authority to impose fines and close sections of factories to enforce compliance with the law. No violations of this policy were documented in 1993, and child labor does not appear to be a problem.

e. *Acceptable Conditions of Work.*—Most wage rates are established through collective bargaining at the enterprise level but are based on minimum wages for given economic sectors and categories of workers set by the Government after negotiations with industry representatives and the labor confederations. Minimum wage rates are generally observed and enforced. In 1993 the minimum monthly wage (nominally about $45 in December) did not keep pace with inflation, and it was criticized for not providing a decent standard of living for a worker and family, although basic necessities like housing and medical care still are partly subsidized by the Government.

The Labor Code provides for a standard workweek of 40 hours or 5 days, with overtime to be paid for weekend or holiday work or work in excess of 40 hours. The Labor Code does not specifically include a requirement for a 24-hour rest period, although this is implied in the provision for a standard workweek of 5 days. Paid holidays range from 15 to 24 days annually, depending mainly on the employee's length of service. Employers are required by law to pay additional benefits and allowances to workers engaged in particularly dangerous or difficult occupations.

Some labor organizations pressed for healthier, safer working conditions on behalf of their members. The MOLSP established safety standards for most industries and is responsible for enforcing them. However, it lacks sufficient trained personnel for inspection and enforcement, and employers generally ignore its recommendations. Though they have the right to refuse dangerous work assignments, in practice workers seldom invoke it, appearing to value increased pay over a safe and healthful work environment. Neither the Government nor industry, still mostly state owned, has the resources necessary to improve significantly health and safety conditions in the workplace.

RUSSIA

A year of political turmoil and crisis culminated in elections for a new Russian Parliament and a concurrent referendum on a new constitution on December 12. Voters elected a Parliament, roughly divided among reformers, Communists, and extreme nationalists, which convened for the first time in mid-January. The majority of voters approved the Constitution providing for a strong executive branch of government.

The conflict between the legislative and executive branches, which characterized the political situation during 1992, continued until September 21 when President Boris Yeltsin disbanded the Congress of People's Deputies (CPD) elected in 1990 under the Soviet electoral system. After September 21, the President ruled by decree. The national referendum on April 25 had given President Yeltsin a strong vote of popular support but had not succeeded in resolving the constitutional crisis.

Initially refusing to accept its dissolution, the CPD voted to remove the President and named an alternate government, including "ministers" of interior, security, and defense who sought to exert command over the armed forces. The Government increasingly controlled public access to the so-called White House, where the CPD was meeting. After a 10-day standoff marked by bloody street clashes, demonstrators broke through the government security cordon on October 3 and rallied at the White House. Vice President Aleksandr Rutskoy and CPD Chairman Ruslan Khasbulatov urged the demonstrators, some of whom were armed with automatic weapons, to attack the nearby mayor's offices and the Ostankino television facilities.

On October 4, army troops surrounded and assaulted the White House. Given opportunities to surrender, some 300 persons, including deputies and journalists, left the building peacefully. While some deputies were detained and released, Khasbulatov, Rutskoy, and the "ministers" of security, interior, and defense were arrested. Another group of armed militants remained in the building and battled government forces, including Interior Ministry troops, which attacked with tanks and armored personnel carriers. The number of persons who died in the violence of October 3–4 is disputed. Estimates in the press published in the immediate aftermath of the events ranged widely; they eventually settled on more than 100 persons reportedly killed at Ostankino and as many as 150 killed in the fighting at the White House. The official death toll was set at 147.

Following the dissolution of the Soviet Union, the Committee for State Security (KGB) was broken into two organizations, the Foreign Intelligence Service (SVR) and the Ministry of Security. Internal security became the responsibility of the Ministry of Security. A presidential decree in December 1993 dissolved that Ministry and set up in its place a counterintelligence service under the direct control of the President. Laws passed in 1992 require them to respect human and civil rights, outline rules and procedures governing their activities and investigations, and establish presidential and legislative oversight over each agency's activities.

The Government in 1993 continued to pursue the transformation of a centrally controlled economy into a market-oriented system. Fiscal and monetary stabilization were the central issues. As the economy continued to adjust to market price mechanisms, the Government began efforts to rein in credit and deficit spending, paving the way for assistance from the International Monetary Fund and the rescheduling of Russia's official debt. Inflation continued at monthly rates of 20 to 25 percent for most of the year. Privatization continued rapidly, and the Government sold off over half the retail businesses and thousands of commercial and industrial firms. Closings of inefficient firms or bankruptcies were few, official unemployment remained low, and industrial output, which had fallen by about 50 percent from 1990 figures, began to level off.

Russia continued its progress on human rights during 1993, despite some temporary setbacks as a result of the October crisis. Freedom of speech, assembly, and association, other than during the October crisis, were largely respected. Soviet-era restrictions on freedom of religion and travel continued to be eased. The 1991 law on exit and entry is gradually being implemented, although some issues are unresolved. There are no known political prisoners in Russia.

Despite significant progress in recent years, Russia's overall human rights record is uneven, and some serious problems remain. On October 3, President Yeltsin declared a state of emergency in the capital. Several important human rights problems occurred during the state of emergency. Press freedoms were restricted, for example, by the introduction of temporary censorship. Restrictions on freedom of travel were imposed through enforcement of the "propiska" (residence permit) system against dark-complexioned people. This resulted in the expulsion from Moscow of thousands of people from the Caucasus and Central Asia.

In spite of legislation to foster greater judicial independence, the judiciary still reflects its Communist heritage in personnel and practice. It is not yet fully independent or empowered to act as a guarantor of human rights. Other human rights problems include harsh prison conditions; official discrimination against people from the Caucasus; societal discrimination against people from the Caucasus and Jews; societal discrimination and violence against women; and governmental pressures against independent labor unions.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of political killings by Russian authorities in 1993. (See Section 1.g. for details of the political violence in Moscow on October 3–4.)

Politics in the northern Caucasus, however, was marked by considerable violence. In Chechnya, a journalist investigating corruption in the Chechen government was killed in April in the city of Grozny. Observers believe local authorities with criminal ties were responsible. In June forces loyal to Chechen President Dzhokhar Dudaev fired on a crowd of protesters gathered in front of Grozny's city hall, killing 14 persons, including the democratically elected mayor of the city.

On August 1, Viktor Polyaichko, head of administration of the State of Emergency Zone in north Ossetia and Ingushetia, was assassinated. No persons have been charged in connection with this incident.

b. *Disappearance.*—No political disappearances or abductions are known to have occurred in 1993. According to Ingush sources, several hundred of the 687 Ingush who reportedly disappeared as a result of fighting in north Ossetia in 1992 are still missing.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Russian Constitution specifically prohibits torture and other cruel, inhuman, or degrading treatment or punishment. However, some authorities still use force against persons in custody or under suspicion. Human rights organizations routinely receive credible complaints of police beatings during questioning or at the time of arrest. In one case, police told relatives of a victim that the injuries were caused by the person's trying to escape out of a second-floor window. Amnesty International was told by police that the injuries did not occur as described and that the injured victim was reportedly seen being wheeled out of the building into an ambulance. Human rights groups reported that the authorities took numerous persons into custody following the assault on the White House and beat and mistreated them.

Russian detention and incarceration practices remain harsh. Conditions in many prisons threaten the health and life of prisoners. Many prisoners continue to suffer from mental and physical abuse and mistreatment during interrogation, trial, and confinement, according to a wide variety of reliable sources. Excessive force by law enforcement personnel goes unpunished, and victims are rarely able to seek redress.

There are approximately 827,000 inmates in the Russian prison system, according to the Interior Ministry, and overcrowding is a significant problem. In Moscow, for example, three prisons designed to hold 8,500 inmates house 14,400 persons, according to prison officials. Prisoners ill with infectious diseases in some cases are not segregated from healthy prisoners.

Prisoners are frequently placed in unduly harsh punishment cells for violations of rules. No administrative process exists to ensure that prisoners are not arbitrarily or inappropriately sent to such cells. Changes in procedures instituted in 1992 limit the time a prisoner may be held in such cells to no more than 60 days during a year and a maximum of 15 days at a time. In labor camps, where prisoners live in barracks, prisoners may only be placed in cells for a maximum of 6 months per year.

Corrective institutions for women also house children. Like other Russian prisons, these institutions are marked by overcrowding and poor conditions. Pregnant women and mothers, while incarcerated, are entitled to better conditions and food than other prisoners. Few women inmates are believed to be aware of these rights and therefore do not always benefit from these entitlements.

The violent hazing of new recruits by other soldiers continued in 1993. Cruel and degrading treatment of military conscripts sometimes resulted in death. According to Ministry of Defense statistics, during the first 8 months of 1993, 1,222 servicemen died, of whom 25 percent reportedly committed suicide. The Committee of Soldiers' Mothers uses the number of suicides to illustrate the hazing problem. The Committee made some progress toward easing such treatment through direct contacts with military officials.

d. *Arbitrary Arrest, Detention, or Exile.*—Persons may be detained arbitrarily and arrested without warrants. The Criminal Code requires that detainees be charged or released within 72 hours. Under the 1992 law on the procuracy, decisions on detention and custody are the responsibility of the procurator's office. Criminal Code amendments enacted in 1992 provide for court review of arrests and empower judges to order the release of those arrested pending trial. Detainees have the right to request a court evaluation of the legality of detention. If the court finds the detention illegal, the judge has the power to order an immediate release. Nonetheless, the judicial system is unable to cope with the increasing numbers of persons arrested for crimes. Thousands of persons are held for extended periods of time, often for more than a year, in pretrial detention, without judicial review.

Access to defense attorneys has improved. The new Constitution guarantees the right of a detainee to consult with a lawyer. However, authorities denied the attorneys for former CPD Chairman Ruslan Khasbulatov and Vice President Rutskoy access to them during the initial days of their confinement. The attorneys and families of the accused were later granted access, as was the International Committee of the Red Cross.

Thousands of persons were detained during the weeks before and after the October 3–4 violence. Most, but not all, were released within the legally prescribed 72-hour detention period. Of those charged with criminal offenses, most remained in custody, though some were released under the legal provisions described above.

e. *Denial of Fair Public Trial.*—Government efforts to reform the legal and judicial systems had limited effect in 1993. Russian courts, which have long served as tools for enforcing state power, remain subject on occasion to political influence. In July the Supreme Soviet passed a law authorizing the phased introduction of trial by jury in nine regions beginning in November. Russian legal reformers hope that use of jury trials will spur the growth of a more open and fair adversarial courtroom procedure. The first jury trials were conducted in November and offered to defendants accused of murder and other capital crimes. A criminal defendant must be advised of his right to a jury trial by the investigator during the preliminary investigation. Defendants may choose to be tried before a judge and jury or, in accord with traditional criminal procedures, before a judge and two people's assessors. A defendant in a jury trial has the right to appeal to the Supreme Court.

In general, Russian judges are poorly trained and have little concept of a truly independent judiciary. The 1992 law on the status of judges began to have some positive effect on judicial morale. Monetary incentives attracted better candidates to entry-level judicial positions. Judicial wages increased by eight or nine times during 1993 and are now indexed to senior executive pay scales.

President Yeltsin suspended the Constitutional Court's activities on October 6, citing the Court's lack of impartiality in the events leading to the violence of October 3–4. Prior to the Court's suspension, each side in the political power struggle turned to the Court in the hope that the Court's decision would add to its legitimacy. The Court's most significant achievement during this turbulent period was to promote the notion of the judiciary's independence and authority, operating alongside the executive and legislative branches of government. The Constitution adopted in December envisages a prominent role for a Constitutional Court and an independent judiciary.

Criminal defendants are permitted by law to have an attorney represent them in court, and Russian courts routinely assign defense attorneys to defendants who cannot afford one. The criminal justice system continues to be based on the presumption of guilt, and defense attorneys operate within a system that remains biased against their clients. Russia's new Constitution provides for the presumption of innocence, but it remains to be seen whether and how this will work in practice. Lawyers are often unable to work with their clients during the early stages of an investigation and have only limited access to evidence developed by government prosecutors. Many believe that prosecutors feel confident in bringing weak cases to court because they enjoy numerous built-in procedural advantages over the defense. An overall conviction rate of better than 99 percent testifies to the limited ability of the defense to present an effective case. Russia has no system of plea bargaining.

In March the military collegium of the Supreme Court, handling the trial of those persons accused of plotting the August 1991 coup attempt, instituted procedures to regulate public attendance at the trial. More than a dozen news organizations were granted credentials to cover the proceedings. The court turned down a defense request in mid-October to allow more media representatives to attend the trial. The trial, which began in April, proceeded in fits and starts, with numerous procedural delays because of illness among the defendants or their attorneys. On one occasion, the court denied a defense petition to dismiss the government prosecution team. The defense alleged bias on the part of the Procurator General who had published a book

on the coup based, in part, on the pretrial testimony of the defendants. The coup trial recessed again in December due to claims of illness by three defendants.

In June the Tatarstan supreme court sentenced Tatar national activist Zinnue Agliullin, chairman of the All-Tatar Public Center, to 2 years in prison under Articles 70 (which prohibits calls for the violent overthrow of the government and the constitutional order) and 79 (which prohibits "organization of mass disorder" and "armed resistance" to the authorities) of the Russian Federation Criminal Code. In October 1992, Agliullin publicly called for the "punishment" of the Tatarstan president for "betraying the interests of the Tatar people." Tatarstan authorities brought additional charges against Agliullin in August under special Tatar anticrime legislation, claiming that Agliullin owned a weapon allegedly found in his apartment at the time of his arrest. Agliullin alleged that the charges were politically motivated.

There are no known political prisoners in Russia. Hundreds of persons captured in connection with the October 3–4 events were held briefly and released. Those charged with crimes remain in custody.

Thousands of persons remain incarcerated for violating laws that prohibit a variety of commercial activities that are now legal and commonplace. One such "crime" was speculation, in which a person sells a commodity at a higher price than he or she paid for it.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The right to privacy is guaranteed by the Constitution. The splitting of the KGB in December 1991 and President Yeltsin's breakup of the Ministry of Security in December 1993 ended the security services' status as a "state within a state." The President's December decree calls for a trimming of personnel and bureaucratic structures devoted to domestic intelligence and places the internal security services under his direct control. In a December 22 news conference, he announced that police surveillance of the Russian people would now end and that the domestic intelligence service would perform only counterintelligence functions.

Authorities may search premises without a warrant but are obliged to obtain one within 24 hours after the search. In July President Yeltsin signed legislation that allowed warrantless searches with 24-hour notification in cases of terrorism or threats to national security. In spite of reforms that divided the KGB into two separate organs, electronic monitoring of residence is believed to continue, albeit at reduced levels. Foreign radio broadcasts were not jammed.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—A week prior to the violence of October 3–4, armed supporters of the disbanded Parliament, trying to take over a military communications facility in Moscow, killed one police officer and a civilian bystander. On October 3, responding to Vice President Rutskoy's exhortation from the balcony of the White House, hundreds of anti-Yeltsin demonstrators, some armed with automatic weapons, attacked the Moscow mayor's office and later the television facilities at Ostankino. More than 100 persons were reportedly killed in the fighting at Ostankino. The attackers suffered the majority of the casualties.

Police forces by themselves were unable to control the situation in Moscow. On October 4, the Government used the army to quash the rebellion. Approximately 1,700 troops, 10 tanks, and 20 armored personnel carriers were involved in the assault of the White House. Occupiers of the building were given opportunities to surrender before government forces opened fire. After some shelling by the tanks, the occupiers were given another opportunity to surrender. More than 300 persons left peacefully, but a number of the more militant supporters of Parliament remained in the building and battled government forces. Press estimates of the death toll range between 150 and 200 persons. Military casualties were light.

Russian troops are still in place in many of the republics of the former Soviet Union and are embroiled in a number of controversial conflicts, some involving the Russian minorities in the republics. (See the reports on Georgia, Moldova, and Tajikistan.)

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and press was widely respected during much of 1993. Newspapers and magazines, most of which are independent of the Government and some of which are privately owned, functioned unhindered. However, during the events of September-October, the Government restricted freedom of speech and press.

In March the executive and legislative branches issued conflicting decrees asserting control over the media. President Yeltsin issued a decree placing radio and television under his control. On March 28, the Parliament voted to disband the Government's Federal Information Center (FIC) and to put state radio and television under its own control. This battle for control of the media continued throughout the year,

flaring up again on October 3 when supporters of the disbanded Parliament violently attacked the country's television broadcasting center. In a December decree, Yeltsin replaced the Information Ministry and the FIC with a new media apparatus in the presidential administration.

Following the Government's assault on the White House, it imposed strict censorship for 2 days. Authorities on October 3 confiscated film from journalists leaving the country at the airport. The newspapers Nezavisimaya Gazeta and Segodnya were published with blank spaces (or spaces labeled "censored") where three articles, to which government censors objected, would have appeared. Censors ceased work after the second day. However, the state of emergency empowered the Government to suspend provisions of the media law and to continue to hold publications "responsible" for the material they published after the lifting of censorship. The Government advised publications to consult with the Ministry of Information if doubts about articles or their content arose. The Government also pressured President Yeltsin's opponents to cancel a number of press conferences during the first week in October. It banned 15 newspapers and froze their bank accounts. In late October, the President gave assurances that the Government would respect freedom of the press. By November freedom of speech and press largely returned to its pre-September 21 status. Three of the banned publications, the full-fledged newspapers Pravda, Sovietskaya Rossiya, and Den (under the new name Zavtra) resumed publication.

Police reportedly beat more than 20 journalists attempting to cover the September/October events. Also in 1993, unidentified assailants in Moscow severely beat three Central Asian journalists covering their home region from Moscow. The journalists believe members of the security services from Tajikistan attacked them to intimidate them and force them to cease reporting on alleged government repression there.

The investigation of Vil Mirzayanov, arrested in November 1992 in connection with the publication of an article in the newspaper Moscow News about the existence of a chemical weapons plant in the capital, began in the spring. Mirzayanov was charged with revealing state secrets. During the pretrial investigation, the Ministry of Security in April called in for questioning the American correspondent resident in Moscow who broke the story in the United States. The American journalist answered the summons. The investigation was concluded in summer, and the trial was set to begin in January 1994.

Many publications in Russia suffer from acute financial problems which may affect their ability to function independently. The Government directly subsidizes more than 20 publications. Indirectly, the Government subsidizes publications by guaranteeing a percentage of their newsprint at controlled prices. Paper and ink are controlled by monopolies.

Television is a primary source of information for most Russians. The two Russian television companies, Ostankino and Russian State Television, transmit nationwide and to most of the Commonwealth of Independent States (CIS). The Russian Government owns both, but the degree of official supervision has varied. Following President Yeltsin's disbandment of the CPD on September 21, television coverage of politics was markedly biased in favor of the President. In late September, for example, the program "Krasny Kvadrat" was not allowed to air because the Chairman of the Constitutional Court was a guest. Less than a month later, the directors of Russian State Television announced that the show would no longer be broadcast at all. President Yeltsin ordered the program "600 Seconds" off the air on October 4. The Government had also sought to cancel the program in April.

On October 11, a new independent television news program appeared, anchored by a journalist who left Ostankino because of the Government's influence on content there. A December 22 edict by President Yeltsin provided a limited amount of time on Moscow television's Channel 8 to NTV, Independent Television.

Television studios at the oblast (province) level that were part of the central system during the Soviet era now operate more or less independently. They function as affiliates, opting to use programs from the national company and producing local news programming independently. Local authorities sometimes subject these affiliates to pressure.

All broadcasters and cable networks, both public and private, use foreign broadcast material. In addition to the Russian broadcasters, several joint venture cable companies now offer programming in Moscow.

In the second year of post-Soviet existence, the environment for academic freedom in Russia continued to improve. Russian scholars enjoyed unprecedented academic freedom. Virtually all institutions of higher learning, from universities to research institutes, enjoy increased autonomy. University rectors and department heads were selected in free and open elections. Curriculums and textbooks were revamped, and

many institutions developed closer relations with Western universities. The entrenched academic nomenklatura establishment, tinged with much "old thinking," nonetheless continued to exert some influence through their control of resources and privileges. Educational institutions at all levels suffered from decreased levels of government funding and support. Many operate at subsistence levels.

b. *Freedom of Peaceful Assembly and Association.*—Organizers of demonstrations must apply for permission to local authorities 10 days in advance, and officials must respond at least 5 days before the scheduled event. According to a presidential decree issued in May, requests for permission may be submitted no earlier than 15 days and no later than 10 days before the scheduled date. Participants in unauthorized demonstrations are subject to civil and criminal penalties, including fines, 15-day jail sentences, and stiffer punishment. In April the Government issued a decree banning demonstrations on Red Square and in its vicinity.

In the aftermath of the October assault on the White House, the Government temporarily banned all public demonstrations. The ban was lifted when the state of emergency expired on October 17.

During the year, there were many peaceful public demonstrations, but a number of events were marked by violence. Much of the violence occurred when anti-Yeltsin groups clashed with the authorities. In September demonstrators protesting President Yeltsin's disbandment of the CPD gathered daily in front of the White House where it was meeting. When the Government tightened security around the area and prevented demonstrators from rallying there, demonstrators clashed with the authorities in other parts of the city. Unable to get to the White House, the crowd gathered at a nearby metro station and blocked Moscow's ring road with commandeered vehicles. A senior policeman died when he was struck by a vehicle while assisting efforts to control a crowd.

May Day demonstrations by the National Salvation Front, Working Moscow, and the Communist Workers Party of Russia turned violent when protestors clashed with police after following an unauthorized route for their march. One policeman was killed in the melee.

Freedom of association is respected in practice. All public organizations must register their bylaws and the names of their leaders with the Ministry of Justice. Political parties must also present 5,000 signatures and pay a fee to register. The 1991 Soviet law on public organizations allows the formation of political parties and guarantees such organizations the right to propagate their views. The law also bans groups advocating violent change in the constitutional system or groups undermining public order. In the aftermath of the October 3–4 violence, the Government banned 10 organizations because of their alleged role in the events surrounding the violence.

Organizations registered with the Justice Ministry were allowed to present candidates for the December parliamentary elections. As of October 20, 126 organizations registered with the Ministry planned to take part in the elections. The Ministry suspended the registration of the 10 banned organizations, denying them the right to participate in the elections.

In April the Ministry of Justice launched an investigation into the activities of the Communist Workers Party of Russia in workplaces. Their activities were alleged to run counter to a 1991 Russian Federation decree "on the cessation of the activities of organizational structures of political parties and mass social movements in state bodies, institutions, and organizations of the Russian Federation." In February the Justice Ministry sought to ban a Russian Communist Party conference, citing (erroneously) the November 1992 Constitutional Court decision which reaffirmed the Communist Party's right to exist as a political organization. The conference nonetheless took place without hindrance.

Otherwise, hundreds of organizations, representing a wide political spectrum, functioned unhindered in 1993.

c. *Freedom of Religion.*—Freedom of religion continued to expand in 1992, and the visibility of religion increased dramatically. Religious services and other programs were televised throughout the year.

Official and unofficial religious groups held seminars, conferences, and revival meetings, frequently in public facilities. Public advertising of religious services, leafletting in subways and other parts of the city, and street proselytizing in major cities was common. The press extensively covered religious issues, including statements of religious leaders and Orthodox Church events. Missionaries from almost every world religion, as well as lesser known sects, are present in Russia, and an increasing number of such groups opened permanent offices.

Relations between the Russian Orthodox Church and the Government have grown closer in recent years. The Patriarch claims that the Church seeks no role in politics but has insisted that the Church act as a moral influence in Russian society. In

March he appeared on national television to appeal for political reconciliation between the legislative and executive branches, while during the September/October crisis in Moscow he mediated negotiations between presidential and legislative representatives. In July the Orthodox Church prompted the legislature to pass a proposed new law which relied heavily on the Church's views and, if enacted, could have further strengthened the Church's already preeminent place among religious groups in Russia. The law would have required all non-Russian organizations to register with the Government before engaging in religious activity in Russia. After President Yeltsin vetoed the bill, the September 21 dissolution of the Congress of People's Deputies ended parliamentary efforts to pass the bill over his veto.

Bureaucratic obstacles to complete freedom of religion still exist due to the provision of the 1990 Soviet law on religion requiring religious groups of 10 adults or more to register with local authorities. Some groups view the requirement itself as contradicting their beliefs and therefore refuse to register. Although failure to register has not resulted in harassment, groups must register to acquire the status of a "juridical person" and to receive benefits, including access to the media and the right to establish their own schools, own property, and engage in social work. The registration process, therefore, allows for obstructionist tactics by local authorities, such as lost applications, endless reviews of applications, or denial of adequate facilities. This problem is most prevalent in cases of Protestants and the Russian Orthodox Free Church. Individual Russian Orthodox believers have prevented Pentecostals and other evangelical groups from meeting, particularly in the northern Caucasus and the Russian Far East. Violent attacks against non-Muslims by Muslim believers in Chechnya were also reported.

The number of clergy and places of worship in Russia is still inadequate for the population, but churches continued to open in record numbers. Seminaries and other institutions of clerical education continued to expand their enrollment, limited only by their financial resources. Bibles, icons, religious calendars, and memorabilia are on sale in street kiosks and stores in major cities. There are no restrictions on the importation of religious materials.

Young men who object to military duty because of their faith continued to be subject to prison terms. Legislation providing alternatives to military service for conscientious objectors was pending, but there will be no resolution until after the new legislative body convenes.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens were generally free to travel within the country. All adults are issued internal passports which must be carried during travel. Internal passports are also used to register with local authorities visits of more than 3 days, although this requirement is generally ignored by travelers not staying in hotels.

The right to choose one's place of residence, though guaranteed by law, continued to be restricted in practice. Under the propiska registration system, all citizens must register their place of residence. The system is enforced selectively and often targeted against those who are not Russian, primarily persons from the Caucasus and central Asia. Some officials called for abolition of the propiska system, stating that it infringes on the right of citizens to choose their place of residence. However, officials in major cities, especially Moscow, staunchly defended the system, predicting widespread crime and homelessness if it were abolished.

During the weeks prior to and following the October 3–4 violence, city authorities reportedly deported from Moscow more than 4,000 persons, most of whom were Caucasians or Central Asians, because they were not officially registered. Authorities in Moscow during that time also detained more than 20,000 persons for residency violations.

The new Constitution guarantees freedom of travel, including emigration. The May 1991 Soviet law on emigration officially came into force on January 1, 1993; however, actual implementation has been gradual. Under this law, exit permission and a formal invitation from abroad are no longer required of travelers who are not emigrating. Passport offices were overwhelmed by the flood of new applications, but despite administrative delays many thousands of Russian citizens traveled abroad during 1993.

Emigrants are no longer required to show an invitation from a first-degree relative and need only show an invitation from any relative abroad or permission to enter the country to which they are emigrating. The implementing resolution for the new law also annulled the 1967 decree under which emigrants to Israel were required to give up their Soviet citizenship. The new law, however, continues to restrict the emigration of persons with access to state secrets. Special travel regulations apply to some Russian scientists wishing to travel abroad temporarily.

A government commission headed by deputy Foreign Minister Lavrov was established in March to review emigration applications refused on secrecy grounds. The

commission accepts individual appeals, contacts the government entity that has placed the secrecy restriction on the person, and gives the entity 2 weeks to respond. If no response is received within the 2 weeks, the restriction is automatically lifted. Persons also have the right to argue before the commission and to call expert witnesses to challenge the continued secrecy of the information in question. Since the commission began reviewing cases this summer, many secrecy cases have been overturned.

The 1991 law also retains the requirement for intending emigrants to obtain permission from close relatives in Russia. If would-be emigrants are unable to secure the permission, they may, theoretically, pursue a resolution of the problem in the courts. However, to date no Russian court has accepted such a case for review. The law also added a new emigration restriction on draft-age men who have not yet completed their obligatory military service.

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

Under the new Constitution, the Russian people, in principle, have the right to change their government. The President may be impeached by a vote of two-thirds of the Federation Council if the Duma by a two-thirds majority charges him with treason or another serious crime and if the Supreme Court and the Constitutional Court confirm the charge. The President may not dissolve the Duma during the first year of its existence. It is still not certain, however, that the Russian people have the ability to change their government peacefully and democratically. The constitutional crisis between the executive and legislative branches, which began in 1992, continued throughout much of 1993, leading to the events of October 3–4 in Moscow. President Yeltsin was democratically elected to a 5-year term in 1991 with approximately 60 percent of the vote. On September 21, he disbanded the Russian legislature, last elected in 1990 under Soviet electoral rules. The legislature had repeatedly and arbitrarily blocked efforts to introduce democratic and free market reforms.

President Yeltsin called for elections to a new Parliament on December 12. A referendum on a new constitution was held concurrently. In a mixed majoritarian and proportional electoral system, Russian voters elected a 450-seat lower house called the Duma and an upper house consisting of 2 representatives from each of the country's 88 constituent administrative areas. (The Federation's 89th constituent member, Chechnya, refused to participate in the elections.) To qualify for the 225 proportional seats in the Duma, a party, electoral bloc, or political movement had to obtain 100,000 signatures of which no more than 15 percent could come from a single area. A group gained representation in the Duma if it received more than 5 percent of the total vote. This minimum percentage guarantees a group at least 11 seats. Candidates for the majority seats were elected from 225 electoral districts, each consisting of an average of 475,000 to 500,000 inhabitants. The new Parliament, split roughly four ways between reformers, nationalists, Communists, and independents, convened on January 11.

On April 25, in an attempt to resolve the conflict between the executive and legislative branches, the Yeltsin Government conducted a referendum on four questions: 1) confidence in the President; 2) confidence in his economic policies; 3) early presidential elections; and 4) early legislative elections. According to a Constitutional Court decision on referendum rules, a majority of votes by participants in the referendum would suffice for the first two questions to carry, while a majority of registered voters would suffice to carry the second two questions. The majority of participants voted "yes" on all four questions, but not in sufficient numbers, according to a decision of the Constitutional Court, to be legally binding on the questions of elections. The results strengthened the position of President Yeltsin but did not resolve the political impasse.

The Constitution provides for equal political rights for men and women, but women do not occupy many leading positions in politics and government. However, the "Women of Russia" bloc received around 8 percent in proportional balloting. Members of Russia's ethnic and religious minorities face no legal limitations on political participation.

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

Numerous nongovernmental human rights groups were active during the year. Amnesty International, Helsinki Watch, the Moscow Helsinki Group, Memorial, and the Center for Human Rights were the most prominent. They investigated and publicly commented on human rights issues; there were no reports of government interference in their activities. Financing remained a problem for many groups in light

of Russia's difficult economic situation. Russian authorities encouraged international investigation of alleged human rights violations.

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

Human rights guarantees figure prominently in the new Constitution. It remains to be seen whether these guarantees will be respected. Both official and societal discrimination still exist.

For the majority of Russians, homosexuality is socially unacceptable behavior. Homosexuals are subject to violence and discrimination by police and civilians. Local police also continue surveillance of homosexuals and keep files on them.

Women.—Women are entitled to the same legal rights as men, including the right to participate in all areas of social, political, and economic life. An extensive system of day-care and maternity leave allows women to retain employment after having children. The system has become less reliable, and in some cases reform has meant that the families must pay directly for child-care services. Women are well represented at many levels of the general economy. Nonetheless, women often are not paid the same as men for equal work and frequently are the first to be laid off as enterprises reduce staff. Positions of influence and prestige in both the Government and the economy are still disproportionately occupied by men.

Violence against women occurs, but its extent is unknown. Police often do not take an interest in cases of violence against women. According to a rape crisis center in Moscow started by a foreigner, some 16,000 rape cases throughout Russia were reported to the authorities in 1992. The real number is likely to be much higher but is not reflected in either official or nongovernmental records. Incidents often go unreported because of the belief that authorities will do little about the matter and because of the victim's own shame. In the case of spousal abuse, there are no specific legal provisions against wife beating, and legal recourse such as bringing charges of assault is seldom exercised in such cases. Interest in women's issues is only beginning to grow and is focused primarily on the effects of the transition to a market economy. The "Women of Russia" electoral bloc, which received 8 percent of the vote in the December 12 election, focused its campaign on the need for guaranteed health care, education, and social welfare.

Children.—The new Constitution assigns the Government some responsibility for safeguarding the rights of children. While Article 38, section 2, notes that "concern for children and their upbringing are the equal right and duty of parents," section 1 stipulates that "maternity, childhood, and the family are under the State's protection." Article 39 guarantees " social security . . . for the raising of children." Russia is a signatory of the 1989 U.N. Convention on the Rights of the Child. Russians from all political perspectives advocate a greater state role in safeguarding the welfare of children and all Russian citizens. The Government's efforts to develop an effective "social safety net," however, are severely hampered by economic problems.

Indigenous People.—The State Committee for Development of the North, based in Moscow, is tasked with representing the interests of indigenous peoples. With only one full time staff member, its influence is limited. Local committees have been formed in some areas to study and make recommendations regarding the preservation of the indigenous peoples' cultures. Indigenous leaders criticize these committees as lacking political influence. In September Russian authorities sponsored an international conference on the rights of indigenous peoples but drew relatively little participation from indigenous groups from Russia or abroad.

National/Racial/Ethnic Minorities.—Discrimination against people from the Caucasus was most evident in the weeks around the October 3–4 violence. The Moscow authorities targeted persons with Caucasian features at checkpoints around Moscow and during the state of emergency ordered traffic police to stop all vehicles driven by "persons of Caucasus nationality." A spokesperson for the traffic police said that the purpose of these measures was to rid the city of all illegal residents, most of whom are from the Caucasus. The official noted that the order singled out those from the Caucasus because they are easy to identify by their "physiological and facial features." He also commented that "most of these people are thieves and robbers," responsible "for two-thirds of the crime" in Moscow. Human rights groups in Moscow criticized the discriminatory procedures under which thousands of persons were forced to leave the capital. However, the crackdown provoked little negative response from Muscovites, who blame much of the crime in the city on people from the Caucasus. Vendors and merchants in the capital's many markets and in city markets throughout Russia were also targets of discrimination. Concentrating on persons that looked like Caucasus residents, Moscow police forced many to halt their business, confiscated wares, and subjected the vendors and merchants to physical violence.

Following his arrest on October 4, former CPD Chairman Ruslan Khasbulatov, who is himself a Chechen, refused to be represented by a Chechen lawyer. He said a lawyer from that part of Russia would not be able to mount an effective defense because of discrimination.

Religious Minorities.—Anti-Semitism is no longer condoned by the Government. However, it continues to occur, its virulence varying by region. Jewish leaders called for greater assertiveness on the part of the central Government in combating anti-Semitism.

Anti-Semitism continues to exist among the people and is manifested in acts of vandalism and verbal assaults on persons who appear to be Jewish. A number of Jewish cemeteries were desecrated, and on occasion rocks were thrown through the windows of Jewish schools. In February the a high-ranking figure in the Russian Orthodox Church published an article in the newspaper Rossiskaya Gazeta which asserted that the discredited "Protocols of the Elders of Zion" are a blueprint for Russia's political crisis.

The authorities at times have been unwilling to take action when anti-Semitic acts are committed. In the spring a group of persons gathered in front of Moscow's Choral Synagogue, shouted anti-Semitic slogans, and broke windows. Police refused calls for assistance from the temple's leaders. Later in the year, police refused to help a Jewish family regain its apartment in Moscow after "criminals" took it over when the family was out of the country.

In April the newspaper Pravda published a spurious article linking Hasidism to satanic cults and blood ritual murders. The newspaper later noted that the article contained unfounded assertions and apologized to its readers. Although as a rule the Russian Government does not respond to newspaper items, it called the article "destructive in its manner" and criticized it for inflaming "nationalist and religious dissension." On December 30, fire destroyed one of Moscow's three synagogues. The Jewish community believes, and the authorities suspect, that arson was the cause of the blaze.

The expression of anti-Semitism was particularly evident in politics. Street protestors opposed to President Yeltsin often referred to him as a Jew, and antigovernment graffiti often contained anti-Semitic imagery. Prior to the April referendum, the Communist Party of Russia distributed election flyers that criticized Yeltsin for having allowed Hasids to tread on the "holy stones of the Kremlin."

People with Disabilities.—The new Constitution stipulates that all persons are equal before the law. It does not contain any specific prohibitions directed at discrimination against disabled persons. There is no known specific legislation that mandates accesibility for people with disabilities.

Section 6. Worker Rights

a. *The Right of Association.*—The Russian Labor Code guarantees the right of workers to join trade unions. Unions are required to register with local authorities. Local authorities have historically used this requirement to impede the establishment of new unions. The primary obstacle to the exercise of this right has been the special position occupied by the Federation of Independent Trade Unions of Russia (FNPR), the successor to the Soviet-era All-Union Central Council of Trade Unions.

The FNPR has largely retained the privileges and control mechanisms of the old official union structure that existed in the Soviet era. For example, it retained exclusive control of the social insurance fund, from which it distributes worker benefits such as vacations and sick and disability pay, and has used these benefits to keep workers in the FNPR and to threaten those workers contemplating leaving the official unions.

Leaders of the free, democratic labor unions consider the FNPR's exclusive control of the social insurance fund the primary obstacle to the growth of democratic trade unions. In September, shortly after President Yeltsin dissolved the Congress of People's Deputies, FNPR Chairman Klochkov led the official unions into direct opposition to Yeltsin and called for massive strikes in support of Khasbulatov and Rutskoy. In response, the Government prepared to punish the FNPR. It took over the social insurance fund and threatened to ban the FNPR. The FNPR, however, forced Klochkov to resign and made peace with the Government. As a result, no further steps were taken against the FNPR. Moreover, although the social insurance fund remained under the nominal control of the Labor Ministry, no real changes were made in the operation or management of the fund. As a result, independent union members seeking benefits from the fund continue to face discrimination. The Government has invited the FNPR to take an active role in preparing new legislation for the fund.

Nominally, almost all of the Russian work force is organized. In the Soviet period, all workers were required to join the official trade unions. However, an increasing

number of jobs are located in the private sector or in the informal economy, in which unions are much less active. The FNPR still claims to represent about 65 million of Russia's 72 million workers. However, labor officials and other observers estimate that it has lost a significant portion of its membership, perhaps as much as 30 percent. The membership of the independent unions and independent unionlike organizations probably does not exceed 3 million.

Labor unions in Russia are independent of the Government and political parties. The FNPR has a formal agreement of cooperation with the Civic Union, an alliance of centrist parties, and one of the free trade unions has ties with the Social Democratic Party of Russia.

The Labor Code recognizes the right of workers to strike. However, the law includes numerous restrictions on that right, prohibiting, for example, strikes for political reasons. The law permits strikes only after all other means of resolving a dispute have been exhausted. Strikes may be declared illegal if they pose a threat to people's lives or health or if the closing of a plant's operations might lead to severe consequences. Strikes are also prohibited in several sectors: railroads, city transport, civil aviation, communications, energy, and the defense industry.

Numerous strikes occurred in 1993; however, most were either short-term warning strikes or were settled quickly. Unlike in Western market economies, labor disputes are rarely directed against enterprise management. In fact, the FNPR and the management of large state-owned industries normally cooperate closely in pressing their demands against the Government. In early 1993, the FNPR and the Government formed a tripartite commission comprised of union, management, and government representatives to protect workers' rights and standard of living and avoid strikes and other labor disputes. This arrangement reduced the number of strikes in 1993. The FNPR withdrew from the commission in August and organized a series of strikes and other worker protests to pressure the Government to maintain subsidies to industries and increase workers' pay. The FNPR was only moderately successful and decided to suspend further strikes because of the political crisis in Moscow.

The Government did little to protect workers from management's retribution in the event of a strike. FNPR-affiliated union officials work in a close, subordinate relationship with enterprise management. As a result, FNPR-led strikes were usually approved in advance and supported by enterprise management. Free union members and leaders face threats and intimidation from enterprise management. Free union officials contend that these actions are often taken with the passive support of FNPR officials and local politicians.

During 1993, free union officials were increasingly aggressive in pressing their case in the Russian courts, with moderate success. For example, the Association of Trade Unions of Yekaterinburg has been very active in employing law students from the city's legal institute to assist member unions protect worker rights. The head of the Association says the poor state of the legal system is the primary hindrance to the protection of workers' rights.

Unions are permitted to form and join federations or confederations and may participate in international bodies. The Government designated the FNPR to represent Russian workers at the International Labor Organization (ILO) conference in 1993. The ILO Governing Body in 1993 addressed two freedom of association complaints against the Russian Federation, one of which was from the FNPR protesting a decision by local government bodies prohibiting wage check-offs for union dues. The ILO observed that government bodies should not interfere with check-off arrangements reached through collective bargaining between workers and employers but that such deductions should not infringe on the right of workers to belong to trade unions of their choosing.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining is not widely practiced and still largely misunderstood by workers and enterprise directors because official unions, which include managers in their membership, continue their close, subordinate relationship with management. The tripartite commission reinforced this misunderstanding by perpetuating the process whereby official unions and enterprise managers spoke with a common voice, requesting subsidies, for example, from the Government.

Some free unions understand the importance of creating in Russia a system in which enterprise management is independent of labor and the Government and is held responsible for complying with the terms of contracts. Recently, as firms have become privatized, the courts have started to compel enterprises to comply with contracts.

Most wages continue to be set at the industry level by government agencies or in national tariff agreements negotiated in the Tripartite Commission. The Labor Code does not explicitly prohibit antiunion discrimination by employers. Such a pro-

hibition is implied, however, in several sections of the Labor Code. The Government admits that under current law there is no mechanism for resolving labor disputes; it recently undertook, however, to establish in the Labor Ministry a service for the resolution of disputes. The legal basis for conflict resolution and the full establishment of the service were not expected until some time in 1994.

During 1993, the Government established a number of foreign enterprise zones. Worker rights are not more restrictive in these zones than elsewhere in the country.

c. *Prohibition of Forced or Compulsory Labor.*—The Labor Code prohibits compulsory labor, and there are no known reports that it occurs. However, as in other areas of worker rights, the government apparatus for enforcing and overseeing compliance with labor laws either does not exist or is largely ineffective.

d. *Minimum Age for Employment of Children.*—The Labor Code does not permit the regular employment of children under the age of 16. In certain cases, children aged 14 and 15 may work in intern or apprenticeship programs. The Labor Code regulates the working conditions of children under the age of 18, including prohibiting dangerous work and nighttime and overtime work. Government enforcement is largely ineffective, but there is no evidence that this prohibition is violated in Russia. The responsibility for the protection of children in this area is shared by the Labor Ministry and the Ministry for Social Protection.

e. *Acceptable Conditions of Work.*—The legislature sets the minimum wage, which covers all workers. It is so low, however, that few workers actually receive such a low salary. Even the minimum pension is higher than the minimum wage. The minimum wage is insufficient to provide a decent living for a worker and family. Its primary purpose is to serve as a baseline for computing benefits, pensions, and some wage scales. The minimum wage is set quarterly. It was increased in July, for example, to just under $8 (7,740 rubles) per month at the then exchange rate. This is below the minimum pension of 14,000 rubles per month and the poverty line of about 20,000 rubles per month. In contrast, the average wage in September was $67 (about 80,000 rubles). A December 1 decree by President Yeltsin raised the minimum wage to $12.25 (14,620 rubles).

The Labor Code provides for a standard workweek of 40 hours, which includes at least one 24-hour rest period. The law requires premium pay for overtime work or work on holidays.

Russian law establishes minimum conditions of workplace safety and worker health, but these standards continue to be widely ignored, and no effective enforcement mechanism exists. Industrial deaths and injuries are very high, especially in heavy industries such as mining. The free unions have been in the forefront of efforts to improve safety and health conditions.

SAN MARINO

San Marino is a democratic multiparty republic with a population of 24,000. Legislative authority is vested in a unicameral parliament, the Great and General Council (GGC). Executive authority is exercised by the 12-member Congress of State (the cabinet), composed of 2 Captains Regent and 10 members chosen by the GGC. The Captains Regent are assisted by three Secretaries of State (Foreign Affairs, Internal Affairs, and Finance) and by several additional secretaries. The Secretary of State for Foreign Affairs has come to assume many of the prerogatives of a Prime Minister.

Police forces are centralized in one organization, the Civil Police, which has three branches, including an investigative branch. Security and ceremonial representation are performed by two military corps, the Gendarmerie and the "Guardie di Rocca." These forces are controlled by and responsive to elected government officials.

The principal economic activities are tourism, farming, and light manufacturing. Tourism, a vital seasonal industry, provides nearly half of the country's revenues. In addition to income, corporate, and sales taxes, the Government derives most of its revenue from the sale of coins and postage stamps to collectors throughout the world and from payments of an annual budget subsidy by the Italian Government under the terms of the Republic's Basic Treaty with Italy.

Individual human rights are provided for in the Legal Code of the Republic and respected in practice. San Marino's legislature and government have demonstrated a strong interest in and commitment to the protection of human rights, but some laws, in particular with regard to transmission of citizenship, discriminate against women.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Neither government forces nor opposition organizations engaged in political or extrajudicial killings.

b. *Disappearance.*—There were no cases of disappearance or abduction.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture and other cruel, inhuman, or degrading treatment or punishment are prohibited by law, and there were no reports of violations.

d. *Arbitrary Arrest, Detention, or Exile.*—There were no reports of arbitrary arrests, detentions, or exile.

e. *Denial of Fair Public Trial.*—The rights of the accused are protected by procedural safeguards which are guaranteed by law and observed in practice. Judicial arrest warrants are required.

Detainees may not be held more than a few days without being formally charged or released. Although there is no legally prescribed limit on pretrial detention, San Marino's uncrowded criminal dockets ensure that the courts hear most cases within days or weeks. The procedural law grants trial judges considerable discretion in this regard, but there were no indications in 1993 of any abuse of this authority. The right to a public trial and legal counsel is provided. The accused may request that a court-appointed attorney be provided at no cost. There is no incommunicado detention, and the accused may not be compelled to answer questions or make statements without having an attorney present.

Judicial authority is turned over in part to Italian magistrates in both criminal and civil cases. Cases of minor importance are handled by a local conciliation judge. Appeals go, in the first instance, to an Italian judge residing in Italy. The final court of review is the Council of Twelve, a group of judges chosen for 6-year terms (four replaced every 2 years) from among the members of San Marino's Great and General Council.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*

The concept of privacy of the home is respected by the authorities. Judicial warrants are required for searches. The privacy of correspondence, including telephonic communications, is also protected.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and press is respected. There is no government censorship. While there are no daily newspapers, periodicals are published irregularly by the Government, political parties, labor unions, and business associations. A private press publishes a weekly bulletin with local news. Such news is also available in local editions of several Italian dailies.

Daily television news coverage of San Marino is broadcast by a private Italian television station located in Italy. This program is financed both through advertising and a contribution by the San Marino Government. A recent Italy-San Marino bilateral agreement established a new television station (Telesanmarino) financed in equal shares by the San Marino Government and Italy's public television network. This station began operations in March. The television portion of San Marino Radio-Television broadcasts 3 hours of fiction and special programs a day, generally provided by the Italian government-owned RAI-TV Corporation. The radio station broadcasts news every hour, 12 hours a day, plus music and locally produced programs.

b. *Freedom of Peaceful Assembly and Association.*—There is freedom of peaceful assembly. In order to hold a rally or demonstration, a San Marino citizen must inform the police. No permits are required unless parking areas are to be used. Permits are routinely granted.

Freedom of association is respected, as is academic freedom.

c. *Freedom of Religion.*—Freedom of religion is respected. The majority of the population is Roman Catholic. Other denominations are entitledto practice their faiths and to hold religious services. Foreign clergy are free to perform their duties.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Foreign travel, emigration and repatriation are freedoms enjoyed by all citizens. San Marino is not a signatory to the 1951 Convention Relating to the Status of Refugees, although officials on several occasions have expressed the country's intention to accede to the Convention. Although San Marino does not formally offer asylum to refugees, a few individuals have been given de facto asylum by being permitted to reside and work there. Refugees resettled in San Marino and other foreigners are eligible to apply for citizenship only after 30 years of residence.

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

Legislative authority is vested in a unicameral parliament, the Great and General Council (GGC), consisting of 60 members who normally are elected to serve 5-year terms. The Council is also the body that would consider any basic changes to the system of government. Any group of 150 San Marinese citizens may petition the GGC to propose a new law. In the week following installation of the Captains Regent, any San Marinese citizen may approach the Captains Regent at a special open forum to request the examination of any subject whatsoever. The Captains Regent are obliged by centuries-old custom to take up that subject in the GGC during their term in office.

Executive authority is exercised by the 12-member Congress of State (the cabinet), composed of 2 Captains Regent and 10 members chosen by the GGC. The Captains Regent are elected by the Council from among its members for 6-month terms. Their functions are largely honorary, although they also preside over meetings of the Council and the Congress and are empowered to propose legislation and to represent San Marino in its foreign relations. The Captains Regent are assisted by three Secretaries of State (Foreign Affairs, Internal Affairs, and Finance) and by several additional secretaries entrusted with specific portfolios.

The Congress of State is composed of executives who head the various administrative departments of the Government. These posts are divided among the parties that form the coalition government. The Secretary of State for Foreign Affairs has come to assume many of the prerogatives of a prime minister.

Membership in the GGC is based on proportional representation and is selected from nominee lists submitted by the political parties. Voting is open to all citizens 18 years of age or older. Women gained the right to vote in the early 1960's, voting in national elections for the first time in 1964.

Elections in San Marino are free and fair. Elections are held every 5 years unless the GGC votes to dissolve itself and hold early elections. Six parties are represented in the parliament. General elections, held in May, confirmed the Christian Democratic Party (DCS) and the Socialist Party (PSS) coalition which has governed since March 1992. As in recent years, the Government offered to pay 75 percent of the travel costs for approximately 6,000 citizens living abroad to return to San Marino to vote in the election. There have been no impediments to women participating in government or politics since the passage of a 1973 law eliminating all restrictions. In 1974 the first woman was elected to the GGC. Since then, women have served in the Council as Secretary of State for Internal Affairs and as Captain Regent. Women's branches of the political parties have all been integrated into the mainstream party organizations, and women hold important positions in the various parties.

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

There are no domestic human rights organizations, although there are no government impediments to the formation of such organizations. The Government has declared itself open to investigations of alleged abuses by outsiders, but there have been no known requests of such a nature from international organizations.

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

Discrimination based on race, sex, religion, disability, language, or social status is prohibited by the law and generally not practiced, but some vestiges of legal and societal discrimination against women remain.

Women.—Several laws provide specifically for equality of women and equal pay. In practice, there is no discrimination in pay or working conditions. All careers, including military and police as well as the highest public offices, are open to women. A San Marinese woman who marries a foreigner may not transmit citizenship to her husband or children, although a San Marinese man who marries a foreigner may transmit citizenship to both wife and children.

Some aspects of social and traditional discrimination against women remain. However, women recently have entered in significant numbers into fields previously dominated by men, including law and medicine. At present, there are no reports of discrimination cases brought to court by San Marinese women.

Violence against women is unusual, and women are protected by law in these cases. After the passage of favorable laws by the GGC in the 1970's and 1980's, a National Commission on Women's Rights in the Law was disbanded as it was believed there was no further need for it.

Children.—An October 1992 law reforming the judicial system provided for the creation of a separate juvenile court, which was being organized in 1993.

A special service to fight child abuse, which is part of the state medicare system, has been active since 1974. The service provides for foster care of children separated from their families by the local tribunal. The service has had a total of 14 cases since 1982. The San Marino budget devoted over 1 percent of its 1994 budget to this program.

People With Disabilities.—In 1990 the Parliament issued a general law to safeguard the rights and promote the social integration of disabled people, requiring Parliament to prepare legislation on a list of specific issues. In May 1991, the GGC passed legislation regulating and encouraging the hiring of people with disabilities. A bill passed in September 1992 established a 2-year period to review architectural barriers to the handicapped in existing buildings and required that all new buildings have no such barriers.

Section 6. Worker Rights

a. *The Right of Association.*—By law, all workers in San Marino (except the military but including police forces) are free to form and join unions. There are two trade union federations: the Democratic Federation of San Marinese Workers (affiliated with the International Confederation of Free Trade Unions), which has about 2,500 workers, and the General Federation of Labor with about 2,400 workers. Union members represent approximately 50 percent of the country's work force (10,000 San Marinese, or 12,000 including Italian workers).

Trade unions are independent from the government. Formally, they are also independent from political parties. However, political parties have close ties with and exercise strong influence on trade unions.

Except for the military establishment, all categories of workers have the right to strike, including the civil police. No strikes have occurred in at least the last 4 years.

Unions may freely join international labor federations. Since 1961 trade unions have been legally recognized by a law which sets the minimum conditions (for example, the minimum number of members and affiliated labor federations) for their establishment.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining is recognized and protected by law. The law prohibits antiunion discrimination by employers, and effective mechanisms exist (including reinstatement of workers fired for union activities) to resolve complaints. Collective bargaining is freely practiced throughout the country—the collective bargaining agreements are published in the Government's bulletin and have the force of law. Negotiations are freely conducted, and the presence of government officials (usually from the Labor and Industry Departments) is often requested by the unions and the employers' association. For the last several years, all complaints have been resolved amicably by a "conciliatory committee" composed of judges and government officials.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited by law and does not exist in practice.

d. *Minimum Age for Employment of Children.*—The minimum working age of 16 years is strictly enforced by the Ministry of Labor and Cooperation, and there are no exceptions.

e. *Acceptable Conditions of Work.*—The legal minimum wage assures a decent living for a worker and his or her family. In November 1993 the minimum wage was approximately $1,000 (1,637,868 lire) per month. According to trade unions, wages are generally higher than the minimum wage.

The legal workweek in the public administration is 36 hours. In industry and private business, it is 37½ hours. At least 24 hours a week are dedicated to rest for all categories of workers. Trade unions report no problems on this issue. According to trade unions, San Marino has had advanced legislation on health and safety standards since 1987. However, enforcement to date has been weak, due to employer resistance in some industries. According to labor unions, health and safety standards are often not fully implemented in the construction sector. For practical reasons and to reduce costs, employers and workers alike do not always follow all regulations. In the last national labor contract, unions obtained 2 hours of paid time for all constructions workers to be given instruction and training concerning safety standards. The judicial system is responsible for enforcement.

SERBIA/MONTENEGRO*

Serbia and Montenegro, two of the constituent republics of the former Yugoslavia, proclaimed the establishment of the "Federal Republic of Yugoslavia" in 1992. The United Nations and the Conference on Security and Cooperation in Europe (CSCE), as well as the international community, rejected the "FRY's" claim to be the sole successor to the former Yugoslavia and suspended Yugoslav participation in their organizations.

Serbia/Montenegro's formal federal governmental structure is subsumed under an authoritarian state apparatus controlled by Slobodan Milosevic, reelected for a second 5-year term as President of the Serbian Republic in a December 1992 election that was judged by CSCE observers to have been neither free nor fair. He dominates the political scene through his Socialist Party of Serbia (SPS), which holds the key administrative positions in both the Federal and Serbian Governments, and has generally succeeded in circumscribing Montenegrin autonomy. Serbia has two provinces—Kosovo and Vojvodina—but their political autonomy was abolished in 1990, and all significant decisionmaking authority is centralized in Belgrade.

Because of Serbian responsibility in instigating and propagating violence on the territory of Bosnia and Herzegovina, including human rights abuses on a massive scale, the United Nations imposed sweeping economic and political sanctions in 1992 and tightened them in 1993. Despite claims to the contrary, the Belgrade regime sustained military, economic, and political support for ethnic Serbs responsible for massive human rights abuses and acts of genocide in Bosnia-Herzegovina in 1992–93 and similarly aided Croatian Serbs occupying nearly a third of Croatian territory.

Milosevic also wields absolute control over the Serbian police, a heavily armed force of some 70,000–80,000 which is guilty of extensive, brutal, and systematic human rights abuses, including extrajudicial killing. It continued a pattern of gross human rights violations and systematic repression of ethnic Albanians in the Kosovo region.

The economy, already under serious strain due to the cost of proxy wars in Croatia and Bosnia-Herzegovina and the breakup of Yugoslavia, deteriorated markedly in 1993 under the impact of U.N. sanctions. The massive printing of money to keep the economy afloat resulted in hyperinflation of historic proportions. By year's end, many goods, including food staples, had disappeared from stores and were available only on the black market for foreign currency.

Human rights violations increased in Serbia during 1993, but Montenegro's human rights record was not as poor. Ethnic minorities continued to suffer most. Systematic police repression in Kosovo, where some 90 percent of the population are ethnic Albanians, included killing suspects allegedly while they were fleeing or resisting arrest, beating detainees and prisoners to death, arbitrary arrests, and widespread harassment. Paramilitary attacks and threats tolerated by the Belgrade regime resulted in the murder and dislocation of many Muslims in the Sandzak region. Selective intimidation by police and others of members of the Croatian and Hungarian minorities in multiethnic Vojvodina spurred the emigration of non-Serbs. This situation worsened after Belgrade authorities, over Montenegrin objections, expelled CSCE human rights monitoring missions at the end of July, despite a U.N. Security Council resolution calling for the missions' continuation.

The police also used heavy-handed violence against Serbian opponents of the regime. During a spontaneous protest in Belgrade in June, police arrested and maltreated several dozen people, including opposition leaders Vuk and Danica Draskovic who were both severely beaten while in police custody. More than a dozen Kosovar Albanians died at the hands of police, either while allegedly resisting arrest or in custody. Police responsible for abuses are rarely prosecuted. However, two Serbian police officers in Prizren were sentenced to short prison terms in December for the beating death of Aif Krasniqui, a Kosovar Albanian, while in police custody.

Freedom of the press is greatly circumscribed. One Serbian journalist was briefly kidnaped by unknown individuals, thought to be agents of the Government. Belgrade authorities refused to renew the accreditation of two long-time foreign journalists, without official explanation. The police sometimes interfere with peaceful assembly and travel and regularly enter homes and offices without warrants. They monitor and harass opposition leaders and dissidents.

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*The United States does not recognize the Federal Republic of Yugoslavia.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Political violence in Serbia/Montenegro, including killings, resulted mostly from direct and indirect efforts by Serbian authorities to suppress and intimidate ethnic minority groups. Leaders of minority communities in the Sandzak, Vojvodina, and Kosovo reported numerous acts of violence and intimidation, the express aim of which was to disrupt and terrorize non-Serbs and Muslims to the point that they would flee their homes and the ultimate objective of "ethnic cleansing" would be achieved.

During the war in Croatia, Yugoslav army (JNA) soldiers and Serbian paramilitary forces were stationed throughout neighboring Bosnia and Herzegovina. When sporadic outbursts of violence there escalated into full-scale war in April 1992, as Serbian nationalists attempted to establish an independent state within Bosnia and Herzegovina, the JNA armed Bosnian Serb irregulars and fought on behalf of Serbian forces until its nominal withdrawal in mid-May. At that time, federal and republic authorities claimed that the personnel of the JNA in Bosnia, 80 percent of whom were Bosnian Serbs, were free to remain in Bosnia and Herzegovina to fight. Approximately 80,000 "volunteers" who "left" the JNA formed the core of the newly formed Serbian army of Bosnia and Herzegovina. The federal and Serbian authorities continued to provide fuel and other materiel support to that army.

Violence was most severe in the Muslim-populated region of Sandzak and the Albanian-populated region of Kosovo. Paramilitary groups regularly crossed the border from Bosnia-Herzegovina into Serbia and Montenegro to attack local Muslims without opposition from units of "FRY" army reservists stationed in border villages. During these raids, paramilitary forces beat to death at least five elderly Muslims. The Humanitarian Law Fund, a Serbian human rights organization, charged in a February report that "FRY" reservists intentionally allowed groups of armed Bosnian Serbs onto the territory of the State of Serbia and did not prevent the mistreatment and abuse of its non-Serb residents.

In Kosovo at least 15 ethnic Albanians died at the hands of police during 1993, of which 7 took place after the CSCE monitoring missions left the area in late July. In most cases, the authorities claimed that those killed were shot while fleeing or resisting arrest. Police, however, appear to have resorted to deadly force with little or no attempt to apprehend the alleged suspects by other means. During a raid on the market in Pristina, police arrested two brothers, shooting both of them as they broke away, and one died instantly. In late August, during a raid on a house in the village of Cernille, also in Kosovo, police waiting to question two brothers shot and killed their 16-year-old brother as he and his two older brothers tried to run away.

In other cases, persons died while in police custody as the result of torture and other mistreatment. In February police arrested, imprisoned, and subsequently beat to death Adem Sequiri, an ethnic Albanian from Djakovica, Kosovo. The official report of death cited blows all over his body as the cause of death. In August Arif Krasniqi, an ethnic Albanian, died at the police station in Prizren 24 hours after his arrest. His body showed clear signs of torture to his head, feet, and genitals. Two policemen were charged in Krasniqui's death and sentenced to 3-year prison terms. The convictions represented an exception to the general rule of official denial and failure to investigate police abuses.

In a series of incidents along the Serbian-Albanian border, Serbian border guards were responsible for the death of 14 Albanian citizens in Albania. Serbian authorities defended their behavior, claiming that those killed were on the Serbian side of the border and had crossed it illegally, possibly for acts of terrorism. Smuggling is rife in the area, but the authorities appear to have used deadly force with little effort to apprehend the suspected border violators. In an effort to excuse the killings following one incident, a senior Serbian official said that the Serbian border guards involved were inexperienced.

The Yugoslav Democratic Party of Gypsies complained that police had harassed and beaten Gypsies in the village of Strazilo, resulting in one death.

b. *Disappearance.*—Bosnian Serb paramilitary forces operating with impunity in Serbia/Montenegro were responsible for disappearances in the Sandzak region. In one case, paramilitary forces abducted at least 19, and possibly 24, Muslims from a Serbian train when it was forced to stop while in a Serb-controlled area of Bosnia-Herzegovina en route from Belgrade to Montenegro. Despite a meeting between Milosevic and families of the disappeared, no progress was made in finding the men. Police held Milan Lukic, a Serb paramilitary leader in Bosnia, for 2 days in Serbia in connection with the disappearances but released him after his troops threatened to blow up the Belgrade-to-Bar railway. The paramilitary forces are presumed to have murdered the Muslims, although their bodies have not been found.

In February Bosnian Serb soldiers entered the predominantly Muslim village of Seliste (Montenegro) and took away two women, a 16-year-old youth, and two small children, returning the following night for more members of the same family. Six of those taken, all over 60, were released after 3 weeks. According to some reports, Bosnian Serbs continued to hold the others, including a mother and two children under 5 years of age, in Cajnice, Serb-held Bosnia. Those released described their treatment as brutal.

In April two Muslims, Hasan Mujovic and Mustafa Pulinac, who had abandoned their homes in Sjeverin (Serbia) following the kidnaping of some of its residents from a bus passing through Bosnian Serb-controlled territory in 1992, returned to check on their property. Four masked men attacked Pulinac, but he escaped into the woods when Mujovic ran to his aid. Mujovic has not been seen since. Bosnian Serb officials in nearby Rudo reportedly had information as to his whereabouts but stated they were not responsible for the safety of citizens of another country.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Federal law prohibits torture, but reports that police in Serbia severely beat people, whether under detention or at police checkpoints, numbered in the thousands. Police routinely used violence indiscriminately against ethnic Albanians, justifying such repression as necessary to quell Kosovar Albanian demands for independence. While overt police violence against Serbian opponents of the regime was comparatively rare, some cases occurred.

In a highly publicized instance, police violence was directed against Vuk Draskovic, leader of a major Serbian opposition party, and Danica Draskovic, a member of the party's executive committee. Police arrested them at their party headquarters following a demonstration during which violence broke out in front of the Federal Parliament building on June 1. Police severely beat them while dragging them from the party headquarters to police vans, where at least 10 policemen subjected them to further beatings. During the initial 20 days of their detention, the Serbian Ministry of Justice denied that the couple had any serious health problems. After a panel of medical experts examined them, however, Serbian authorities felt obliged to transfer them to a special clinic because of the severity of their injuries. Mounting international pressure and domestic support for a hunger strike by Vuk Draskovic led President Milosevic to pardon the couple on July 9.

Police brutality contributed to and exacerbated the violence which erupted at the June 1 rally that provided the excuse for the Draskovics' arrest. Police conducted sweeps, detaining some 30 opposition party members and 5 journalists; eyewitness reports confirmed that police clubbed and detained innocent bystanders, including journalists who identified themselves to the police. One policeman died, and several others were injured as a result of the fracas.

Police also badly beat a Serbian woman in Belgrade in October when she protested economic conditions while waiting in a ration line for flour. The middle-aged woman was shown on television with severe bruises on her face. The Serbian Minister of the Interior later apologized to the Serbian parliament and said the policemen who had beaten the woman were suspended and under investigation. An opposition party called for the Minister's resignation, citing a growing pattern of police brutality and disregard for the law.

In Kosovo indiscriminate beatings of ethnic Albanians took place routinely, with a marked increase following the expulsion of the CSCE missions in July. One Albanian human rights group took statements from 804 people beaten by police during a 12-month period. Many times that number were also reportedly beaten but did not register the assaults with human rights groups. Those victimized included professionals associated with Albanian demands for independence, human rights monitors, and people without any discernible political affiliation. In June the principal of a secondary school in Pristina, after being warned against continuing his work in the local Albanian private school system which Serbian authorities considered illegal, was arrested and badly beaten, likely suffering permanent damage to his hearing.

Confident of their impunity and with no fear of reprisal, police brazenly abused and beat their victims in public view. For instance, in late August, during a raid on an ethnic Albanian village near Kamenica, Serbian police, conducting a fruitless search for weapons, allegedly badly beat two brothers in front of their family, causing the pregnant wife of one of them to collapse and miscarry. A few days later, during a raid on the village of Cabra, Kosovo, an 80-year-old woman reportedly collapsed and died after witnessing the beating of her sons. Victims of the raid were interviewed 3 days later, and witnesses saw evidence of severe beatings of several villagers.

Police were exceptionally brutal after several attacks against security forces by unknown assailants. An ethnic Albanian former policeman provided details of tor-

ture during investigations into the ambush of Serbian police in Glogovac in May, during which two policemen died. One of several hundred Albanians rounded up after the ambush and taken in for questioning, he described how police beat and threatened some 150 men. A policeman hit a man next to him in the head with such force that it looked as if he would lose an eye. Similar instances of mass arrests and police beatings occurred after other attacks on police (several policemen were wounded but none killed) in Pec and Prizren. No one was charged with the attacks on the police.

The victims themselves, usually through ethnic organizations, provided accounts of police brutality carried out against minority members. Human rights organizations independently confirmed many of these reports. The sheer number of such reports, represented here by illustrative examples, is evidence of pervasive, systematic police brutality.

Most allegations of harsh interrogations and police brutality stem from incidents in police stations rather than in prisons. However, abuses were also known to occur after sentencing. In July prison officials rejected the requests of ethnic Albanian prisoners serving sentences in Nis to be transferred to prisons in Kosovo, placed them in solitary confinement, beat them, and did not allow them parcels or family visits. With the exceptions noted below, conditions in prisons generally meet minimum standards. Prison facilities are for the most part built for that purpose and reasonably maintained.

Prisons are divided into three categories: open, low, and high-risk. Due to the extremely low number of female inmates, lower category facilities for women are not available, and instead all female prisoners are confined in high-risk facilities, with far greater restrictions. Female prisoners have reported that, although they are permitted writing materials, they are not allowed to keep what they write, whereas the men are. Female prisoners are not given any opportunity for further education, though mandated by law, nor are their recreational facilities as well supplied as those of the men. A new draft law to correct this situation was drawn up but not enacted by year's end.

The number of political prisoners in Serbia/Montenegro is unknown. At the end of 1993, there were at least 60 prisoners who had been convicted of political crimes. The International Committee of the Red Cross (ICRC) was able to visit political prisoners after sentencing but not to gain access to those in pretrial confinement. Numerous Albanian political activists were arrested because of their political activities in support of Kosovo independence and were detained briefly under misdemeanor laws.

d. *Arbitrary Arrest, Detention, or Exile.*—Federal law permits police to detain suspects without a warrant and hold them incommunicado for up to 3 days without charging them or granting them access to a defense attorney. After this period, police must turn a suspect over to an investigating judge, who may order a 30-day extension and, under certain legal procedures, subsequent extensions of investigative detention up to 6 months. During investigative detention, detainees theoretically have access to legal counsel, although in practice access is only occasionally granted.

In May and June, there was a wave of arrests of Muslims in Novi Pazar (Sandzak) for illegal possession of weapons. Many of those arrested had close ties to the Muslim Party of Democratic Action (SDA), which publicly advocates autonomy for Sandzak through peaceful means. In September, while he was out of the country, a warrant was issued for the arrest of the leader of the SDA, Dr. Ugljanin. The prosecutor later brought formal charges of fomenting rebellion against SDA members. SDA leaders admit that some of those charged may have possessed weapons but point out that Serbian police as a rule have not prosecuted ethnic Serbs for violations of weapons laws, despite the proliferation of arms within the general population and the threatening activities of organized Serbian paramilitary groups.

Police arrested several dozen former political prisoners and activists of Albanian political parties and associations in Kosovo in August and September. Some were later charged with threatening the territorial integrity of Serbia. According to their attorneys, police had severely beaten them all during detention. Police detained Salajdin Braha from Prizren, member of the ethnic Albanian Kosovo parliament, for 5 weeks, repeatedly beat him during this time, and then released him due to lack of evidence.

Exile is neither legally permitted nor routinely practiced. No specific instances of the imposition of exile as a form of judicial punishment are known to have occurred.

e. *Denial of Fair Public Trial.*—The court system comprises local, district, and supreme courts at the republic level, and a Federal Supreme Court to which republic Supreme Court decisions may be appealed. There is also a military court system.

According to the Federal Constitution, the Federal Constitutional Court rules on the constitutionality of laws and regulations, relying on the republic authorities to enforce its rulings. The Federal Criminal Code of the former Yugoslavia still applies.

Under federal law, defendants have the right to be present at their trials and to have an attorney, at public expense if needed. Both the defendant and the prosecutor may appeal the verdict. The judiciary is not free from political influence or ethnic bias, as evidenced by the dismissal of ethnic Albanian judges in Kosovo following their refusal to take an oath of loyalty to Serbia, and judicial handling of charges against the Draskovics. Serbian courts continue to sentence ethnic Albanians, reportedly including some minors, for political actions to terms of from 1 to 20 years.

Sandzak Muslims and ethnic Albanians and Hungarians still avoid military service. Prosecution is rare, but force is sometimes used in mobilizing troops. The draft is sometimes used as a means of harassing opposition figures. In Vojvodina in late December, Sandar Balint, editor in chief of the Hungarian language publication Magyar Szo, was called up for military duty. Balint is in his mid-forties. However, ethnic Serbs in Vojvodina have reportedly been subjected to similar treatment by the military authorities.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Federal law gives republic ministries of interior sole control over the decision to monitor potential criminal activities, a power routinely abused. Authorities routinely monitor opposition and dissident activity, eavesdropped on conversations (see Section 2.a. re Dusan Reljic), read mail, and tapped telephones. A Serbian minister boasted in Parliament about the wiretapping of the leader of the main ethnic Hungarian party. Although the law includes restrictions on searches, officials paid scant attention to such restrictions.

In Kosovo, police routinely subjected ethnic Albanians to random searches of their homes, vehicles, and offices on the pretext of searching for weapons.

Police at checkpoints throughout Kosovo, both between localities and within cities and towns, systematically stopped private vehicles and searched them and the passengers with no probable cause. In a round-trip journey of 40 miles, independent observers noted four separate checks of a single vehicle. Police often confiscated foreign currency from drivers and passengers, although it is not illegal to possess foreign currency. Similar confiscations occurred in Sandzak.

Police deliberately timed raids on Albanian private schools in Kosovo to disrupt entrance tests for children to secondary schools. Police subjected all those suspected of any form of involvement with private Albanian schools to searches of their homes and offices and often confiscated personal documents.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Despite their denials, the Governments of Serbia/Montenegro and Croatia were deeply involved in the extensive and egregious violations of humanitarian law and abuses of basic human rights in Bosnia committed by Serbian and Croatian paramilitary forces there. The Government of Serbia/Montenegro armed the Serbian forces in both Bosnia and Croatia, its citizens participated in the wars as members of paramilitary formations with government sanction, and it permitted regular troops to remain in Bosnia after May 1992 in the renamed "Serbian army" there. In addition, it continued to supply the Bosnian Serb forces with fuel, food, and other supplies, even while these items were in critically short supply in its own territory. The authorities in Belgrade have not sought to prosecute former regular army personnel for suspected war crime activities in either Croatia or Bosnia-Herzegovina.

Members of ethnic minorities in Serbia were frequently subjected to intimidation, with the goal of provoking the emigration of non-Serbs. The army and the police did not interfere with or try to prevent paramilitary forces and other extreme nationalists from carrying out numerous attacks and harassment against minorities designed to drive them from their homes. In Vojvodina, paramilitary forces associated with such extremist groups as the Serbian Radical Party (SRS) led by Vojislav Seselj openly threatened Croats, Ruthenians, Hungarians, and others and waged a campaign to replace the non-Serbian population with Serbian refugees from Croatia and Bosnia.

In the multiethnic Serbian province of Vojvodina, following the defeat of Prime Minister Panic in the December presidential elections, there was a resurgence of the campaign of harassment against non-Serbs. In Hrtkovci, Vojvodina, the local mayor and his deputy, who had been imprisoned for incitement to violence against non-Serbs, were convicted on May 5 and given suspended prison sentences. Harassment began anew of non-Serbs and of Serbs who defended them, as well as of Serbian refugees from Croatia and Bosnia-Herzegovina who refused to return to fight alongside local Serb paramilitary forces.

Many of these incidents were instigated by SRS chief and paramilitary leader Seselj and his followers. In October Milosevic's ruling party denounced Seselj as a

Fascist and a war criminal, guilty of paramilitary attacks and war crimes in Croatia and Bosnia. Serbian authorities recently brought criminal charges against nearly 40 members of Seselj's paramilitary organizations, including accusations of smuggling, racketeering and rape. Although the authorities described the charges as related to war crimes, press reports indicated that only one case was specifically connected to activities in Bosnia. The timing of the charges had a highly political flavor, growing out of Seselj's conflict with Serbian President Milosevic, and do not appear to have been motivated by justice or the rule of law. As of year's end, no legal action had been brought directly against Seselj or his Serbian Radical Party. In December Seselj and Zeljko "Arkan" Raznatovic, a paramilitary leader and a candidate in the elections for the Serbian Parliament, traded accusations of criminal activity on state-run television. The charges included war profiteering and murder.

Officially sanctioned violence and intimidations directed against the Croatian population of Vojvodina, which peaked in the summer of 1992, continued in 1993. Conditions eased in the last months of the year following the arrest of some Seselj supporters directly implicated in these crimes. Early in 1993, Croatian families in the Vojvodina town of Srijemska Kamenica received threatening telephone calls to move out or be killed. These calls were usually followed by visits from men offering property exchanges in Croatia. Fearing for their lives, many families moved out. Local authorities did not intervene and in at least one case actively participated. In July in Kukujevci, Vojvodina, one prominent Croat, his wife, and elderly aunt were found shot dead. He had been warned many times that he should move. Several people, all of them members of the Serbian Radical Party, were arrested and charged with the crime.

Significant numbers of ethnic Hungarians left the Vojvodina due to the prevailing atmosphere of fear, economic collapse, and insecurity. Estimates range as high as 50,000, out of a total Hungarian population of 350,000.

Local Serbian authorities reportedly threatened and intimidated Albanian inhabitants in northern Kosovo into leaving their homes near the town of Leposavic, which is a mostly Serb-inhabited area, according to an international human rights organization.

Ceko Dacevic, a local Radical (SRS) and paramilitary leader, was the main instigator of attacks on Muslims in Montenegro. He enjoyed immunity from prosecution for a time as a member of the Federal Assembly. In late March, members of his group burst into a local restaurant, forcing the owner at gunpoint to remove a picture of former President Tito and ordering him to close down the restaurant, which they said would be converted into an Orthodox church. At the end of August, Serb extremists demolished a Muslim-owned cafe under the eyes of the police, who intervened only when a crowd of Muslims demanded they prevent the rape of the owner's daughter. A week later police arrested a Muslim bystander as well as three of Dacevic's men, who were only briefly detained. Harassment of Muslims in the Montenegrin Sandzak district of Pljevlja lessened following the arrest and trial of Dacevic.

In 1993 more than 800 Bukovica (Sandzak) Muslims were forced to leave their homes and villages following threats from "FRY" army members and the kidnaping of some villagers during a violent attack by the Bosnian Serb army during cross-border sorties. Many claimed they fled to escape "FRY" reservists, putatively stationed in the area to protect them but in practice making no attempt to do so, who in some cases beat and accused them of working for the Bosnian Government of President Izetbegovic. The last three Muslim families in the village of Dekare moved to Pljevlja in April, following a late night incident at the home of one of them when "FRY" army members burst in and questioned them about weapons.

A group of armed civilians opened fire on a Canadian company of the United Nations Protective Force (UNPROFOR) that was stopped at a police checkpoint in Serbia near the Bosnian border. A French soldier with the Canadian company was wounded in the leg. Serbian police were on the scene but did nothing to prevent the shooting or to pursue the attackers. It was noted that SRS leader Seselj was attending an SRS meeting nearby and drove past the UNPROFOR convoy shortly before the shooting, rolling down the window of his car to shout obscenities at the UNPROFOR troops.

On at least one occasion, armored personnel carriers, trucks, and armed troops of the Serbian militia prevented a humanitarian aid convoy from proceeding through Serbia to Srebrenica, Bosnia, claiming that the United Nations did not have permission to use that road.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Although freedom of press and speech is provided for under law, this right is not respected in practice. The regime controls fre-

quency allocations for broadcasters and has enormous influence on supplies and revenues for the print media. Although the regime continued to tolerate the critical independent but low-circulation print media of Borba and Vreme in Belgrade, most of the population nationwide is dependent for their news on electronic media firmly under government control. The Government blocked the attempts of independent television station Studio B and independent radio station B–92 to expand transmission of their broadcasts. Republic authorities use provisions of the Federal Criminal Code to restrict freedom of speech.

Shortages of newsprint and the deteriorating economy due to international sanctions enabled the Government selectively to direct supplies to favored publications and to reduce financial support to independent journals. In Vojvodina, the Hungarian independent Magyar Szo resisted an attempt to have it merge with a Serbian publishing house, fearing financial mismanagement would force it to close. The paper struggled on, overcoming a stoppage in March, but ceased publication temporarily in October due to financial problems and a shortage of newsprint. At year's end, Magyar Szo was appearing twice weekly.

Proposed press regulations to regulate foreign investment in domestic media would make illegal Serbian press connections with foreigners or foreign support of Serbian media under most circumstances.

Despite a precarious existence, Bujku, the only Albanian-language newspaper, continued to be published. It was forced to miss two issues in October because of their Serbian-run publishing house's alleged inability to obtain newsprint. The publishing house itself had previously been in Albanian hands but was transferred to Serbian control by various financial and legal measures over objections from the Albanian management. A hunger strike by Albanian writers in June failed to prevent control being tranferred into Serbian hands. The paper is prepared independently and uncensored and clearly reflects the views of the ethnic Albanian democratic movement in Kosovo. As such, it is the main source of information for the Albanian community.

Publication of material critical of the Government, however, was tolerated, with a few notable exceptions. A political cartoon deemed to incite ethnic, religious, and racial hatred resulted in the confiscation of all copies of an issue of Sandzak, a publication of the Muslim cultural society in Novi Pazar; the prosecutor brought criminal charges against its editor in chief. Serbian police seized Rexhep Ismaili's book "Kosovo and the Albanians in the Former Yugoslavia" from a private printing house and confiscated all copies of it. They also temporarily blocked distribution of "Thema", published by the Kosovo Association of Sociologists and Philosophers.

On February 9, satirist Mihajlo Radojcic was sentenced to 5 months in prison, with 2 years suspended, for "exposing the President of the Presidency of the Republic of Montenegro, Momir Bulatovic, to ridicule." The President of the Association of Professional Journalists of Montenegro criticized the conviction and accused the Government of trying to eliminate free thought.

Both local and international journalists were harassed and intimidated. Dusan Reljic, foreign editor of the independent Vreme, a publication consistently critical of Milosevic, was kidnaped and questioned while blindfolded for 2 days in late September, shortly after the Serbian Minister of Information warned of "fifth column" elements among Serbian journalists. Reljic believed his interrogators were police or state intelligence agents.

Progovernment media in January accused Roy Gutman, correspondent for Newsday, of being a spy involved in a Western media conspiracy against Serbia. They made these charges on the same day that the Government threatened restrictions on certain foreign journalists. During the June 1–2 demonstrations in Belgrade, police confiscated or destroyed the equipment of many journalists whom they beat and threatened. The authorities expelled the Belgrade correspondent of the London-based, Saudi-owned Al Hayat from Serbia/Montenegro after 13 years in residence, with 2 weeks' notice and no official explanation. In early December, the Government refused, without explanation, to extend the accreditation of long-time London Times correspondent Desa Trevisan.

Milosevic's control of the media and particularly state television is vital to the strength of his regime. Through Serbian Radio and Television (RTS), the Government exerts editorial control over all news programming, which is used to spread ethnic hatred. Blatant anti-Muslim or anti-Albanian propaganda, fanning the fires of religious and ethnic hatred, constituted a substantial portion of the regular news programs which RTS broadcast.

In early 1993, RTS placed some 1,500 employees on involuntary leave. The majority had publicly condemned RTS's encouragement of nationalistic and religious intolerance. They were also members of the independent RTS union. The director of Novi Sad Radio-Television ordered stricter application of the Serbian law on the official

use of language and the alphabet, which resulted in the immediate deletion of all references in the Hungarian language from official programming.

Independent television station Studio B continued to struggle for survival. It faced eviction from its premises in favor of a proregime firm. Despite its having received frequencies approved by the International Telecommunications Union for repeater stations, Serbian authorities refused to approve them on the grounds that only the Serbian government could allocate frequencies on Serbian territory. This attitude, combined with the hijacking in late 1992 of new equipment and its inability to buy suitable land from the government to house its transmitter, prevented Studio B from extending its range of reception beyond Belgrade. Police broke into Studio B studios and confiscated video footage of the June 1 protest (see Section 1.c.).

A new compulsory tax was levied on citizens of Serbia/Montenegro as part of their electric bills beginning on October 1. Revenue is to be used to subsidize RTS, thus further diminishing independent television's ability to compete.

Reports continued of threats and, on rare occasions, instances of physical violence directed against individuals or organizations who expressed criticism of Serbia's extreme nationalist ideology or of the "Yugoslav" army and security services. For instance, a journalist who wrote for a Belgrade daily a piece critical of the army subsequently received death threats. Several Belgrade University professors who expressed oppositionist views or simply failed to collaborate with the regime received death threats.

In January Milosevic's government fired the Rector of Belgrade University, as well as the directors of the Modern Art Museum and the National Theater. Some teachers were removed from their posts, and others reported receiving death threats. Legislation granted the State direct control of public enterprises. The Education Ministry used this power to fire school principals.

The controversial university law was quietly modified by the Serbian assembly in May to give more control to the government regarding the founding of private and foreign universities and minority language instruction, requiring that an "opinion" (in other words, permission) be sought from the Ministry of Education. The Government controls 50 percent of the membership of the University Council, the supreme ruling body of the University, as well as the chairman. On June 22, the University Council elected the dean of the Agricultural faculty and SPS representative in the Federal Assembly as Rector of the University of Belgrade.

In June Rexhep Osmani, chairman of the Kosovo Association of Albanian Teachers, was sentenced to 60 days in prison for organizing peaceful protests on Albanian education in October 1992. Professor Ejup Statovci, rector of the underground Albanian university of Pristina, was returned to prison in February to complete serving a 60-day sentence growing out of the same 1992 incident.

b. *Freedom of Peaceful Assembly and Association.*—Although freedom of peaceful assembly and association is legally provided for, these freedoms were severely restricted. Authorities arbitrarily enforced regulations, permitting some demonstrations and banning others. They permitted supporters of National Peasant Party leader Dragan Veselinov to demonstrate in Belgrade in July for the release of Vuk Draskovic, whereas in late August police broke up a gathering of milk producers in Belgrade organized by Veselinov's party to protest the Government's pricing of milk. When violence by protestors marred the spontaneous June 1 demonstrations at the Federal Assembly building, police riot teams broke up the gathering, indiscriminately beating and arresting participants and bystanders alike (also see Section 1.c.).

Ethnic Albanians involved with political groups are subjected to arbitrary arrest and detention, disruption and destruction of their meetings and offices, and confiscation of documentation and property. During one such raid on the offices of the Democratic League of Kosovo, police arrested the local vice chairman and party members. During their detention at the police station, police beat them and instructed them not to continue their political activities. In another incident, the chairman and secretary of the office of the Democratic Alliance of Kosovo (LDK) in Glogovac were beaten at a police checkpoint. The branch chairman was sent to Pristina where he was detained for 30 days for allegedly assaulting a police officer, during which time police beat and tortured him. He faces a possible 5- to 15-year sentence. During raids on schools, police arrested ethnic Albanian teachers and released them the same day as a form of harassment to discourage employment in private Albanian schools. Police held many others for longer than 3 days but subsequently released them without filing charges or providing an explanation for their detention.

Disruptive and violent police raids frequently targeted meetings of ethnic Albanians. In Mitrovice, police raided a peaceful gathering to commemorate the 60th anniversary of the murder of Hasan Prishtina, an ethnic Albanian hero. Police broke

up the gathering and indiscriminately beat the participants, including the elderly, children, and women.

Police detained and questioned a founding member of Arkadia, a gay rights group, about the group's activities.

Police arrested committee members of the Belgrade Islamic community in April and accused them of collecting money for arms while compiling data on the Islamic community.

c. *Freedom of Religion.*—There is no state religion, but the Government gives the Serbian Orthodox Church, to which the majority of Serbs belong, preferential treatment over other faiths and access to state-run television for religious events.

Although there are no legal restrictions on the practice of religion, the regime overtly and covertly promoted religious intolerance. Police condoned periodic harassment of religious facilities used by ethnic minorities. After the fire-bombing of Hungarian and Croatian Catholic churches in the Vojvodina, police investigations were generally perfunctory and inconclusive.

Following the mining of a mosque in the municipality of Bar in October, the fourth such act of vandalism against Muslim religious sites in Montenegro, there was widespread condemnation from local authorities.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of movement. Exit visas are generally not required except for travel to Albania. Passports are available to most citizens of Serbia/Montenegro, but many Kosovar Albanians have had their right to travel restricted.

Following Macedonia's imposition of a passport requirement for all citizens of the former Yugoslavia, there were increasing reports that Serbian border guards confiscated the passports of ethnic Albanians working abroad as they returned to Kosovo. Police also confiscated some passports during house searches. Serbian authorities on the Kosovo-Macedonia border delayed departure of a Kosovar Albanian delegation attending meetings on educational issues of the International Conference on the Former Yugoslavia.

The authorities detained two members of the Kosovo Helsinki Committee as they crossed into Kosovo from Macedonia following their attendance at a meeting in Tirana. Serbian police seized the passport of a well-known ethnic Albanian journalist and political activist on the grounds that he had visited Albania without obtaining a Serbian exit visa. Despite such cases, Serbian authorities have generally allowed ethnic Albanian leaders, including LDK leader Ibrahim Rugova, to leave the country and return, even though they consider his party and other ethnic Albanian parties illegal.

On May 1, Serbia tightened its refugee requirements, drawing up a list of "safe municipalities" and contending that those arriving from nationalist Serb-controlled regions of Bosnia and Croatia were no longer eligible for refugee status. Only Montenegro continued to offer unconditional protection to refugees from Bosnia and Croatia. There are approximately 60,000 refugees in Montenegro, 10 percent of its population. As in Serbia, nearly 95 percent live with host families.

Informed observers reported that Serbian police at times prevented Muslim refugees from entering Serbia by bus from Montenegro, while allowing Serb refugees on the same busses to enter.

Numerous reliable reports indicate that local minorities, especially in Vojvodina, have been forcibly displaced and Serb refugees moved into their homes.

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

The Constitution allows citizens to change their government, but their ability to do so is circumscribed by the Milosevic government's control of mass media and the electoral process. This is the case particularly in Serbia. In the December 1992 elections, opposition parties were denied equal access to the state-run media, voter registration lists omitted many eligible voters, international observers noted numerous voting irregularities, and serious questions were raised as to the accuracy of the vote count. The CSCE report concluded that this election could not be deemed to be fair and democratic. The CSCE found conditions in Montenegro much better. In the December 1993 Serbian parliamentary elections, similar doubts were raised as to the fairness of voting procedures.

Parliamentary elections are held every 4 years. In principle the ballot is secret, but in practice voting booths are often not available, and voters mark their ballots on open tables or behind small cardboard shields. Voters, nonetheless, can obtain a degree of privacy.

Slobodan Milosevic dominates the political system in Serbia/Montenegro. Although formally President of Serbia, one of the two constituent republics in the so-

called Yugoslav Federal Republic, Milosevic, through his control of the Serbian police, the army, and the state administration, first weakened the authority of the Federal Government and then placed his followers in key positions, including Federal President and Federal Prime Minister.

In May the Serbian Socialist Party combined with the Serbian Radical Party to remove Federal President Dobrica Cosic, who had shown some degree of independence from Milosevic. In a striking display of political ruthlessness, Cosic was summarily ousted following a single day's unscheduled debate in the Federal Parliament with no opportunity to defend himself. Democratic opposition deputies, who protested the unprecedented haste with which the Head of State was dismissed, were jeered and threatened by SRS deputies, one of whom subsequently attacked an opposition delegate in the lobby of Parliament, knocking him unconscious. This sparked the June 1 demonstrations (see Section 1.c.).

A new law on the declaration of a state of siege carries the threat that martial law could be imposed over the objections of the Montenegrin republic. Throughout 1993, party and political institutions in Montenegro functioned in fits and starts with some degree of adherence to democratic principles and the rule of law, as well as tolerance for opposition and ethnic minority views, at least in comparison with the situation in Serbia. Nevertheless, the Montenegrin government's sphere for independent action is greatly circumscribed by Milosevic's refusal to tolerate significant divergence from the Serbian party line.

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

Local human rights monitors, Serbs as well as members of minorities, worked courageously under difficult circumstances and despite public insinuations by ultranationalist leaders and sometimes government officials that they were traitors. Police routinely searched human rights offices in Kosovo, confiscated documents, and harassed their employees.

A number of independent human rights organizations exist in Serbia/Montenegro, researching and gathering information on abuses and publicizing such cases. Several operate out of Kosovo, including the Council for the Defense of Human Rights and Freedoms and the Kosovo Helsinki Committee. In the Sandzak region, a separate Council for the Defense of Human Rights and Freedoms monitors abuses against the local Muslim population. The Belgrade-based Humanitarian Law Fund and the Center for Antiwar Action (CAA) have a broader scope of activities, researching human rights abuses throughout the "FRY" and on occasion, elsewhere in the former Yugoslavia. In addition to monitoring human rights abuses, the CAA sponsors symposiums and lectures and runs a small publishing house. The activities of independent human rights agencies are carefully monitored by Serbian authorities but they are not generally subject to overt harassment. Last July, however, local authorities seized files and computer disks belonging to the Council for the Defense of Human Rights and Freedoms in Pristina. The materials have not been returned. In August the CAA and two opposition groups had their offices robbed and documents stolen, pointing to political rather than criminal motives for the break-ins.

The governments of Serbia and Montenegro formally maintain that they have no objection to international organizations conducting human rights investigations on their territories. However, they regularly attacked the findings of human rights groups. The Federal Minister for Human Rights and National Minorities repeatedly charged the international community with selective application of international law, criticized the work of the CSCE monitors even as local Serbian officials praised that work, and denied human rights violations against minority groups.

On June 29, the "FRY" mission to the United Nations in Geneva rejected a proposal to allow envoys of U.N. Human Rights Rapporteur Tadeusz Mazowiecki entry to Serbia/Montenegro. The refusal was based on the assertion that in previous visits, Mazowiecki had indulged in "malicious" misrepresentations and had applied double standards unfair to Serbia.

The CSCE missions established in September 1992 and terminated by Milosevic in July 1993 experienced varying degrees of cooperation. During a planned visit to villages bordering Bosnia in the Montenegrin part of Sandzak, the mission was not able to reach the villages because local officials failed to provide security guarantees. However, relations with local officials were generally good. Belgrade refused to extend the mission's mandate in July after insisting on linking its presence to Serbia/Montenegro's suspended status in the CSCE, and several Serbian and federal officials publicly accused the CSCE mission of inciting local populations.

Violent acts against ethnic minorities in the regions formerly monitored by the CSCE missions subsequently increased, particularly in Kosovo, including acts

against former employees and associates of the missions. Prizren police detained and questioned a Helsinki Watch representative and a British journalist while they were covering the aftermath of a trial of five Albanians accused of "endangering the territorial integrity of Yugoslavia." They were released after 4 hours of questioning.

Many foreign delegations visited all parts of Serbia and Montenegro without difficulty, but a Swedish delegation due to visit Kosovo on a refugee-related mission was denied visas.

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

Federal and republic laws guarantee equal rights to all citizens, regardless of ethnic group, religion, language, or social status.

Women.—Women have suffered numerous human rights abuses in the hostile atmosphere of oppressive nationalism fostered by the regime during the conflict and warfare over the breakup of Yugoslavia. Women's rights activists have little access to the mass media and are therefore virtually unknown outside of Belgrade and Novi Sad. Serbian women face rising levels of domestic violence and sexual harassment in the workplace. Few women are represented in high-level political positions.

Federal and republic laws prohibit discrimination against women, but the laws are not enforced. In comparison to men, women have limited access to senior positions in political and economic life but are well represented in the professions, particularly as doctors and teachers. According to women's rights monitors, as a result of the deteriorating economic situation, women were often the first to be let go. The Police Academy no longer accepts female students. Those women who had attended the school were hired in purely administrative positions, and there are no female police officers in uniform on the street. Although women constitute 70 percent of the students enrolled at the Law Faculty of Belgrade University, in the workplace women comprise only 10 percent of public prosecutors and only 10 percent of judges at the Supreme Court level.

Women are entitled to equal pay for equal work. Maternity leave for employed women usually is granted for 1 year, and even longer in some cases, although the collapse of the economy has restricted such benefits in practice. Legal penalties for spousal abuse are the same as those for abuse of other persons, but a complaint must be filed. This is seldom done, according to women's rights groups, due to traditional attitudes.

According to women's rights monitors in Belgrade, these same traditional attitudes cause women's rights groups to be largely ignored. One group reported a burglary at its offices, during which nothing was taken, and after which the group was evicted from those premises. The reasons for the eviction are not clear.

Women's rights groups established an SOS hotline and opened a rape crisis center in Belgrade in September with the aim of assisting women raped in the war in Bosnia. Some 5,000 calls have been received since the hotline was established in 1992. Most of the women who call are aged between 40 and 60, poorly educated, and unemployed. Representatives claim that domestic violence against women and children has taken an upward turn as husbands, returning traumatized and armed from the war in Bosnia, are unable to find jobs and take their frustration out on their families. The hotline reports that sexual harassment of women has increased and is tolerated by women from all levels of society who are fearful of losing their jobs.

The Serbian Orthodox Church accused Serbian women of failing to give birth to enough children and demanded a ban on abortions earlier in the year. The Church had insufficient political support and failed to achieve the ban.

Children.—The minimum age for employment is 16 years, although in villages and farm communities, younger children often assist with family agricultural obligations.

National/Racial/Ethnic Minorities.—The ethnic minorities of Serbia/Montenegro continued to suffer discrimination in all respects, in addition to the abuses described elsewhere in this report. There were credible reports that qualified Muslims or ethnic Albanians were fired from their jobs on the basis of religion or ethnicity.

Members of ethnic minorities were badly treated in the armed forces where they were viewed with suspicion and often outright hostility. In early 1993, there appeared to be an increase in the number of Muslims being called to military service which may have reflected an effort to encourage Sandzak Muslims to leave the area. A recently enacted law for the army contains a provision whereby recruits may serve in a civilian capacity for religious or other reasons of conscience; it remains to be seen whether it will be applied to minorities.

There is a traditional prejudice against the substantial Gypsy (Roma) population. The Yugoslav Democratic Party of Gypsies is not well organized and does not play

a role in the political life of the country commensurate with its numbers. The Gypsy population has the right to vote, and there is no legal discrimination, although traditional societal discrimination is widespread, and local authorities apparently condone and even participate in harassment and intimidation of Gypsies.

Religious Minorities.—After the December 1992 election victory of Milosevic's Socialists and Seselj's Radicals, the regime moved to fire uncooperative employees and place its own handpicked candidates in senior positions at Serbian Radio and Television and other institutions. Seselj mounted a campaign of treason accusations against dissidents and non-Serbs. Increasing authoritarianism and intolerance created a fearful climate for members of all of Serbia's ethnic and religious minorities.

The Humanitarian Law Fund stated that since August 1992 violent incidents against Muslims have been increasing. The Fund accused military and paramilitary Serbian groups from Bosnia, reservists of the "FRY" army, and local police. The government has not taken any effective action to protect the Muslim population in Sandzak from continuing violence.

Sandzak Muslim soccer fans and supporters of Zeljko "Arkan" Raznjatovic's All-Serbian Pristina Club clashed at Novi Pazar stadium during a soccer game. Police arrested 50 Muslim spectators on a variety of charges, but none of Arkan's supporters were arrested.

In Sandzak there continued to be reports of destruction of mosques and Muslim-owned businesses. In Sjenica 17 Muslims in senior positions were fired and replaced by Serbs.

People with Disabilities.—There is no formal legislation to guarantee equal rights for the disabled. Attempts to introduce legislation have failed. An opposition party is lobbying to broaden existing legislation to provide equal rights for the disabled. Public buildings are required to provide access for the disabled, but it is only recommended that private buildings provide such access.

Section 6. Worker Rights

a. *The Right of Association.*—All workers (except military personnel) are legally entitled to form or join unions of their own choosing. This right is formally respected. Workers are no longer obligated to join and pay dues to the official unions.

The older semiofficial union umbrella organizations (the Council of Independent Trade Unions of Serbia—CITUS, the Council of Independent Trade Unions of Montenegro—CITUM, and their federal counterpart, the Council of Independent Trade Unions of Yugoslavia—CITUY) had offered material benefits to members, such as preferential access to lower cost commodities from government reserves, that the fledgling independent unions were unable to match. These commodity reserves have dwindled, however, leaving union members facing much the same shortages as nonunion members. Although statistics on the size of the organized work force are unreliable, the large bulk of Serbian and Montenegro workers are probably members of the semiofficial CITUS and CITUM. CITUS claims current membership of 1.8 million workers, while the more loosely affiliated Serbian independent trade union organization (Nezavisnost) has between 80,000 and 200,000 members.

There are reportedly no unions independent of CITUM in Montenegro. Since mid-1991, union activity has generally been at a reduced level, either out of support for the Government or due to fears of being perceived as disloyal.

The right to strike is recognized and was exercised by both the independent and progovernment trade union organizations throughout 1993. A 30-day notification of the intent to strike is required. More than two dozen strikes were recorded, protesting lack of job security and the failure of wages to keep pace with hyperinflation. Some unions called for the resignation of the Federal Government. Additionally, there were two general strikes, one organized by the independent labor union on May 19 and the other organized by progovernment unions on August 5. Both were poorly organized and failed to achieve the widespread work stoppages initially planned. During the course of the year, the Government successfully defused worker discontent by either partially or fully meeting union demands for wage increases. Hyperinflation, however, eroded purchasing power so quickly that any wage increases rapidly disappeared in real economic terms.

The Serbian Interior Ministry has instructed Belgrade's public prosecutor to investigate leaders of a strike organized by the Kolubara Coal Miner's Union in December. There have been reports of union activists being harassed and briefly detained by the police.

In June 160 civil air controllers working for the Ministry of Traffic and Communications went on a hunger strike to protest low wages and hazardous working conditions. The strike, which was bitterly fought, proved to be a negative turning point in government-labor relations but, more significantly, provided the Government

with the impetus to pass a major new law that bans all public service workers from participating in strikes.

The Independent Trade Unions of Kosovo (ITUK), formally recognized by the Federal Government, continued to face huge obstacles at the local level in representing a work force that suffered from official repression, repeated mass dismissals on ethnic grounds, and consequent massive unemployment. CITUS is well represented in Kosovo and has taken over the offices occupied by the Communist-era trade union. According to ITUK, worker union fees deducted from paychecks are deposited with CITUS, and benefits are distributed only to Serbian workers. All ethnic Albanian workers pay union fees voluntarily.

b. *The Right to Organize and Bargain Collectively.*—This right is guaranteed by law, but Western-style collective bargaining is unknown. Under U.N. sanctions, which have led the Government to freeze previously planned economic reforms, real collective bargaining is unlikely. Plant management is not independent of the Government nor an effective bargaining partner for the unions. Republic wage controls effectively usurped the role of enterprises and the semiofficial chambers of economy. The republic governments have promised that no workers would be discharged as a result of the sanctions and guaranteed that idled workers would receive an income equal to 50 percent of their former wages.

Privatization of social property (state enterprises) is another problem in which the rights and interests of workers are not well defined or understood.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is prohibited by law and is not known to occur.

d. *Minimum Age for Employment of Children.*—The minimum age for employment is 16, although in villages and farm communities younger children often assist with family agricultural obligations.

e. *Acceptable Conditions of Work.*—The republic governments guaranteed minimum wages, but delays and partial payments were pandemic. The governments of Serbia and Montenegro continued strict wage controls in 1993. Unemployment and underemployment due to sanctions and other economic problems also reduced the number of families with two wage earners. The minimum wage is insufficient to provide a worker and family a decent living standard. By October the net minimum monthly wage in Serbia was only sufficient to feed a family of four for 2 or 3 days.

The official workweek was listed as 40 hours, but many enterprises and workers worked fewer hours for lack of raw materials. In general, sick leave and other benefits are generous. Federal and republic laws and regulations on occupational health and safety were adequate, although enforcement was lax.

SLOVAK REPUBLIC

The Slovak Republic became an independent state on January 1, 1993, following the dissolution of the Czech and Slovak Federal Republic (CSFR). The Slovak Constitution, which went into effect on October 1, 1992, provides for a multiparty, multiethnic parliamentary democracy. Slovakia chose to carry over the entire body of CSFR domestic legislation and international treaty obligations, which gradually are being renewed or updated. The Movement for a Democratic Slovakia (HZDS), which won a plurality in the June 1992 elections, formed a coalition with the Slovak National Party (SNS), giving them a majority in Parliament. When the SNS left the coalition in March, Prime Minister Vladimir Meciar and the HZDS continued in office, governing as a minority party until November when the coalition was renewed.

Prior to its dissolution, the CSFR had dismantled the repressive security apparatus of pre–1989 Czechoslovakia. The Slovak Information Service is responsible for all security and intelligence activities in Slovakia. A parliamentary commission headed by the president of Slovakia's National Council (parliament) oversees the service. During 1993 there were no reports indicating human rights abuses by the Slovak Information Service or the military security apparatus of the Slovak Government. There was one report of two possible extrajudicial killings by a policeman (see Section 1.a.).

Economic reform, initiated in 1990 in the former CSFR, continued in Slovakia in 1993 at a slower pace. With the disruption of established commercial relationships caused by the dissolution of the CSFR and the collapse of former Warsaw Pact markets, Slovakia's gross domestic product fell, unemployment rose, and many enterprises became insolvent. Although small-scale privatization was nearly completed, the process of privatizing larger enterprises slowed amidst cumbersome bureaucratic procedures and political struggles. Nevertheless, Slovakia succeeded in keeping in-

flation manageable, rebuilding its foreign currency reserves, attracting new Western investors, and limiting its budget deficit.

Freedom of peaceful assembly, association, and religion are widely respected. Still, some human rights problems remain. Societal discrimination against Romanies remained a serious problem, as evidenced by a local ordinance discriminating against the Romany population, which the Constitutional Court declared illegal. Human rights monitors as well as some journalists expressed anxiety over the Government's apparent use of financial and bureaucratic actions to attempt to exercise control over journalists' activities. Human rights monitors and some minority representatives criticized restrictions on schooling in the mother tongue, the posting of bilingual roadsigns, and the registration of names. The Government condemned the few instances of "skinhead" attacks against Jews and desecration of synagogues and cemeteries, acting promptly to investigate and to redress wrongdoing. Laws and regulations guarantee equal rights to women and minorities but are not always respected in practice. Some groups (notably, Romanies) remained disadvantaged due to a variety of social, educational, and economic causes which the Government had only begun to address.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of political killings. On October 26, a policeman reportedly instructed a 34-year-old male inhabitant of a Romany settlement at Klenovec to accompany him to the police station for questioning about a crime. Instead, the policeman allegedly took the man to a meadow where he killed him with a gunshot to the back of his head. The policeman returned to Klenovec and allegedly repeated the scenario with a second victim. A third intended victim managed to escape. The policeman was detained and charged with two counts of murder and one count of attempted murder.

b. *Disappearance.*—There were no reports of abductions, disappearances, secret arrests, or clandestine detentions.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There were no reports of any such practices. Prison conditions reportedly meet minimum standards.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution provides for protection against unlawful or unreasonable detention. A person accused or suspected of a crime must be given a hearing within 24 hours and either set free or remanded to the court. During this time, the detainee must be offered access to an attorney. If remanded to the court, the accused is entitled to a hearing within 24 hours, at which the judge will either set the accused free or issue a substantive written order placing the accused in custody. Investigative detention can last up to 2 months, with further pretrial detention permitted. The total length of pretrial detention may not exceed 1 year, unless extended in exceptional circumstances by the Supreme Court when the detainee's pretrial release could pose a serious danger to society. The law provides for a court-paid attorney, if needed, and family visits. No violations of these rules were reported during 1993.

e. *Denial of Fair Public Trial.*—Under the Constitution, the courts are independent, impartial, and separate from the other branches of government. Judges, appointed for life, are bound only by law and international treaties. To help reinforce judicial independence, the Minister of Justice in 1993 obtained parliamentary approval to raise judges' salaries to those of parliamentarians. Parliament appoints judges of the highest court, while the Minister of Justice appoints others on the recommendations of their peers. Judges may not be transferred or dismissed without their consent, and only Parliament may recall them. During 1993 there were no reports of judges being recalled.

The highest judicial body in Slovakia, the 10-judge Constitutional Court based in Kosice, reviews the constitutionality of laws and the decisions of lower level courts, as well as the decisions of national and local government bodies. The Court may also address cases in which the constitutional rights and freedoms of citizens are involved, provided no other court has addressed them.

Controversy surrounded the naming of the first members to the Constitutional Court in January. Article 102 of the Constitution provides that the President's powers include the naming of "higher state functionaries." Parliament voted to postpone the naming of the court members until they elected a new President. Parliament's constitutional committee, however, decided that justices of the Court did not fit into the category of "higher state functionaries," even though the Chief Justice and his deputy did, and the Prime Minister was allowed to name the members of the Court. This led some human rights monitors to question whether the Prime Minister used

a constitutional loophole in order to name judges sympathetic to his own views. The President later designated which of the members would be Chief Justice and the deputy.

In addition to the Constitutional Court, Slovakia's multitiered court system consists of a republic-level Supreme Court; regional courts in Bratislava, Banska Bystrica, and Kosice; and 38 local courts responsible for individual districts.

The Ministry of Justice complained repeatedly of a shortage of judges which has led to a case backlog, resulting in long waiting periods for trials and between hearings. In response to the overload, the courts have begun to specialize, dividing into commercial, civil, or criminal branches.

Persons charged with criminal offenses are entitled to fair and open public trials. They have the right to be informed of the charges against them and of their legal rights and to retain and consult with counsel sufficiently in advance to prepare a defense. If a defendant cannot afford a lawyer, one is provided at government expense. Defendants have the right to confront witnesses. They enjoy a presumption of innocence and have the right to refuse to testify against themselves. They may appeal any judgment against them.

The lustration law of the former CSFR, barring from high public office persons who previously collaborated with the Communist-era secret police, is technically still in effect in Slovakia, though not enforced. Opponents of the law called it discriminatory and a violation of due process, since decisions may be based on unverifiable secret police records, and no mechanism for appeal is available. The law's supporters cited the need to ban from public office those responsible for abuses of power and repression during the years of Communist rule. In January 1994, the Government voted to seek a judgment from the Constitutional Court on whether the lustration law was constitutional and consistent with international human rights treaties.

There were no reports of political prisoners in 1993.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Criminal Code requires police to obtain a search warrant in order to enter a home. Search warrants may be issued by a chief judge or, during investigation, by a judge upon the recommendation of the prosecutor. House search is permitted only if there is a well-founded suspicion that important evidence or persons accused of criminal activity are present inside or if there is some other important reason. A search warrant must be presented before the house search is conducted or, if some serious circumstance prevented this, within 24 hours after the search.

There were no reports of illegal surveillance of persons or communications. A government investigation into mail tampering determined that there were incidents of individual post office employees searching for money or valuables.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution prohibits censorship and provides for freedom of information and the right of expression. During 1993 numerous newspapers, magazines, and journals spanning the entire spectrum of political views were published freely.

Throughout 1993 media criticism of the Government was widespread, and there were no reports of overt restrictions, although the Government's financial and bureaucratic maneuvers, as well as threats of lawsuits against critical journalists and periodicals, seemed designed to inhibit such criticism. Some journalists noted that government officials criticized their work and questioned their loyalty, accusing them of besmirching the image of Slovakia. Some periodicals that carried articles criticizing the Prime Minister and the Government apparently suffered financial retribution. The Ministry of Culture announced early in the year that it would remove subsidies from a number of cultural periodicals on the grounds that their readership was marginal. But the only periodicals to lose their subsidies were ones such as Kulturny Zivot, Slovenske Pohlady 93, and Fragment K, which were either critical of the Government or provided a forum for writers whose views were at odds with official views.

Danubiaprint, the newsprint manufacturer, continues to be a government monopoly after its privatization process was halted in 1992.

Other journalists complained that the government-sponsored Slovak Republic Press Agency subsidized the newspaper Republika, which generally adopted positions sympathetic to government policy, while other publications were allowed to fail when their subsidies were eliminated.

The January 1993 firing of the editor of the government-owned newspaper Smena for alleged poor management was perceived as a punishment for the paper's critical stance. The syndicate of Slovak journalists condemned the dismissal, and, of approximately 60 editors and journalists who worked for Smena, 49 quit following the editor's firing. The fired editor and a group of former Smena staff members went

on to found a new and even more critical daily, Sme, which conducted its activities unhampered.

On December 23, a Slovak company subordinate to the Transport and Communications Ministry abruptly canceled, effective January 31, 1994, its 5-year contract to broadcast Radio Free Europe (RFE) medium-wave transmissions on three transmitters in Slovakia. Though the Transport Minister asserted this decision was merely technical, the move followed months of criticism of RFE in government-supported media for alleged lack of its objectivity and antigovernment slant. At year's end, it was unclear whether the Slovak Government would nullify the decision.

Slovakia has one government-sponsored television station broadcasting on two channels; steps were under way for partial privatization. One of Slovakia's 17 radio stations is government-sponsored; the remainder are privately owned and controlled.

Government-appointed boards, made up of nine members elected by Parliament to 6-year terms, administer Slovak radio and Slovak television. During 1993 five of the nine members of the television board resigned. In October Parliament dismissed two more Slovak Television Council members and appointed seven new members, five from the HZDS and two from the SNS. Objecting to the political imbalance this created, another board member immediately resigned, citing exhaustion. At that time a competitive process was already under way for selection by a board of a permanent director, who would then require parliamentary approval. Some journalists expressed concern that government proposals to combine the two boards under one overarching board and to replace their personnel might result in an unacceptable degree of government control.

When radio journalist Lubomir Lintner was fired from his post in October 1993, he attributed the move to pressure by members of the Government.

During 1993 a regular feature of Slovak television was the Sunday night program "Ten Minutes with the Prime Minister," originally envisioned as an interview but criticized by journalists for its monolog format. In October an opposition political leader demanded equal air time to ensure a balanced picture for the viewing public. In the fall, "Ten Minutes" was replaced by "Press Club," a roundtable discussion and interview show that includes government and opposition political figures, as well as journalists from a broad spectrum of media.

During 1993 many journalists were apprehensive of calls by government officials for "ethical self-regulation," fearing that in practice this could lead to a form of censorship. In response, government officials pointed to Council of Europe resolution 1003 of July 1, 1993, on the ethics of journalism, which includes a section entitled "Ethics and Self-regulation in Journalism," suggesting the establishment of self-regulatory bodies to issue precepts, judge the truthfulness of the media, and generally serve as a "barometer of credibility" for citizens.

There is no civil service law protecting jobs after a change in government. The Government replaced a substantial number of state, district, and local officials, as well as leaders in the health and education sectors, with HZDS-sanctioned candidates. When the staff of one hospital in Rimavska Sobota protested the replacement of their director, six department heads were replaced as well. In October the director of the National Oncology Institute was fired after he pointed out the problems in the health care system on Slovak television.

Academic freedom is guaranteed by law. Current legislation grants universities the authority to decide their internal affairs, including pedagogic and academic orientation and internal structure. Concern over academic freedom was raised after the Minister of Education replaced the heads of all district school boards with his own candidates, although the law stipulates that local boards are supposed to nominate their heads. During 1993 conflicts between the Government and the independent University of Trnava appeared to subside. Private funding sources have kept the embattled University alive, and there have been no reports of government attempts to hamper its activities in 1993.

b. *Freedom of Peaceful Assembly and Association.*—The right of persons to assemble peacefully is protected under the law. Permits for some public demonstrations are required, but there were no reports of refusals, nor of police interference with public demonstrations.

The right of persons to associate freely and to form political parties and movements is also protected under the law and was respected in practice during 1993. Some organizations, including political parties, are required to register, but there were no reports that this requirement presented an obstacle to free association.

c. *Freedom of Religion.*—Freedom of religious belief and faith are guaranteed by the Constitution and by law. Citizens who associate on the basis of a particular religious persuasion may freely proclaim and practice their beliefs.

Under existing law, only registered churches and religious organizations are explicitly granted the right to conduct institutional activities, such as public worship services and meetings, educational and cultural activities, publications, and health and social services. The State provides financial subsidies only to registered churches and religious organizations. According to the Ministry of Culture, which has responsibility for implementing the laws pertaining to religion, 15 churches are registered. New churches and religious organizations that seek registration must have 20,000 adult members with permanent residence in Slovakia. (The numerical membership requirement does not apply to churches or religious organizations which were active, based either on the law or on the approval of the State, prior to September 1, 1991, when the current law entered into force.) Slovak officials indicated that they were aware of deficiencies in existing regulations and have initiated a review.

On September 29, Parliament passed the "Law on the Reconciliation of Certain Property Injustices Perpetrated Against Churches and Religious Organizations," providing for the restitution of church property confiscated after 1945, and of Jewish community property confiscated after 1938. Its provisions were negotiated between the law's drafters and representatives of the religious communities involved.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no restrictions on the freedom of movement of Slovak citizens. Former Czechoslovak citizens who emigrated during the period of Communist rule are free to return for visits and are able to gain Slovak citizenship if they wish. Passports are readily available for all wishing to travel abroad.

Refugees and asylum seekers are treated according to international norms.

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

Citizens have the constitutional right to change their government through the periodic free election of their representatives. Citizens over the age of 18 are eligible to vote, and voting is by secret ballot. On January 19, the Slovak Parliament passed a law setting the conditions for determining, acquiring, and losing citizenship in the Slovak Republic. Any person who had been a citizen of the Slovak Republic under the Czechoslovak Federation (by birth or naturalization) automatically became a citizen of the Slovak Republic after the split. Persons permanently residing in Slovakia, whose place of birth was in the Czech Republic but who wished to choose Slovak citizenship, had until the end of 1993 to execute a written declaration to that effect at any local administrative office.

The Slovak Republic is a functioning multiparty, multiethnic democracy. Its Constitution reserves certain powers to the President as Chief of State (elected by the Parliament), but executive power rests with the Government. Legislative power is vested in the National Council of the Slovak Republic (NCSR, the Parliament), and an independent court system exercises judiciary responsibilities.

The Constitution calls for elections every 4 years. The last parliamentary elections were held in June 1992, prior to independence. Election to Parliament is based on proportional representation within each of the four electoral regions, with a 5-percent threshold for a party's entry into Parliament (7 percent for a coalition). This could result in a parliamentary candidate receiving a plurality of votes but not being seated because his or her party did not achieve the requisite threshold.

As of October, all ministers of the Government were members of either the Movement for a Democratic Slovakia (HZDS), the largest political entity, or the Slovak National Party (SNS). The HZDS ruled in coalition with the SNS until the latter left the coalition in March. The HZDS then governed without commanding a majority in Parliament until the coalition resumed office in November. New elections are scheduled for 1996, but in the latter half of 1993 several parties urged early elections to resolve the parliamentary stalemate caused by the HZDS's lack of a working majority.

There are no official restrictions on the participation of women or minorities in politics. Female politicians enjoyed the same rights and status as their male counterparts. They were represented in all political parties and served as deputies in Parliament, and in government ministries. There are 26 women in the National Council, 17 percent of the total number of deputies.

Members of all the minorities in the Slovak Republic participated in the political process, and several were represented in Parliament, but few reached the highest levels. The largest minority in Slovakia, ethnic Hungarians, participated fully in the political process, both in mainstream political parties and in Hungarian-oriented parties, and is represented in Parliament. Ethnic Hungarians expressed concern, however, that rumored government plans to redistrict Slovakia could dilute their vote by incorporating their communities into overwhelmingly ethnic Slovak districts.

In December ethnic Hungarians in southern Slovakia called for a mass meeting to proclaim a self-governing ethnic Hungarian province. Most government and political leaders called the meeting legal but warned that attempts to establish a self-governing province would be unconstitutional. Public reaction was emotional. The meeting took place on January 8, 1994, in Komarno. The participants stopped short of calling for a self-governing province but issued a statement on the status of minorities. The government redistricting plan submitted to Parliament in early January 1994 was characterized by representatives of the Council of Europe as meeting European norms.

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

Representatives of local and international nongovernmental human rights organizations worked freely in Slovakia, without government interference. Although the Government refrained from actually penalizing human rights critics, its representatives publicly criticized Hungarian politicians who complained about government policies toward the ethnic Hungarian minority. The Government's view was that these were not genuine human rights complaints but politically motivated demands for advantages over and above international human rights norms. The ethnic Hungarian activists considered their demands legitimate and the Government's policies inadequate.

The Government welcomed the February visit to Slovakia of the High Commissioner on National Minorities of the Conference on Security and Cooperation in Europe (CSCE); his subsequent visit to prepare a report on the Roma; and followup visits by CSCE experts on minorities. The Government also encouraged the March visits of CSCE and Council of Europe rapporteur missions. The Ministry of Justice convened a meeting in Bratislava of 50 directors of human rights centers in other countries to obtain their advice for setting up a similar center in Bratislava, which has been funded and approved for opening in January 1994.

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

Slovak law prohibits discrimination and guarantees the equality of all citizens. Health care, education, retirement benefits, and other social services were provided regardless of race, sex, religion, disability, language, or social status.

Women.—Women in Slovakia are equal under the law. They enjoy the same property, inheritance, and other legal rights as men, and receive pay equal to that of male colleagues for the same job. The largest women's organization in Slovakia is the Democratic Union of Women of Slovakia, a nonpolitical organization based on the principles of humanism and democracy. It monitors observance of the rights of women and their families in light of internationally accepted documents and the Slovak Constitution, especially as they affect the social and family spheres. Other women's organizations, also nonpolitical, include the Council of Women, the Slovak Women's Center, and the Federation of Women for World Peace. Despite the lack of any overt discrimination, the small proportion of women at the higher echelons of professional and government employment during 1993 suggested that cultural barriers to their advancement might exist.

No public debate or explicit government policy statements on the subject of violence toward women (spousal abuse) or child abuse were evident in 1993. Spousal abuse, child abuse, and other violence against women are reported along with other criminal offenses. Anecdotal evidence suggests that such cases often go unreported or are reported too late for effective followup. Once reported, they are subject to the general investigative procedures under the Criminal Code.

Children.—There does not appear to be a comprehensive body of law specifically addressing the rights of children. Children's rights and welfare are addressed in part by the Labor Code and in part by the system of child welfare payments to families with children. The working age is 18, except for apprenticeships, which may begin at age 14. There is no evidence of a pattern of abuse or denial of rights to children.

National/Racial/Ethnic Minorities.—The Slovak Constitution provides minorities the right to develop their own culture, receive information and education in their own language, and participate in decisionmaking in matters affecting them. During 1993 the Government continued to provide funding for cultural, educational, broadcasting, and publishing activities for the major ethnic minorities. The President sponsored a regular roundtable for minority representatives, including Czechs, Poles, Bulgars, Croats, Hungarians, Ruthenians, Ukrainians, Germans, and Romanies. (Jewish leaders declined to be designated officially as an ethnic minority but participated in the roundtables.) At the roundtable, minority representatives

raised issues such as legalization of dual citizenship; cultural, educational, and regional self-government; registration of names; bilingual place names; territorial division according to ethnicity; financial support for cultural development; guaranteed representation in Parliament for nationalities; racial discrimination; and support for development of religious and cultural programs. The roundtable chairman asked responsible government ministers to reply in writing to the issues and concerns that were raised. While the roundtable has not yet resulted in institutional changes, it appears to have had some success in engaging the Government and minorities in a dialog aimed at constructive solutions to problems.

Slovakia's Hungarian minority, which is the most numerous, is concentrated primarily in southern Slovakia, with a population estimated at 570,000. During 1993 ethnic Hungarians participated successfully at all levels in the political, economic, and social life of the country. Under Slovakia's 1990 language law, in localities with over 20-percent minority populations, citizens may conduct their government business in Hungarian (some Hungarian activists advocated lowering the threshold to 10 percent). Ethnic Hungarians criticized a rumored government plan for redistricting, slated to take effect in 1994, because they feared it would result in districts with an ethnic Hungarian population of less than 20 percent, thus eliminating the optional use of Hungarian in any government activity (see also Section 3).

The Government provides elementary and secondary education in Hungarian. Alternatively, ethnic Hungarian children are free to attend Slovak-language schools. In 1993 the Government proposed to provide a "mixed" educational option, under which ethnic Hungarian students could choose to study the humanities in their mother tongue and technical subjects in Slovak in order, it said, to offer ethnic Hungarian students a chance to achieve a level of proficiency in technical fields that would enable them to compete more effectively for technical jobs later in life. Some Hungarian representatives, however, criticized the proposal as aimed at eroding the Hungarian-language educational base. They asserted that, as of September 1993, existing university-level pedagogical training in Hungarian for future teachers at Hungarian schools was eliminated for levels above grade four, as well as for teachers of specialized subjects. Statistics on ethnic Hungarian enrollment and course attendance provided by the Nitra Higher Pedagogical School, which trains future teachers, demonstrated this was not the case.

In connection with its acceptance into the Council of Europe, Slovakia made a commitment to alter its legislation on two issues of concern to its Hungarian minority, namely, given names and road signs. Parliament in September passed a law permitting Hungarians to register names of their own choosing for their newborn children but retaining a requirement that feminine names conform to Slovak grammatical forms. Some Hungarian representatives objected to this provision. The Government subsequently stated its intention to enforce the rule in public, Slovak-language discourse (i.e., media), but to allow the use of Hungarian grammatical forms in registration documents. The Government also made a commitment to revoke the law banning bilingual road signs. While the old law was still in effect, however, officials continued to enforce it, despite the objections of ethnic Hungarian municipalities. An unresolved issue debated during the fall was whether the Hungarian-language road signs would be Hungarian transcriptions of the current Slovak names or the historical Hungarian-language names.

Romanies constitute Slovakia's second largest ethnic minority. Many in this group do not officially declare their ethnicity because of the social prejudice against them, and the official census figure of 81,000 is therefore considered low; estimates range as high as 500,000. Romanies are an economically disadvantaged group. Though the nation's higher pedagogical school has a division to train teachers destined for schools with a high Romany population, during 1993 education was not available in the Romany language. Romany representatives said that many Romany children were placed in remedial classes due to their language problems and that this fact would cast a stigma on their ability to find jobs later in life. In 1992–93 Parliament initiated a 2-year pilot project for Romany preschoolers in the town of Kosice to prepare them for successful entry into the Slovak school system. The project yielded impressive results in its first year, but its advocates feared that budgetary constraints might preclude its continuation or expansion.

Although discrimination is illegal, Romany representatives said that many employers were reluctant to hire Romanies and that unemployment among Romanies soared when the Communist-era practice of universal mandatory employment ended in 1989. In an effort to diminish discrimination by employers, the human rights organization Charter 77 in 1993 persuaded government job agencies to remove from their application forms a question asking explicitly for the applicant's ethnic background.

There were documented acts of social prejudice against Roma, such as refusal to serve Romanies in shops or restaurants. In July Parliament overturned as unconstitutional a discriminatory law enforcement ordinance passed by the town of Spisske Podhradie, imposing a curfew and other restrictions on Romanies. In the wake of that and other incidents, public calls increased for a broad governmental approach to Romany problems, encompassing education, employment, health care, housing, and law enforcement. One obstacle to achieving a broad solution was that Romanies were represented by a diverse variety of organizations that often disagree amongst themselves as to the best approach.

During 1993 an interagency government task force chaired by the Foreign Minister was charged with preparing a policy paper on Romanies. The Prime Minister in September voiced disappointment that dialog with Romanies had broken down, bemoaned the "catastrophic" health and sanitary conditions in which Romanies lived, and called for Romanies' reintegration into the nation's economic life. In the same speech, however, he also voiced concern over the rapid growth of a population with so many social problems and advocated restructuring child welfare subsidies to avoid encouraging the growth of large welfare-dependent families. This elicited sharp criticism at home and abroad by many who interpreted his remarks as anti-Romany and racist.

During 1993 there were a small number of incidents involving skinhead violence or vandalism against Jewish and some other religious persons or property. The Government and prominent Slovak public figures forcefully condemned such acts and moved promptly to arrest the perpetrators, provide restitution, and take measures to prevent recurrence.

People with Disabilities.—There does not appear to be a body of legislation that directly addresses the rights of the disabled. Discrimination against the disabled, however, has not been a subject of significant policy or public debate. Citizen's groups have started activities to raise the profile of the issue and to advocate a more systematic approach.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for the right to form and join unions, except in the Slovak armed forces. In 1993 about 65 to 70 percent of the work force was organized. Slovak unions are independent of the Government and of political parties. There are no restrictions on the right to strike. During 1993 no full-fledged strikes occurred, although four demonstrations were organized.

There were no reported instances of retribution against strikers or labor leaders, but Slovak law and regulation does not explicitly prohibit such retribution. There were no reports of human rights abuses targeted against unions or workers. Unions in Slovakia are free to form or join federations or confederations and to affiliate with and participate in international bodies.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining is protected by the collective bargaining law and is freely practiced throughout the country. Wages are set in free negotiations between unions and employers. Discrimination by employers against union members and organizers is prohibited by the law on citizens' associations. Complaints may be resolved either in collective negotiations or in court. If found guilty of antiunion discrimination, employers are required to reinstate workers fired for union activities.

A 12-hectare free trade zone exists in Kosice. It is required to comply with the Slovak Labor Code, but to date there has been no special involvement of the trade unions. A second free trade zone is planned for Bratislava.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited both by the Slovak Constitution and by the Employment Act. During 1993 there were no reports of violations. Responsibility for enforcement is assigned to the labor section of the Ministry of Labor, Social Affairs, and Family, as well as to district and local labor offices.

d. *Minimum Age for Employment of Children.*—Slovak law sets the minimum employment age at 14 years of age. These provisions are enforced by the Office of Labor Safety.

e. *Acceptable Conditions of Work.*—At the start of 1993, the minimum wage provided an adequate standard of living for an individual worker and, when combined with special family allowances paid to families with children, provided an adequate standard of living for a worker and family. However, during 1993 several factors eroded standards of living across the board. In June inflation stood at 12 percent and was expected to reach 25 to 30 percent by year's end. At the same time, government belt-tightening measures reduced certain social welfare allowances. Enforcement of the minimum wage is the responsibility of the Ministry of Labor, Social Af-

fairs, and the Family. Late in 1993, the Government raised the minimum wage to $74 per month.

The standard workweek mandated by the Labor Code is 42.5 hours, though collective bargaining agreements have achieved reductions in some cases. The law requires annual leave of 3 weeks. There is no specifically mandated 24-hour rest period.

Enforcement of health and safety standards are governed by the Labor Code and effectively enforced by the Office of Labor Safety. Workers undergo medical screening for hazardous employment under the supervision of a physician. They have the right to refuse to perform work in situations where their health and safety are endangered and may file complaints against employers in such situations.

SLOVENIA

Slovenia is a parliamentary democracy and constitutional republic. It declared its independence from the Socialist Federal Republic of Yugoslavia on June 26, 1991. A 10-day war ended with the withdrawal of the Yugoslav National Army units. The country has been free of strife since then.

The 1991 Constitution proclaims Slovenia a democratic republic "governed by the rule of law." The President serves as the Head of State and commander in chief of the armed forces. Prime Minister Janez Drnovsek of the Liberal Democratic Party leads a coalition Government formed after free and fair multiparty elections held in December 1992.

Slovenia is a functioning multiparty democracy with more than 10 active political parties offering a wide variety of political and economic programs to the voters. National elections for the presidency and legislature, in which over 1,000 candidates competed, were held in December 1992.

Police and security forces are under the control of the Ministry of the Interior, headed by a civilian official. The armed forces of Slovenia do not exercise civil police functions.

Slovenia is in a slow but steady transition from a largely state-owned economy to one based on private ownership. The Slovene currency is fully convertible internally and is judged stable. It is linked to the German mark but is allowed to depreciate in accordance with internal price changes. Inflation, now running at 25 percent per annum and falling, has declined markedly since independence. Unemployment, at year's end 15.3 percent, was a major source of concern. The loss of most of the Slovenian market in the old Yugoslavia and the Europe-wide recession have put tremendous strains on both labor and management.

There were no major human rights problems in 1993. The Constitution and actual practice accord protected status to the Italian and Hungarian communities, as well as to the Gypsies. The media exploit their freedoms with caution, and the role of former Communists in public life is still at issue despite (or because of) their continuing participation in the Government.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—No unlawful killings instigated by official organs or vigilante groups were known to have occurred.

b. *Disappearance.*—There were no reports of politically motivated or government-instigated disappearances.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture and inhuman treatment as well as "humiliating punishment or treatment." There were no reports of such treatment of prisoners.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest or deprivation of liberty and requires that the detaining authority must advise the detainee in writing within 24 hours, in his own language, of the reasons for his arrest. The law also provides safeguards against self-incrimination. The detainee has the right to legal counsel of his choice and may appeal his detention, which the court must decide on within 48 hours.

The detainee may be held with cause for a maximum of 3 months, and the Supreme Court may extend detention for another 3 months. In practice, these rights and limitations are fully respected.

There is no exile.

e. *Denial of Fair Public Trial.*—The court system comprises local and district courts, and the Supreme Court acts as the highest court in the country. The Constitution states that judges are independent and fill their offices permanently, sub-

ject to an age limit. They are elected by the State Assembly (parliament) on the nomination of the Judicial Council. The Council is composed of 11 members, 5 of whom are elected by the State Assembly on the nomination of the President of the Republic, and the remaining 6 are sitting judges selected by their peers.

The nine-member Constitutional Court rules on the constitutionality of legislation and legal regulations and on jurisdictional disputes, and it also acts as a final court of appeal in cases requiring a constitutional interpretation. Members of the Constitutional Court, who are appointed for one 9-year term, are nominated by the President and approved by the State Assembly.

According to the Constitution, a defendant's rights include: equality before the law, presumption of innocence, due process, open court proceedings, guarantees of appeal, and a prohibition against double jeopardy. These rights are respected in practice. There are no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides protection for privacy, personal rights, the inviolability of the home, mail, and other means of communication and personal data. In practice, these rights and protections are respected.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and press. There are five major dailies and numerous weekly newspapers. Most of the major print media are supported through private investment and advertising. The media span the political spectrum from left to right.

Although Slovenia is ethnically fairly homogeneous, there is a newspaper for the Italian minority living along the Adriatic coast and an Italian-language television channel. Hungarian radio programming is common in the northeast region of Slovenia. Bosnian refugees and the Albanian community publish newspapers or newsletters in their own languages.

The Parliament has been debating a media law for the past 2 years but has yet to pass one. A council appointed by Parliament controls Radio-Television Slovenia, which regulates the country's television transmitters. Radio-Television Slovenia broadcasts on two television channels and three radio stations. In addition, one independent television station and more than 50 independent radio stations broadcast in Slovenia. Most of the media are politically independent, offering diverse opinions on a wide range of subjects. Numerous private interest and academic journals and publications are available, as are foreign newspapers, magazines, and journals.

Newly emerging from over four decades of an authoritarian political system, Slovenia retains some of the legacies of such a regime, especially in self-censorship. Some journalists, who were supported by the previous regime, continue to be loyal to their patrons from the Communist past, a few of whom still hold influential posts. Accustomed to having their articles published under the old system, these journalists remain cautious about expressing criticism. Members of the younger generation of print and broadcast journalists seem relatively unrestrained in their dealings with government officials and others in public life.

The election law specifies that the media must offer free space and time to political parties for party use at election time. Some critics claim that this provision interferes with the commercial and editorial independence of the media. The Constitution provides that universities and other institutions of higher education shall be autonomous and that scientific and artistic endeavor shall be free. Academic freedom is rigorously respected.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution guarantees the right of peaceful assembly and participation in public meetings. Permits for meetings are routinely granted. Persons have the right to associate freely. These rights may be restricted only in circumstances involving national security, public safety, or for protection against infectious diseases, and then only by act of the State Assembly. Career military and police personnel are not allowed to be members of political parties.

c. *Freedom of Religion.*—The Constitution guarantees the unfettered profession of religious and other beliefs in private and in public. No person may be compelled to admit his religious or other beliefs. There is no state religion, although the appropriate role, if any, for religious instruction in the schools is still the subject of political debate. Approximately 70 percent of the population adheres to the Roman Catholic faith, and 2.5 percent to the Eastern Orthodox. There are also Protestant congregations, especially in the eastern part of the country. Clergy, missionaries, churches, and religious centers in the country operate without hindrance.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides that each person has the right to freedom of

movement, to choose a place of residence, to leave the country, and to return as desired. Any limitations on these rights may only be made by statute and only when necessary in criminal cases, to control infectious disease, and in defense of the State. In practice, Slovenes travel widely, freely, and often.

The Constitution guarantees the right of political asylum for those foreign nationals and persons without citizenship "who are persecuted for their stand on human rights and fundamental freedoms." Slovenia has taken in over 75,000 refugees, mainly Muslims, from Bosnia-Herzegovina, which represents 3.5 percent of Slovenia's population. The refugees are accommodated in more than 40 centers where they receive aid and education in their language.

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

Slovene citizens have the right to change their government and have done so peacefully through two free and fair elections since independence. As a result of national elections in December 1992—in which 10 parties competed—a four-party coalition, led by Prime Minister Janez Drnovsek of the Liberal Democratic Party, came to power.

Slovenia has a mixed parliamentary and presidential system. The President serves as Head of State and commander in chief of the armed forces and has the power to call elections for the State Assembly and proclaim statutes. He may not serve more than two consecutive 5-year terms. The President nominates the Prime Minister who must be confirmed by the State Assembly. The 90-member State Assembly has a 4-year term of office. The elected 40-member National Council in the legislature, representing social, economic, trade and professional, and local interests, serves somewhat as an upper house.

There are no restrictions on women or minorities voting or participating in politics. The Italian and Hungarian ethnic communities are each entitled to elect one representative to the Assembly, regardless of their numbers. The Woman's Issues Office in the Prime Minister's office is very active in the promotion of women's rights.

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

Slovenia has a well-respected independent Council of Human Rights and Fundamental Freedoms, founded in 1990, which investigates complaints about violations of human rights and governmental responsibility. The Government places no formal or practical obstacles in the way of visits or investigations by international or local human rights groups.

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

Women.—Slovenia has made gender equality a matter of state policy. In general, there is no official discrimination against women or minorities in housing, jobs, education, or other facets of the society. The Constitution specifies that marriage is based on the equality of both spouses and that the State shall protect the family, motherhood, and fatherhood. Women are well represented throughout Slovene public life, in business, in academia, and in government.

In practice, women, even those employed, continue to bear a disproportionate share of household work and family care as a result, particularly in rural areas, of a generally conservative social tradition. Slovenia generally provides equal pay for equal work for men and women. In the current recession, both men and women may suffer from loss of work, and they endure the same average period of unemployment. Women, however, still are found more often in lower paying jobs.

It is difficult to determine with any specificity the extent of violence against women in Slovenia. In general, the level of personal crime and violence is relatively low. The problem of spousal abuse and violence against women exists and public discussion of this issue is common. Police are not reluctant to intervene in such cases. Crimes of abuse of women are treated according to the existing Penal Code. There is no special legislation on crimes against women.

Children.—The Constitution provides that children enjoy human rights in accordance with their age and maturity and, in Article 56, are guaranteed special protection against economic, social, physical, or mental exploitation or abuse.

National/Racial/Ethnic Minorities.—At the last census, in 1991, Slovenia had a population of approximately 2 million—including 1,727,018 Slovenes and persons of 23 other nationalities. There were 54,212 Croats, 47,911 Serbs, 26,842 Muslims, 8,503 Hungarians, and 3,064 Italians, as well as Albanians and Macedonians. The Constitution provides special rights to the "autochthonous Italian and Hungarian ethnic communities," such as the right to elect a representative to the Assembly,

use their own national symbols, establish organizations, enjoy bilingual education, and other privileges, and imposes a special obligation on the Republic to support financially and morally the implementation of those rights. Article 65 of the Constitution also provides that the small Roma (Gypsy) communities, which have approximately 6,500 members, shall have special status and rights. Some members of the Serbian- and German-speaking communities have complained that they are not specifically mentioned in the Constitution and granted "minority" status.

People with Disabilities.—Slovenia has taken steps to provide access to social and economic opportunities for the disabled, for whom the Constitution guarantees security and training for work. The law mandates access to public facilities for disabled persons.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides that the establishment and activity of trade unions, as well as the recruitment of their members, are unrestricted. Virtually all workers, except for the police and members of the security forces, are eligible to form and join labor organizations of their own choosing.

Slovenian labor now has two nationwide labor groupings with constituent branches throughout the country. A third, much smaller, regional labor union is active on the Adriatic coast. Unions are formally and actually independent of government and the political parties, but individual unionists may and do hold positions in the legislature. For example, the head of the Neodvisnost Trade Union Federation was a presidential candidate of the Social Democratic Party of Slovenia. The Constitution provides that the State shall be responsible for "the creation of opportunities for employment and for work."

Workers enjoy the right to strike, but in October the State Assembly for the first time passed legislation restricting strikes by some public sector employees. A number of strikes occurred in 1993, largely over wages and working conditions. Independent farmers went on strike against the Government's liberal policy on cheap imported agricultural products. They demanded, with little success, protectionist import taxes.

There are no restrictions on joining or forming federations and affiliating with like-minded international union organizations.

b. *The Right to Organize and Bargain Collectively.*—Slovenia's economy is in transition from the command economy of the pre–1991 Communist system to a fully market-based system, and the collective bargaining process is undergoing change. Under the old system, the Yugoslav government had a dominant role in setting the minimum wage and other conditions of work. Through negotiations with trade union federations, the Government still exercises an influential role in setting the minimum wage and other conditions for unprivatized enterprises. Private businesses, growing steadily in number, set pay scales directly with their employees' unions or employee representatives. Antiunion discrimination is prohibited by law.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—There is no forced labor in Slovenia; the legal prohibition of forced labor is effectively enforced.

d. *Minimum Age for Employment of Children.*—The minimum age for employment is 16 years. Compulsory education is 8 years. Some farm communities employ younger children during the harvest or for other farm work. In general, urban employers respect these age limits, which are enforced by the Ministry of Labor.

e. *Acceptable Conditions of Work.*—The Government and trade union federations try to set adequate minimum wages through negotiations. The minimum wage per month, mandated nationally, was approximately $200 (27,000 tolars) as of year's end. Such a wage base serves as a standard for both public and private firms.

The standard workweek is 40 hours. There is a 24-hour rest period provided after 40 hours per week, as well as 12 hours' rest after each 8-hour period of work.

Occupational health and safety standards are set and enforced by special commissions (for example, sanitary and labor inspections). The inspection bodies are controlled by the Ministries of Health and Labor respectively.

SPAIN

Spain is a parliamentary democracy with a constitutional monarch, King Juan Carlos I. In free and open elections held in June 1993, Prime Minister Felipe Gonzalez was reelected to a fourth term, albeit as head of a minority government.

The security forces are under the full control of the government; allegations of human rights abuse are investigated, and those found guilty are punished by law.

Spanish security services maintain anticorruption brigades that investigate allegations of fraud and dishonesty within each service. Since 1989, a Special Advisor for Human Rights in the Ministry of the Interior has been in charge of promoting humanitarian law and training senior members of law enforcement groups in human rights issues. Charges of police abuse of detainees were being investigated at year's end.

The economy is market based, with primary reliance on private initiative, although there are still a sizable number of public sector enterprises. The economy lapsed into recession in 1992 and was expected to decline by approximately 1 percent in 1993. High unemployment, amounting to approximately 22 percent as of September 1993, continued, due in part to the entry of large numbers of people into the labor force.

The fundamental rights of freedom of speech, assembly, press, religion, movement, and participation in the political process are provided for in the Constitution of 1978 and are respected in practice. The Basque Fatherland and Freedom Separatist Group (ETA) continued to wage a protracted campaign of terrorism, although the number of incidents declined in 1993. The Government's efforts to bring individual terrorists to justice resulted in accusations by detainees of ill-treatment. In late September, two suspected ETA collaborators died while in police custody due to circumstances that by year's end had not been fully explained. Preliminary reports by the state coroner and police investigations failed to find any evidence of irregular police action. Other human rights problems included de facto discrimination against Gypsies and increasing reports of police mistreatment of illegal aliens.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no known political killings by government forces. In late September, two suspected ETA collaborators died while in police custody, one as a result of cardiac arrest and the other from injuries incurred when, according to police, he fell from a second-story window. Prime Minister Gonzalez pledged complete "transparency" in the Government's investigation of the deaths until the incidents were fully explained. By year's end, investigations had not found any evidence of wrongdoing by police authorities. A prominent nongovernmental human rights organization launched its own investigation into the incidents.

The death of an American citizen after fleeing police in the Canary Islands in 1992 has not been fully explained and remains under investigation by Spanish judicial authorities. Spanish courts found no evidence of police wrongdoing and initially ordered the case to be closed. However, the family's lawyer contested this resolution, and the case continued under investigation at year's end. It is customary in many Spanish regions for investigations to take as long as a year, sometimes longer.

Frequent terrorist incidents continued during 1993, although those resulting in deaths or serious injuries decreased significantly. Between January and September, 14 terrorist-related attacks resulted in 14 deaths and 37 injuries. As in previous years, the vast majority of those killed were members of the Guardia Civil and the National Police. Ten of the deaths were attributed to ETA, one to the First of October Anti-Fascist Group (GRAPO), and one to the Basque group Iraultza Aske.

b. *Disappearance.*—There were no claims during 1993 that police or government security forces carried out secret arrests or kidnapings.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Spanish law prohibits the use of torture or other cruel, inhuman, or degrading treatment. Despite these provisions, detainees charged with terrorism continue to assert that they are abused during detention. Persons arrested for criminal offenses sometimes made similar charges. The Government had difficulty in credibly refuting such charges because, under the law, suspected terrorists may be held incommunicado for 5 days. Regarding the early 1992 charges of police abuse of 28 suspected ETA detainees, at the end of 1993 investigations were continuing, and 9 civil guard suspects had been named, according to a prominent nongovernmental organization. Regarding 16 prison guards in Catalonia charged with brutality, no formal results of the investigations had been announced by year's end.

The media regularly reported alleged police mistreatment of northern and sub-Saharan Africans, particularly Moroccans, although there were no confirmed cases of abuse. Police in Valencia in March initiated an investigation into mistreatment of a Moroccan citizen during a routine identification check. Authorities had not announced the results of the investigation by year's end.

In February the Ombudsman released his 1992 report to the Parliament in which he denounced the "clearly racist and xenophobic attitudes" of many law enforcement

officials in their dealings with foreigners, particularly at airports and other ports of entry.

Passengers on board a Moroccan ferry which docked in the port of Algeciras reported that when Spanish Civil Guards boarded the vessel to check documents, a fracas ensued in which the guards beat several of the passengers, including women and children. There was no apparent followup on this case.

The Ombudsman received 31 complaints of police abuse in 1992. The Ombudsman condemned prison overcrowding.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention and normally a suspect may not be held for more than 3 days without a judicial hearing. Detainees have the right to counsel of their choice unless they are suspected of being terrorists, in which case legal counsel is appointed by the Government. A suspected terrorist may be held up to 5 days without a hearing and without access to an attorney or family members. Exile is not practiced.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary and the right to a fair public trial. This right is observed in practice. The judicial structure comprises territorial, provincial, regional, and municipal courts with the Supreme Tribunal at its apex. The Constitutional Tribunal has jurisdiction over constitutional issues. The European Court of Human Rights is the final arbiter in cases concerning human rights.

Defendants have the right to be represented by an attorney, at state expense for the indigent. The right to be released on bail is guaranteed, unless the court has reason to believe a suspect may flee or constitutes a serious threat to public safety. Suspects may not be confined for more than 2 years before being brought to trial, unless a further delay is authorized by a judge. The period of pretrial custody may be extended up to 6 years, at the judge's discretion. In practice, pretrial custody generally is less than 1 year. However, the Ombudsman's report for 1992 criticized ever- increasing delays in judicial proceedings. In cases of petty crime, suspects released on bail may face a wait of as long as 5 years before trial. Following conviction, defendants may appeal to the next higher court. A Supreme Court judge complained publicly in January about criticism from members of the Government and the governing Socialist Party (PSOE) for his ongoing investigation of allegations of improper campaign financing practices. In February the second division of the Supreme Court directed the judge to suspend his investigation and submit a report on his findings within 10 days.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution protects the privacy of the home and correspondence. Under the Criminal Code, government authorities must obtain court approval before searching private property, wiretapping, or interfering with private correspondence. The antiterrorist law gives discretionary authority to the Minister of the Interior to act prior to obtaining court approval "in cases of emergency." In February 1992, the Parliament passed legislation called the Citizen's Security Law, broadening police authority to search certain residences and detain citizens without a court order. The law, intended to aid in the fight against narcotics trafficking and terrorism, was passed despite strong criticism from the opposition parties that it was unconstitutional. In November 1993, the Constitutional Court, in a unanimous ruling, declared unconstitutional a key provision of the law which permitted law enforcement authorities to conduct searches without a warrant in certain circumstances. The Court's ruling reportedly jeopardized about 800 arrests over the previous 2 years which were based on warrantless searches and an unknown number of convictions and was a key factor in the resignation of the Interior Minister who originally authored the law.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and the press are provided for in the Constitution, and the Government observes these provisions. Opposition viewpoints, both from political parties and other organizations, are freely aired and are widely reflected in the media.

In late September, the Supreme Court ruled that an interruption of a 1981 speech by the King in the Basque region by members of ETA's political wing, Herri Batasuna (HB), was a valid exercise of freedom of expression. This was considered a landmark decision, given the broad respect the royal family commands and the Government's opposition to HB. The hecklers, who were not held in custody, were tried under a law prohibiting insults against the royal family.

b. *Freedom of Peaceful Assembly and Association.*—As provided in the Constitution, all groups have the right of free assembly and association for political or other purposes. This right is fully respected and freely practiced.

c. *Freedom of Religion.*—The Constitution guarantees freedom of religion. There is no state religion. Roman Catholicism is the predominant religion, and the Catholic Church receives official funding. However, other religions are represented and function with full freedom.

In February, 1990 the Government concluded accords with federations of Spanish Jews and Protestants which ended a state of official legal discrimination against those two religions. The accords placed Protestants and Jews on an equal legal footing with Catholics, except in the matter of financial support from the Government, which both groups had renounced. Protestant, Muslim, and Jewish, as well as Catholic, students now have the right to receive separate religious instruction in public schools. In April 1992 the Parliament passed legislation reaffirming the legal equality of all religions, including that of Islam.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens have complete freedom to travel within and outside the country. The Government restricts neither emigration nor repatriation. The law on illegal aliens permits detention of a person for up to 40 days prior to expulsion but specifies that the detention may not take place in a prison-like setting.

Refugee and asylum cases are adjudicated by an interministerial commission. Generally, the Government grants refugee status on the recommendations of the United Nations High Commissioner for Refugees.

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

Spain is a multiparty democracy with open elections in which all citizens 18 years of age and over have the right to vote for Parliament as well as for provincial and local bodies. At all levels of government, elections must be held every 4 years. The most recent elections were general legislative elections in June 1993.

Spanish politics contain an important regional element which is particularly strong in Catalonia and the Basque country. These two "autonomous communities" are similar to U.S. states. Governmental power in Spain is shared between the central Government and 17 regional "autonomous communities," each with its own specific powers. The Catalan and Basque regions are ruled by regional parties which reflect the desires of many Catalans and Basques to give political expression to their own linguistic and cultural identities. These parties provide democratic alternatives to separatist groups which advocate achieving independence through terrorist violence. The regional parties' influence on the national level has increased by virture of the Government's minority position in the Parliament.

Participation of women in the political process continued to increase. However, under Spain's electoral system, the percentage of votes won determines the number of candidates elected from the party list; hence a candidate's place on the list is crucial in determining election. Since many women candidates were placed in the lower half of the lists, the number elected has never reached 25 percent. Nevertheless, the number of women occupying prominent governmental positions continued to grow. Of the 350 newly elected Members of Parliament, 55 are women. At year's end, 3 of the 16 cabinet ministers were women, and there were 3 female Ambassadors in the Foreign Ministry.

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

A number of nongovernmental human rights groups, including the Human Rights Association of Spain and the Human Rights Institute of Catalonia in Barcelona operate freely without government interference. The Government cooperates readily with international organizations investigating allegations of human rights abuses, such as the European Commission of Human Rights and international nongovernmental human rights groups, as well as with independent national groups.

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

The Constitution provides for equal rights for all citizens, and an independent Ombudsman actively investigates complaints of human rights abuses by the authorities.

Women.—While Spanish women have in recent years moved towards equality under the law, increased their access to the educational system, and entered the work force in larger numbers, traditional attitudes continued to result in de facto discrimination. There is considerable regional variation in the extent of such discrimination. The Government's initiatives on behalf of women included the establishment in 1983 of the Women's Institute, which seeks to promote social, political, and economic equality. In 1993 an updated draft of the Women's Institute 1988 Plan for Equality of Opportunities for Women went into effect. Its essential provisions in-

cluded establishing a working group between relevant ministries and women's groups aimed at assisting battered and sexually molested women; facilitating access to job search information networks; and promoting equal sharing of family responsibilities.

Although one-third more women (mainly those younger than 29 years of age) work outside the home than a decade ago, the incidence of such employment in Spain is still quite low. There are relatively few women in leadership positions in business, industry, or government. Women's pay still lags behind that of men. The 1993 Plan for Equality of Opportunities addressed this issue by developing programs aimed at subsidizing indefinite hiring contracts (versus lower paying temporary ones) and by promoting management training programs for women.

Sexual abuse, violence, and harassment of women in the workplace continued to be areas of stated governmental concern, but most such abuses were probably not reported, owing in part to the unsympathetic attitudes of police and judicial personnel. However, the number of reported cases has grown in recent years. The Women's Institute has charged that some judges are reluctant to get involved in what they feel should remain a domestic problem. Similarly, in smaller towns some police officers have been reluctant to accept complaints from battered women. To deal with this problem, the Ministry of the Interior initiated a program in 1986 that created special sections within the Police Department to deal with violence against women, staffed by specially trained women officers. Women's groups and other relevant nongovernmental organizations have supported this program, the impact of which is widely regarded as very positive.

Several levels of government provide institutional remedies, such as shelters for battered women. The Government attempts through educational programs to change public attitudes that contribute to violence against women. In 1989 the Parliament passed a law prohibiting verbal and physical harassment in the workplace, but no cases had been tried under this law by the end of 1993.

Children.—The Ministry of Social Affairs is charged with looking after the rights and welfare of children. Through a directorate tasked with protecting the rights of minors, the Government has pursued programs aimed at preventing discrimination against teenagers and children. Specific offices of this directorate deal with adoption and family sheltering. The Ministry also has a Center for Studies of the Underaged and a Youth Institute charged with promoting social programs for teenagers and children.

In early 1993, authorities discovered the bodies of three teenage girls who had been raped, tortured, and subsequently killed. The investigation raised a national outrage because one of the suspected criminals was a convict who had failed to return to custody after a weekend leave. The incident led the Ministry of Social Affairs to press for stiffer penalties and denial of jail passes for rapists. By year's end, no legislation had been passed as a direct result of the Ministry's requests.

National/Racial/Ethnic Minorities.—Gypsies, a minority group representing 3 percent of the population, continue to suffer de facto discrimination in housing, schools, and jobs. Legal mechanisms exist by which the Gypsies may seek redress, and the Government has stated its commitment to securing equal rights and treatment for them. The municipal government in Madrid began a program in 1991 to relocate Gypsy families living in shacks on the outskirts of the capital to housing projects in established communities and toughened enforcement of existing antidrug laws to assuage fears that such relocations would increase drug-related crime. In 1993 the program, however, ran into funding problems and was discontinued.

Human rights groups and media continued to give increasing attention to the question of human rights for the growing numbers of illegal immigrants from northern and sub-Saharan Africa. Discontent was particularly acute in the case of South Americans, especially Peruvians and Dominicans. Their discontent resulted primarily from the lack of equal economic opportunities and disrespectful treatment by bureaucratic authorities.

There were sporadic racist and antiforeigner attacks throughout Spain, some of which involved local police. For example, an African-American student was attacked and beaten by a group of "skinheads." He ran to a nearby building and called the police, but they refused to come to the scene and insisted he go to the station to file a complaint. Other allegations of racist and antiforeigner incidents included refusal of service at restaurants and harassment by police.

In an effort to mitigate the increasing problem of antiforeigner violence, the Ministry of Social Affairs initiated a campaign entitled "Democracy is Equality" aimed at sensitizing the Spanish public to immigrants and at diminishing violence against minorities. At least 12 nongovernmental organizations collaborated in the campaign. The campaign used large billboards and television and radio commercials throughout Spain to promote equal treatment for Jews, homosexuals, the handicapped, and

racial minorities. Among other themes, the campaign used Spanish immigration to Northern Europe after the Civil War as a means of reminding the public that Spanish immigrants also had once benefited from opportunities abroad.

A group of parents from Spanish-speaking households in Catalonia staged demonstrations to protest the Catalan Government's refusal to order that their children's schools provide instruction in Castilian. The Catalan Government's language instruction policy is aimed at making Catalan the language of preference, with Castilian a second language. Each school, in consultation with parents and the local municipality, decides the mix of Catalan and Castilian to be used. In most primary schools, most classes for children up to 8 are taught in Catalan, with more Castilian added to the mix from age 9 on. Some Castilian-speaking parents feel their children are at a disadvantage when forced into an educational system tought predominantly in Catalan.

People with Disabilities.—Since 1982 a law for the integration of disabled citizens has been in effect. It aims at ensuring fair access to public employment, preventing disability, and facilitating physical accessibility for the disabled. The law has had a dramatic effect in such key areas as providing access for the handicapped to public buildings and ensuring them parking areas, although it did not require physical accessibility. In 1993 the Autonomous Community in Madrid passed local legislation requiring that all new construction be adapted to the needs of the handicapped.

Section 6. Worker Rights

a. *The Right of Association.*—All workers, except those in the military services, judges, magistrates, and prosecutors, are entitled to form or join unions of their own choosing without previous authorization. The only requisites for organizing a union are the formation of a group of more than two workers and registration with the Ministry of Labor and Social Security, which is routinely granted. Spain has over 200 registered trade unions. The only union presently in existence that is not legally registered is the Unified Trade Union of the Guardia Civil, which the Constitutional Court ruled in 1986 could not be registered as it purports to represent military personnel barred from unionization by the Constitution.

Under the Constitution, trade unions are free to choose their own representatives, determine their own policies, represent their members' interests, and strike. They are not restricted or harassed by the Government and are independent of political parties. A strike in nonessential services is legal when it fulfills the requirement of 5 days' prior notice. Strikes must respect legal minimum service requirements, which are negotiated between the employer and the unions. Strikes occur frequently in Spain, although most are of short duration. Data for 1992 revealed the highest rate of working days lost to strikes, including a May 28 nationwide strike, since 1988, while preliminary data for 1993 showed many fewer lost days, likely a consequence of the country's economic recession.

Spanish unions are free to form or join federations and confederations and affiliate with international bodies, and they do so without hindrance.

b. *The Right to Organize and Bargain Collectively.*—The right to organize and bargain collectively was established by statute in 1980. Trade union and collective bargaining rights were extended to all workers in the public sector, except the military services, in 1986. Public sector collective bargaining in 1990 was broadened to include salaries and employment levels, but the Government retained the right to fix salary and employment levels if negotiations did not achieve an agreement. Collective bargaining is widespread in both the private and public sectors. Private sector collective bargaining agreements cover 60 percent of workers, although only a minority are actually union members. Though firm figures are not available, it is generally accepted that only about 10 percent of workers are dues-paying union members. Labor regulations and practices in free trade zones and export processing zones are the same as in the rest of the country. Union membership in these zones is reportedly higher than the average throughout the economy.

The law prohibits discrimination by employers against union members and organizers. Discrimination cases have priority in the labor courts. A prominent multinational company was fined heavily in 1991 for discrimination against union organizers. Legislation favored by the unions and adopted in 1990 has given trade unions a role in controlling work contracts to prevent abuse of contract and termination actions.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is outlawed and is not practiced. The legislation is effectively enforced.

d. *Minimum Age for Employment of Children.*—The legal minimum age for employment as established by statute is 16 years. The Ministry of Labor and Social Security is primarily responsible for enforcement. The minimum age is effectively enforced in major industries and in the service sector. It is more difficult to control

on small farms and in family-owned businesses. Legislation prohibiting child labor is effectively enforced in the special economic zones. The employment of persons under 18 years of age at night, for overtime work, or in sectors considered hazardous by the Ministry and the unions is also legally prohibited.

e. *Acceptable Conditions of Work.*—The legal minimum wage for workers over age 18 is considered sufficient for a decent standard of living. The daily national minimum wage rate is approximately $15 (1,951 pesetas), effective January 1, 1993. The minimum wage for those aged 16 and 17 is less; $9.91 (1,289 pesetas). The minimum wage is revised every year in accordance with the consumer price index and is effectively enforced by the Ministry of Labor and Social Security. A 40-hour workweek is established by law, with a minimum unbroken rest period of a day and a half following each 40 hours worked. Spanish workers enjoy 12 paid holidays a year and a month's paid vacation. Standards are effectively enforced.

Government mechanisms exist for enforcing working conditions and occupational health and safety conditions, but bureaucratic procedures are cumbersome and inefficient. The National Institute of Safety and Health within the Ministry of Labor has technical responsibility for developing labor standards, but the Inspectorate of Labor has responsibility for enforcing the legislation through judicial action when infractions are found. Workers have legal protection for filing complaints about hazardous conditions.

SWEDEN

Sweden is a constitutional monarchy and a multiparty, parliamentary democracy. The King is Chief of State. All executive authority is vested in the Cabinet which is formed through direct parliamentary elections every 3 years and consists of the Prime Minister (Head of Government) and some 20 ministers. A four-party non-socialist minority government came to power in October 1991 after national elections.

The police, all security organizations, and the armed forces are controlled by and responsive to the civilian authorities and are generally scrupulous in their protection of human rights. Either the Government, the judicial system, the Parliament, or an ombudsman investigates thoroughly all allegations of human rights violations, including the occasional allegation of police abuse.

Sweden is an advanced industrial democracy with a high standard of living, extensive social services and a mixed economy. Over 90 percent of businesses are privately owned.

Human rights are deeply respected and widely protected. Swedes are entirely free to express their political preferences, pursue individual interests, and seek legal resolution of disputes. Ombudsmen, appointed by the Parliament but with full autonomy, investigate private complaints of alleged abuses of authority by officials and prescribe corrective action, if required. There continued to be instances of anti-foreigner violence, which were vigorously prosecuted by the Government. An assault on Somali immigrants led to prison terms for the perpetrators, and the infamous "laser man" who in 1991–92 shot almost a dozen immigrants (killing one) was convicted in nine of the assaults late in the year. The overall human rights situation was largely unchanged in 1993.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Killing for political motives by the Government or by domestic opposition groups did not occur. Two deaths occurred in official custody. Swedish courts ruled, however, that although physical restraint contributed to causing both deaths, the deaths occured primarily as a result of medical conditions missed by the custodial officers. The officers in question were fined for official negligence.

b. *Disappearance.*—Abduction, secret arrests, and clandestine detention by Swedish authorities did not occur.

c. *Torture and Cruel, Inhuman, or Degrading Treatment or Punishment.*—Swedish law prohibits these abuses, and the authorities respect such prohibitions. Occasional accusations against individual policemen of excessive use of force in connection with arrests are carefully investigated, but have not produced evidence of a systematic problem. However, after the September 1993 alleged rape of a female motorist in a patrol car by a Gothenburg policeman, the national police undertook a review of some 10,000 cases of past alleged police abuse from the past several years to search again for such a pattern; this review continued at year's end. Police officers found guilty of abuse typically have been suspended or subjected to other disciplinary ac-

tions, including prison terms. One such officer, a male accused of undue sexual liberties with an inebriated female, was at year's end in the process of being terminated from his position as well as facing rape charges in the criminal courts.

d. *Arbitrary Arrest, Detention, or Exile.*—Statutory guarantees of individual liberty are observed. Persons disturbing the public order or considered dangerous may be held for 6 hours without charge. Criminal suspects may be held no longer than 12 hours without formal charges. If a person files for bankruptcy and refuses to cooperate with the official investigation, a court may order detention for up to 3 months, with judicial review every 2 weeks. Arrest is public and by warrant. The time permitted by law between detention and arraignment is 48 hours. In cases involving potential threat to public safety or risk of flight the time between arrest and the first court hearing may be extended to 96 hours (an extremely rare occurence). Bail does not exist, but suspects not considered dangerous or likely to destroy evidence are released to await trial.

By law, Swedish citizens may not be deported. Convicted foreign criminals are often deported at the conclusion of their prison terms, unless they risk execution or other severe punishment at home.

e. *Denial of Fair Public Trial.*—The Constitution forbids deprivation of liberty without public trial by a court of law. The judiciary functions freely and independently. The accused have the right to competent counsel, although the availability of public defenders is restricted to cases where the maximum penalty could be a prison sentence of six months or more. Convicted persons in most instances may appeal to a court of appeals, and in some cases also to the Supreme Court. There are no military courts in peacetime.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law provides assurance against such arbitrary interference. Home searches are limited to investigations of crimes punishable by at least 2 years' imprisonment, such as murder, robbery, rape, arson, sabotage, counterfeiting, and treason. Search warrants are granted only on the basis of well-founded suspicion. Wiretaps are permitted only in cases involving narcotics or national security. Searches and wiretaps normally require court approval. When the time factor is critical, or when life is believed to be in immediate danger, the ranking police officer may approve these measures. There is no indication that telephone monotoring is done arbitrarily, though an increase of permits was noted during 1992, primarily involving serious narcotics crimes.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Swedes enjoy these freedoms fully. Newspapers and periodicals are, for the most part, privately owned. Government subsidies to daily newspapers, regardless of political affiliation, help assure a plurality of views.

Broadcasting in Sweden operates under a state concession. The Swedish Broadcasting Company and its independent subsidiaries (TV–1, TV–2, national and educational radio) previously had a monopoly over ground-based broadcasting, although a variety of commercial television channels are available via sattelite or cable. An independent commercial television channel with ground-based broadcasting rights started operations in March 1992 and commercial radio stations started to broadcast in the fall of 1993.

Publications containing sensitive national security information, as well as film and television programs portraying excessive violence, are subject to censorship. Commercial video tapes are also censored (and possibly banned) if they contain scenes of excessive violence. The National Board of Swedish Film Censors monitors both films and videos slated for distribution. The current Cultural Affairs Minister has attempted to abolish the Film Censor Board, but opposition in the Swedish Parliament has stalled those efforts.

Academic freedom is respected.

b. *Freedom of Peaceful Assembly and Association.*—Swedes exercise these freedoms without restraint. Public demonstrations require a police permit, for which applications are routinely approved. In 1993, in an attempt to stop annual right-wing, racist violence on November 30, "Karl XII Day," the police and courts initially banned all demonstrations. The Cultural Affairs Minister intervened in the name of free speech, however, and reinstated that right so long as protestors remained stationary. A massive police effort made this year's demonstrations the most peaceable in many years.

c. *Freedom of Religion.*—Swedes have unimpaired religious freedom. There is a state Lutheran Church, supported by public funds, but persons not wishing to support the state church with their tax money may request (and easily receive) suspension of the church tax. All other denominations and faiths are freely observed. Parents have full freedom to teach their children religious practices of their choice.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Freedom of movement within and from the country and voluntary repatriation are guaranteed to citizens by law and respected in practice. Refugees, displaced persons, and others seeking political asylum are on the whole generously treated. Under the Terrorist Act as amended in 1991, foreigners with suspected links to terrorist organizations and whose deportations cannot be effected, may be required to report regularly to police authorities, but there are no travel restrictions, and each case must be reviewed by the courts on a regular basis—at least every 3 years.

During 1993, an increasing number of illegal immigrants, particularly from the former Yugoslavia, caused the Government to begin actively searching for and deporting such refugees, leading many to "go underground" to avoid deportation. The Government has come under some degree of criticism for such actions. A police raid on a convent which had declared itself a "sanctuary" for illegal immigrants shocked many Swedes, particularly since children were present, but no change in government policy was foreseen as a result of the negative publicity.

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

Sweden has a long history of vigorous democratic political life within a representative, multiparty parliamentary system. The 349 seats in the unicameral Parliament are divided proportionally among the 7 political parties represented. A party must win a minimum of 4 percent of the votes cast to enter Parliament. Only citizens may be elected to the Parliament. There is universal suffrage beginning at age 18. Approximately 85 percent of eligible voters participated in the 1991 election. Voting takes place by secret ballot. Aliens who have been legal residents for at least 3 years have the right to vote and run for office in municipal elections.

Women participate actively in government and the political process, accounting for one-third of the members of Parliament. A Women's Party was formed in October 1992 to offer an alternative to those who claim that women's issues are not adequately addressed by the established parties.

There are no de jure or de facto barriers to participation by the indigenous Sami, otherwise known as Lapps, whose civil and political rights are fully protected. There are no Sami members of Parliament, but they are present in leadership positions within other centers of power, such as the boards of labor unions.

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

Active private organizations monitor issues such as the impact of comprehensive social legislation and the condition of the indigenous Sami population. Ombudsmen serve as official governmental monitors of individual rights in Sweden and are effective both in making citizens aware of their rights and in publicizing and correcting abuse of state authority. Government agencies are in close contact with a variety of local and international groups working in Sweden and abroad to improve human rights observance.

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

Basic economic, social, and cultural needs for the entire population are thoroughly met by the state without discrimination in the form of social welfare and medical services, benefits to families, pensions, and disability and unemployment insurance.

Women.—Although there is no institutionalized job discrimination based on sex, surveys show that women are underrepresented in higher paying jobs, particularly in business, and often receive less pay for equal work. Institutionalized efforts to extend equality between the sexes continued in 1993. Sweden's largest political party, the Social Democrats, decided that half of all party nominations at all political levels would go to women. Possibly due to the recession and the "last hired, first fired" discrimination experienced by women, the percentage of women in the work force employed full-time fell in 1993 for the first time in the postwar period, to 75.9 percent.

Employers are required to base hiring decisions on merit and to pursue actively the goal of equality. A public official [the Equality Ombudsman] investigates complaints of sex discrimination in the labor market. However, in 1993 the Ombudsman received little attention and is perceived to have made little progress. Most cases reported to her were withdrawn before completion due to some resolution having been reached between the parties or a decision by the complainant to withdraw the case. Sexual harassment is prohibited by law. The issue of sexual harassment at work received continued high attention in 1993. Several work places started programs to prevent such practices.

Rape and abuse of women continued to receive a great deal of attention. Laws protect abused women from having their abusers discover their whereabouts or contact them. In a few cases, women have been helped to obtain new identities and homes. In 1992 the Government decided to provide bodyguards for women in extreme danger of being assaulted by former male companions. Those in slightly less danger have been provided with electronic alarms that can summon the police, methods which the women report have significantly improved their quality of life and sense of security. The abusers typically are prosecuted and sentenced to jail terms or psychiatric treatment. Both national and local governments support voluntary groups that provide shelter and help to abused women. The number of reported rapes, some 1,400 yearly, has remained at approximately the same level since 1989.

Children.—The Government is strongly committed to protecting children's rights and welfare. Swedish law prohibits parents or other caretakers from abusing children either mentally or physically. Parents, teachers, and other adults are subject to prosecution if they physically punish a child. Children have the right to report such abuses to the police; on some occasions parents have been found guilty of physical abuse in a court of law. The usual sentence has been a fine, combined with counselling and monitoring of the family by social workers. If the situation warrants, children may be removed from the home and placed in foster care. However, because of a strong legal emphasis on parental rights, it is extremely rare for such children to be adopted officially by their foster families or others. As in the past several years, the number of cases of reported abuse in 1993 rose by approximately 25 percent. Swedish experts attribute virtually all of the increase to a rise in reporting of abuse rather than to a rise in abusive behavior. The Government allocates funds to independent organizations involved with children's rights. During 1993 a Child Ombudsman was appointed, taking office in July.

Indigneous Peoples.—Some 17,000 Sami (Lapps) live in Sweden. While there are no formal obstacles to their participation in the political process, they tend to address their specific interests through various organizations earmarked for Sami such as the National Association of Swedish Sami which was organized in 1918. A Sami "parliament", the "Sametinget," was formed in 1993, consisting of 31 members. Eleven different Sami parties are represented in the Sametinget, which is to convene four times a year and have consultative responsibilities to the Government.

A law permitting non-Sami to hunt on designated reindeer pastures went into effect during 1993. Several Sami protested with hunger demonstrations. Yet another law permitting non-Sami to fish in lakes previously reserved for the Sami is scheduled to go into effect by January 1994. A suspension of that law, and the abolition of the new hunting law, is on the new Sametinget's agenda.

National/Racial/Ethnic Minorities.—There were a number of incidents of anti-foreigner acts in 1993, some violent. Most of the incidents involved clashes between groups of ethnic Swedish and non-Swedish youths. At least a dozen immigrants were physically assaulted, and several immigrant businesses and homes were burned or damaged. Threats of such violence are more common and appear to be increasing. For example, in one case a Greek restaurant in a small coastal town closed after repeated threats and harassment by local youths and complaints by neighbors that the restaurant was "un-Swedish." Also, the Talinas Refugee Camp in northern Sweden, which houses some 600 refugees from the former Yugoslavia and Somalia, saw a wave of nighttime attacks, including burning crosses, smashed windows, and an ultimately unsucessful arson attempt on one of the camp's apartment buildings. In August a mosque was firebombed and completely destroyed. The perpetrators received prison terms ranging from a few months to 2 years. As noted above, the infamous "laser man" (so called because he used a laser sight to hunt down immigrants) also was convicted and is to be sentenced early in 1994 pending further psychiatric examination.

The Government decided in 1993 to move responsibility for processing refugees to the local level. All municipalities will be required to accept a certain number of refugees and provide for their needs. A few such entitites have declared they will not accept refugees, but the matter has not been tested as the largest number of refugees, primarily from Bosnia, is not anticipated until 1994. Although violent acts such as those described above are anathema to the overwhelming majority of Swedes, attitudes in general towards asylum seekers contined to sour. Refugees are resented in some quarters because they were perceived to receive too-generous benefits (such as immediate placement in apartments and extensive financial support) in a time of recession.

The Government, particularly the present Cultural Minister, is making efforts to change these attitudes. The Government intervened in November, for instance, to overturn a decision by the Immigration Department to deny asylum to several Rus-

sian Jews. The Government also supports groups which work against racism and anti-immigrant sentiments. Perhaps the most effective is the "5-to-12" movement (taking its name from the "atomic clock"), founded by the parents of a teenage girl who on her own began organizing weekly anti-racist vigils in her hometown. When their daughter was killed by an Eritrian immigrant, her parents channeled their sorrow into making the vigils a nationwide event, to occur on the December 5 at 5-to-12 in the evening. The King and Queen joined this year's vigils. Swedish schools provide education and information designed to counter racist tendencies. The Government and key politicians, including the Prime Minister, issued strong statements about Sweden's history of tolerance and its need to continue in that tradition regardless of the economic downturn.

The Government runs special programs to help immigrants adjust to Swedish life and culture [including 240 hours of free Swedish-language instruction]. Immigrants still complained about difficulties in finding professional employment. The Government continued its efforts to translate and evaluate diplomas from foreign countries to facilitate the hiring of foreign nationals with documented professional skills, with several new nationalities added to the approved list. Unemployment figures for immigrants in general were considerably higher than for native-born Swedes.

People with Disabilities.—Disabled persons are provided with extra help to be able to live as normal a life as possible in their own homes, as well as assistance in pursuing a career or holding a job. Regulations for new buildings require that they be fully accessible. However, this requirement has not been extended to existing public buildings.

Section 6. Workers Rights

a. *The Right of Association.*—Workers have the right to associate freely and to strike. A large majority of the working population, including career military personnel, police officers, and civilian government officials, belong to trade unions. Unions conduct their activities with complete independence from the Government and political parties, although the Confederation of Labor Unions (LO), the largest federation, has been allied for many years with the Social Democratic Party. Swedish trade unions are free to affiliate internationally and are active in a broad range of international trade union organizations. Laws forbid retribution against legal strikers. On the other hand, illegal strikers (i.e., wildcat strikers or a strike action that recklessly and clearly endangers health or safety) can be fined by labor courts. Only a few minor strikes took place in 1993, most of them settled quickly. The longest strike during the year was that of the electricians which lasted about a month.

b. *The Right to Organize and Bargain Collectively.*—Workers are free to organize and bargain collectively. The traditional form of collective bargaining through national framework agreements between central organizations of workers and employers, followed by industry- and factory-level agreements on details, was challenged by the Swedish Employers' Confederation, SAF. In 1993, after a two-year wage stabilization agreement expired, a new national agreement with small wage increases was signed for the manufacturing industry. As structured, the settlement represented a step toward the decentralization of the wage formation process, as favored by business. At the same time, labor welcomed the conclusion of a national-level agreement with a modest wage increase instead of threatened wage cuts.

Swedish law fully protects workers from antiunion discrimination and provides sophisticated and effective mechanisms for resolving disputes and complaints. Disputes concerning violations of labor laws are in the vast majority of cases solved by informal discussions between the involved parties. Should a settlement not be reached, a Labor Court tries cases of general interest for guidance and interpretation of the law, and its rulings in turn are followed by other courts. Employers generally accept the unions' partnership role; there were no known cases of firing an employee for union activities in 1993.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor, which does not exist, is prohibited by law which is enforced by the police and public prosecutors.

d. *Minimum Age of Employment of Children.*—Compulsory 9-year education ends at age 16, and full-time employment is normally permitted at that age under supervision of local municipal or community authorities. Those under age 18 may work only during daytime and under a foreman's supervision. During summer and vacation periods, children as young as 13 may be hired for part-time work or light "summer jobs" for periods of 5 days or less. It is rare for people under 15 to be employed except by family members. Violations are few, and enforcement—by police and public prosecutors, with the assistance of the unions—is considered good.

e. *Acceptable Conditions of Work.*—There is no national minimum wage law. Wages are set by collective bargaining contracts, which typically have been observed even at non-union establishments. Even the lowest paid workers are able to maintain a decent standard of living for themselves and their families because of substantial assistance available from social welfare entitlements. The standard legal work week is 40 hours or less. The amount of permissible overtime is also regulated, as are rest periods. Since 1991, Sweden's vacation law has guaranteed all employees a minimum of 5 weeks plus 2 days of paid annual leave, and many labor contracts provide more. During 1993, however, the minimum leave was reduced by 2 days through negotiations with the unions. Occupational health and safety rules, set by the government-appointed National Board of Occupational Health and Safety in consultation with employer and union representatives, are closely observed. Trained trade union stewards and safety ombudsmen monitor observance of regulations governing working conditions. Safety ombudsmen have the authority to stop life-threatening activity immediately and to call for a labor inspector. The courts have upheld this authority.

SWITZERLAND

Switzerland is a constitutional democracy with a federal structure. Legislative power is vested in a bicameral Parliament. Given the nation's linguistic and religious diversity, the Swiss political system emphasizes local and national political consensus and grants considerable autonomy to individual cantons. Police duties are primarily a responsibility of the individual cantons, which have their own distinct police forces. The national police authority has a coordinating role and relies on the cantons for actual law enforcement.

Switzerland's free enterprise industrial and service economy, highly dependent on international trade, provides a very high standard of living. Although unemployment in 1993 reached unusually high levels, traditional labor peace persisted.

Human rights are widely respected. The headquarters of major international human rights and humanitarian affairs organizations are located in Switzerland. In June Parliament ratified the 1965 U.N. Convention on the Elimination of All Forms of Racial Discrimination. However, rightwing opponents are seeking to overturn the implementing legislation via a popular referendum. Switzerland has antiforeigner elements who express themselves through violence. There were a number of violent incidents in 1993, but fewer than in each of the 2 previous years.

RESPECT FOR HUMAN RIGHTS

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

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

b. *Disappearance.*—There were no reports of abductions or disappearances.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution proscribes such practices, and there were no reports of any violations. There were no reports of police beatings or other abuse.

d. *Arbitrary Arrest, Detention, or Exile.*—Freedom from arbitrary arrest, detention, or exile is provided by law. A detained person may not be held longer than 24 hours without a warrant of arrest issued by the magistrate conducting the preliminary investigation. A suspect must immediately be shown the warrant and has the right to contact legal counsel as soon as a warrant is issued. A suspect may be detained with a warrant until an investigation is completed, but the length of investigative detention is always reviewed by higher judicial authority, and investigations are typically completed quickly. Release on personal recognizance or bail is granted unless the examining magistrate believes the person is a danger to society or will not appear for trial.

There is no summary exile, nor is exile used as a means of political control, although non-Swiss convicted of crimes may receive sentences which include denial of reentry for a specific period following completion of a prison sentence.

e. *Denial of Fair Public Trial.*—The Constitution provides for public trials. All courts of first instance are cantonal courts, with right of appeal to the federal courts and freedom from interference by other branches of government. Minor cases are tried by a single judge, difficult cases by a panel of judges, and murder or other serious crimes by a public jury. Even the most serious cases are usually brought to trial within a few months. There are no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Police entry into the premises of a person suspected of a criminal offense is regulated by

cantonal legislation. Regulations differ widely from canton to canton, but not, apparently, to the extent that they provide potential for abuse. There were no reports of abuse in 1993.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—An independent press, effective judiciary, and democratic political system combine to ensure freedom of speech and press. Groups or associations determined to be a potential threat to the State may have restrictions placed on their freedom of speech and press. No groups were restricted during the year.

Federal antiracism legislation, enacted in June, but not yet in force, would permit the Federal Government to place restrictions—including speech and press restraints—on groups engaging in or advocating racial discrimination. No groups are currently restricted. The new legislation is controversial and may be submitted to Swiss voters for approval—perhaps in mid-1994—prior to its implementation. Most broadcast media are government-funded but possess editorial autonomy, and foreign broadcast media are freely available. Press and publishing are owned by private enterprises operated without government intervention. Academic freedom is respected.

b. *Freedom of Peaceful Assembly and Association.*—The only restriction on peaceful assembly and association is a requirement to obtain permits from police authorities before holding public meetings. These are routinely granted unless authorities have reason to believe the meeting will lead to violence.

c. *Freedom of Religion.*—Switzerland enjoys religious freedom. There is no single state church, but individual cantons may support a particular church out of public funds, and most cantons do. Foreign clergy are free to perform their duties. The degree to which minority religious communities are explicitly recognized in law varies among the cantons. Most cantons do not accord Jewish and other non-Christian religious communities the specific legal recognition and tax privileges enjoyed by the Catholic and Protestant churches.

The legal requirement for universal male military service provides no exemption for conscientious objectors. They may apply for military service which does not entail bearing arms, but refusal to serve has nearly always led to prosecution and conviction. A 1991 law stipulates that refusal to serve is a punishable offense, but if the refusal stems from reasons of conscience, the prescribed sentence is a period of alternative community service—up to a maximum of 6 months (which entails no criminal record)—rather than prison. Those objecting to military service on grounds of conscience which are not recognized by the military tribunals—such as political grounds—and those failing to convince the tribunals that their refusal of military service is based on fundamental ethical values, continue to receive prison sentences and a criminal record. However, Swiss voters gave the Federal Government a mandate in May 1992 to draft a new law abolishing the distinction between these two categories. The legislation was still in preparation in late 1993.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Swiss citizens have freedom to travel in or outside the country and can emigrate without difficulty. Switzerland has traditionally been a haven for refugees, but public concern over the growing number of asylum seekers, many of whom apparently come for economic reasons, generated pressure on the Government to implement swifter processing of asylum seekers in 1992 and to expel more quickly those whose applications are rejected. These expedited procedures remained in effect for 1993.

There were some violent attacks against asylum seekers in 1993, including three arson attempts against asylum residences. Fewer such attacks occurred, however, than in each of the 2 previous years. Refugees whose applications are rejected are allowed to stay temporarily if their home country is torn by war or insurrection.

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

Switzerland is a highly developed constitutional democracy. There is universal adult suffrage by secret ballot in federal elections. There is universal adult suffrage in cantonal elections as well, but a few half-cantons still retain the traditional "assembly of the people" style of voting by raising hands rather than by secret ballot. Elections are free and contested actively by four major national parties and at least a dozen significant regional or minor parties. Initiative and referendum procedures provide unusually intense popular involvement in the legislative process.

Participation by women in politics has been limited historically but continues to expand slowly. Most women who would participate at the top levels of national political life continued to face psychological, social, and economic barriers. However, gradual improvement has taken place. Although Swiss women have had the vote for

only 22 years, they hold about 16 percent of the seats in Parliament. The Parliamentary Faction Leader of the Social Democrats, one of the four parties in the governing coalition, is a woman, six women serve on cantonal executive councils, the Department for Foreign Affairs has three female ambassadors, and a woman is General Secretary of the Federal Assembly, one of the highest offices in the government administration. In March Ruth Dreifuss was elected to the seven-member Federal Council (cabinet) and named Interior Minister. She is the second woman and first Jewish person to reach Switzerland's highest political level.

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

Human rights advocacy groups in Switzerland concern themselves almost exclusively with lobbying the Swiss and other governments about the human rights situation in other countries.

Switzerland cooperates with international bodies and nongovernmental organizations (NGO's) in all areas of human rights. All major international human rights groups are active in Switzerland, and some of the leading ones, e.g., the United Nations Human Rights Commission and the International Committee of the Red Cross (ICRC), are based there. The ICRC is made up of Swiss nationals, and Swiss play prominent roles in other humanitarian nongovernmental organizations.

Sections 5. Discrimination Based on Race, Sex, Religion, Language, or Social Status

Women.—Although the Constitution prohibits discrimination against women in the work place, the Federal Government concluded in 1992 that additional measures, including better implementation of existing legislation, were necessary to ensure equal pay and other benefits for women. The Federal Minister of Justice proposed new legislation in February 1993 to implement more effectively constitutional prohibitions on discrimination against women. For example, this legislation would reverse the burden of proof from the complainant to the accused in workplace discrimination cases. The legislation is opposed, however, by some business interests and has not yet been considered by a parliamentary committee. It is not likely to be enacted soon. Several cases brought by women seeking equal pay with men under existing law were decided for the complainants by cantonal and federal courts in 1993. The Federal Commission for Women's Rights and several private groups, e.g., the Federation of Women's Organizations, monitor and promote women's rights. They have found that persistent discrimination has more social than legal causes. Nevertheless, a significant number of women in recent years have broken barriers in traditional male-dominated professions, such as medicine, law, and engineering, and the proportion of women to men in these professions has increased markedly over the last two decades.

Women gained equality within the state pension program as a result of parliamentary legislation in June 1992. Married women are thereby entitled in their own right to half the benefits the couple receives and have the right to pay for a widower's benefit and make up any missed contributions for their husbands, as men can for their wives. In addition, divorced women are entitled to half the pension rights of a couple, calculated on the highest earnings in the marriage.

Different treatment between men and women is most pronounced in the salaries and wages paid. Despite the statutory requirement of equal pay for equivalent work, women's wages for identical work lag an average of 16 percent behind those of men. The Government said in 1992 that it planned amendments to the law on sexual equality which would bar discrimination in employment, improve protection against dismissals, reverse the burden of proof in discrimination cases, and facilitate law suits by individual women against discriminatory employers, but no action was taken in 1993.

The only female member of the Federal Council, who is also the Interior Minister, citing the paucity of women in high positions in the labor force, stated that an important goal will be to determine how to get more women into positions of responsibility.

There is widespread agreement that violence against women is a significant problem. The Federation of Women's Organizations and other women's advocacy groups have heightened public consciousness. Each city has an emergency telephone number through which women who are victims of violence can obtain help and counseling, and special homes for abused women. Specialists work with police authorities to interview women who report attacks. Laws exist against wife beating and similar crimes. At year's end, it was not yet clear what effect these laws and an October 1992 change in the Penal Code, explicitly making spousal rape a criminal offense, would have on deterring violence against women. While the Penal Code is estab-

lished at the federal level, enforcement is the responsibility of the cantons and variations occur.

Children.—Legislation on assistance for victims of violent crimes, which entered into force on January 1, 1993, addresses the protection of children from such abuses. The Swiss Association for the Protection of Children, an NGO, is active in monitoring and advocating childrens' rights. It advocates legislation to create and strengthen the rights of the children of foreigners, including seasonal workers.

Regarding statutory rape, the Federal Council (Cabinet) proposed lowering the age of consent from 16 to 14, but this was rejected by Parliament. Instead, Parliament approved new legislation, which took effect in January 1993, requiring that a person accused of statutory rape must be at least 16 and more than 3 years older than the accuser.

National/Racial/Ethnic Minorities.—Citizens comprising Italian and Romansch linguistic minorities (respectively about 5 and 1 percent of the population) continued to express concern that the limited resources made available to them by the Federal Government to support education and media endanger the intellectual vitality of these languages. In October 1992, the Federal Government withdrew legislation which would have made Romansch an official language. Citing the significant administrative costs of implementing such a measure, the Government held that preservation of language was basically a matter for individual cantons to address.

Foreigners comprise about 18 percent of the population and 27 percent of the total work force. Residence permits are limited for foreigners; for example, foreign workers with seasonal stay permits are not allowed to bring their families. These limitations apply to all non-Swiss. Parliament approved the country's first federal legislation against racial discrimination, based on the 1965 U.N. Convention on the Elimination of All Forms of Racial Discrimination, in June. It would penalize race-motivated discrimination and hate speech. Previously, the cantonal governments had exclusive authority to handle racial discrimination cases. Rightwing groups began to collect signatures to bring the antiracism legislation to a national vote. There is no discrimination on religious grounds, but taxation privileges accorded to churches and religious groups vary according to cantonal practice.

Although authorities suspect that arson caused the deaths of five asylum-seekers in 1992, they never issued a definitive conclusion about the fires, and no arrests were made. A Swiss man was sentenced to 5 years' imprisonment in 1993 for a 1991 arson attack on an asylum residence in Thun in which there were no fatalities. Right-wing organizations, especially extremist organizations, represent only a small minority. There were sporadic violent attacks against foreigners or their property in 1993, including 3 firebombings. Although preliminary official figures show a significant decrease in attacks since 1991, statistics are not comprehensive, because some incidents are not reported or are ignored by police authorities. A 1993 report by state protection forces, commissioned by the Federal Council, concluded that past investigations were almost exclusively directed against leftwing organizations, ignoring any danger from the right. There is also evidence that some police may actually sympathize with rightwing groups. A Swiss journalist who wrote sympathetically about foreigners and documented attacks against them claimed to have been beaten and subjected to numerous threats of violence prior to relocating in another city.

People with Disabilities.—An umbrella organization representing most disabled persons' rights associations is active politically. It is particularly involved in issues concerning the transport and mobility of disabled persons. It advocates the revision of federal legislation on insurance for the disabled, urging better social integration and professional training for them. The organization also favors a federal antidiscrimination law. The Federal Government has advocated physical accessibility to public buildings for the disabled, but no legislation has been enacted.

Section 6. Worker Rights

a. *The Right of Association.*—All workers, including foreign workers in Switzerland, have freedom to associate freely, to join unions of their choice, and to select their own representatives. However, less than 15 percent of the country's labor force belongs to a union. The change from an industrial to a service-based economy, the high standard of living shared by a prosperous work force, and the Swiss system of referendums and initiatives (which accords citizens a voice on important political, social, and economic issues) are among the reasons for the lack of interest in union membership. Officials estimate that about 50 percent of all Swiss workers are covered by collective agreements. Unions are free to publicize their views and determine their own policies to represent members' interests without government interference. Unions may join federations or affiliate with international bodies. The Swiss Trade Union Federation belongs to the International Confederation of Free

Trade Unions and the World Confederation of Labor, as well as to the European Trade Union Confederation.

The right to strike is legally recognized, but a unique informal labor peace agreement between unions and employers, in existence since the 1930's, has meant fewer than 20 strikes per year since 1975. There were no significant strikes in 1993. Federal employees and most cantonal and local employees do not have the right to strike. The only exception is the Canton of Jura, where both local and cantonal authorities have this right.

b. *The Right to Organize and Bargain Collectively.*—Swiss law gives workers the right to organize and bargain collectively and protects them from acts of antiunion discrimination. Employers found guilty of such discrimination are not required to reinstate workers fired for union activities but must pay an indemnity to the workers. The Government encourages voluntary negotiations between employer and worker organizations, although for the most part employers and workers alike (in common with most Swiss institutions) seek to exclude the Government from involvement in their affairs.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—There is no forced or compulsory labor, although there is no specific statute or constitutional ban on it.

d. *Minimum Wage for Employment of Children.*—The minimum age for employment of children is 15 years. Children over 13 may be employed in light duties (e.g., helping in retail stores) for not more than 9 hours a week during the school year and 15 hours otherwise. Employment between ages 15 and 20 is strictly regulated. For example, youths may not work at night, on Sundays, or under hazardous or dangerous conditions. These laws are observed in practice and enforced through inspections by the Federal Office of Industry, Trades, and Labor.

e. *Acceptable Conditions of Work.*—There is no national minimum wage. Employer associations and unions negotiate industrial wages during the collective bargaining process. Such wage agreements are also widely observed by nonunion establishments. The Labor Act established a maximum 45-hour workweek for blue- and white-collar workers in industry, services, and retail trades, and a 50-hour workweek for all other workers. The workweek for blue-collar workers in most industries is 43 hours and for white-collar workers 40 to 43 hours. Overtime is limited by law to 120 hours annually. The 1948 Labor Law bans night and Sunday work for women in industry. The economy was until recently at or near full employment. The resulting take-home pay provides Swiss workers and their families with a very high standard of living.

The Labor Act and the Federal Code of Obligations contain extensive regulations to protect worker health and safety. The regulations are rigorously enforced by the Federal Office of Industry, Trades, and Labor, providing a high standard of worker health and safety. No explicit provision in Swiss law accords an employee the right to leave his place or work without prejudice in case of occupational hazard. Some have sought justification for such a right in more general principles of Swiss law, but this interpretation remains subject to considerable criticism and controversy. Swiss employees have the right to file a complaint with an appropriate governmental regulatory body against employers who fail to adhere to regulations on employee safety. The Government in 1993 continued to work on a complete revision of the Labor Law dating from 1948.

There were no allegations of workers rights abuses from domestic or foreign sources.

TAJIKISTAN

Tajikistan was ruled in 1993 by a coalition of regional and clan groupings which won a clear-cut military victory in a civil war racking the country, particularly its southern regions, during 1992. The winning coalition was supported by Russian, Commonwealth of Independent States (CIS), and Uzbek forces. The Supreme Soviet (parliament) elected Imomali Rahmanov, Kulyab regional executive chairman, as its Chairman and Head of State in November 1992. Much of Rahmonov's support came from the victorious People's Front forces which originated in Kulyab and Kurgan-Tube, the Uzbek-dominated Hissar region which aided in the battle of Dushanbe, and members of the traditional northern economic elite of Leninabad. The defeated opposition comprised a coalition of self-declared democratic and Islamic groups and Islamic fundamentalists, a plurality of whom originate from the Garm-Kartogin region of the country, and Pamiris, who were traditionally underrepresented in the ruling coalitions during Soviet and pre-Soviet rule.

The new Government gradually extended its control over all major towns and most roads throughout the country except in the Gorno Badakhshan Autonomous Oblast (GBAO) where, by agreement with the regional authorities, its security forces did not enter. In return, the regional authorities pledged to control their own territory and to preclude operations by opposition forces. Although the Government by and large respected the agreement, the GBAO officials were unable to prevent armed opposition elements and their foreign allies (Afghan mujahedin) from using their territory for antigovernment attacks.

Opposition forces, based in Afghanistan and supported by mostly fundamentalist Afghan forces, posed a serious military challenge to the Government and to CIS (principally Russian) units by staging frequent raids across the border in southern Khatlon province and western GBAO. Although these raids and incursions did not threaten central government control outside the border areas, they caused casualties, blocked roads, and interfered with the movement of relief supplies and refugees.

The Government worked to reconstitute the principal elements of the former security forces: the Ministry of Interior, the National Security Committee, and the new Ministry of Defense. It sought to incorporate elements of the progovernment People's Front militia into these security organs, with limited success. Many People's Front units remained outside of central government control. These units, as well as the Ministry of Interior forces, committed numerous human rights abuses. The National Security Committee's forces and those of the Ministry of Defense were also responsible for abuses, though less frequently.

The national economy, centrally planned and highly dependent on cotton exports, continued to suffer from the effects of the civil war, the severing of traditional economic ties to other republics of the former Soviet Union, and a series of natural disasters. The Government was unable to stem its collapse.

Human rights violations were widespread in 1993. The Rahmonov Government was unable to follow a consistent policy to eliminate regional abuses and bring about reconciliation and political reform. While some senior government officials personally intervened when advised of human rights abuses, others reportedly acquiesced in or were complicitous in violations. Among the most serious reported abuses were government security forces' beating and torturing of detainees; vigilante torture and killing of civilians of Pamiri or Garm origin; government actions to curb political rights and a free press; and opposition intimidation and killing of civilians.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Extrajudicial Killing.*—Complete data on the number of political or extrajudicial killings are not available, but international agencies recorded at least 80 murders or disappearances in the period between March and October 1993, and the number is certainly higher. There is credible evidence that the progovernment People's Front militias, which after the civil war were to a limited extent incorporated into special battalions of the Ministries of Defense and Interior and the National Security Committee, were responsible for many deaths and disappearances.

No government or security official has been prosecuted for an extrajudicial killing.

During the civil war and until the consolidation of the Government's control over the capital, Dushanbe, in February, hundreds of fighters and civilians on both sides of the conflict disappeared or were murdered. The death toll was estimated at over 20,000. Paramilitary forces loyal to the Government were responsible for a pogrom against Pamiri and Garm-origin males in Dushanbe from December 1992 to February 1993 which resulted in the death of scores of persons.

In the south, the locus of the civil war, fully armed special battalion members, although technically subordinate to the Ministries of Interior and Defense or National Security Committee, dominated local civilian and security authorities. The Government made no real effort to disarm the former militia fighters. In at least one instance, regular army troops of the Regar battalion were involved in the murder in Kabodian of three returnees from Afghanistan. Field workers of the United Nations High Commissioner for Refugees (UNHCR) in southern Tajikistan reported 28 known cases of death or disappearance of returnees since May 1993. The rate of deaths and disappearances increased in the latter half of the year.

Opposition fighters, still active in the mountains to the northeast of Dushanbe, along the Tajik-Afghan border, and in the Gorno-Badakhshan region, conducted cross-border raids, culminating in the deaths of several score Russian and Tajik border guards. On July 13, 200 Tajik opposition and Afghan mujahedin forces brutally

murdered 26 Russian border guards and several Tajik civilians in a raid. In addition, several local officials in regions that were former strongholds of the opposition were assassinated, presumably for cooperating with the Government.

b. *Disappearance.*—The disappearance of Pamiri and Garm-origin men from Dushanbe and, in southern Tajikistan, of returnees from Afghanistan continued throughout 1993. Disappearances which occurred before March were referred by the international community to the Ministry of Interior's Committee on Disappeared Individuals. The Committee does not make public the number of missing recorded on its list.

After February, law and order were gradually established in Dushanbe; however, Pamiri and Garm-origin men continued to disappear at the rate of one or two a month from the capital. There has so far been no successful prosecution for the disappearance or death of a returnee, though several arrests were made and trials were pending at year's end.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Credible reports indicate that Ministry of Interior forces used torture, degrading treatment, and excessive force against suspected supporters of the former opposition-dominated government, despite repeated statements of senior government officials to the contrary. Eyewitnesses and victims reported credibly on beatings administered by Ministry of Interior officials on the grounds of the Ministry of Interior complex in Dushanbe, specifically in the basement of the old Ministry of Interior building. In some instances, collaboration is suspected between Ministry of Interior forces and local armed groups, whereby Ministry of Interior forces avoid direct involvement in the administration of beatings.

In southern Tajikistan, local police officials conducted nighttime raids to search for weapons and ammunition. Typically, police took people into custody and beat them until they revealed the location of a hidden weapon.

Former chairman of the Tajikistan State Committee on Television and Radio Mirbobo Mirakhimov (see Section 1.d.) accused the Government of mistreatment during his pretrial detention. The Government refused to permit Moscow-based Helsinki Watch representatives to view Mirakhimov's colleagues without their shirts on, raising suspicions that charges of physical mistreatment were well founded.

Government forces, progovernment militias, and opposition forces used rape as a weapon. During the February-March battles between government and opposition forces in the lower and upper Garm Valley, including the village of Nowabad, there was credible evidence that both sides were guilty of rape. Female refugees who returned to the southern districts of Kabodian and Shaar Tuz were particularly vulnerable. Progovernment militias kidnaped and raped scores of returnees, and returnee women remained afraid to leave their collective farms or villages.

d. *Arbitrary Arrest, Detention, or Exile.*—The Criminal Code has not been significantly amended since independence, and abuses endemic to the Soviet legal system are still evident. The system allows for lengthy pretrial detention and provides few checks on the power of prosecutors and police to arrest individuals. In addition, the Government arbitrarily arrested political opponents and frequently held prisoners in incommunicado detention. The breakdown of public order during the civil war and continued immunity of armed militia groups to prosecution further eroded the integrity of the legal system.

Legally, police may detain persons arbitrarily and without arrest warrants for a period of 72 hours, and the prosecutor's office may do so for a period of 10 days, after which the accused must be officially charged. At that point, the Criminal Code permits pretrial detention for up to 18 months. The first 3 months of detention is at the discretion of the local prosecutor, the second 3 months must be approved at the regional level, and the Prosecutor General must sanction the remaining period in detention. There is no requirement for judicial approval or for a preliminary judicial hearing on the charge or the detention. In criminal cases, detainees may be released and restricted to their place of residence pending trial.

In southern Tajikistan, international observers reported that police did not adhere to the 3-day detention rule; instead, police arbitrarily detained persons, failed to notify families, and released detainees or brought charges against them only in those cases in which international workers or influential friends of the detained intervened. In theory, detainees have the right to counsel after 24 hours of detention, with counsel to be provided free to the indigent. In practice, access to legal counsel varies widely.

Officials of the former opposition-dominated government were arrested on politically motivated charges of treason, with indictments for the theft of state property added. Tajik and Turkmenistan security forces arrested Mirbobo Mirakhimov, Chairman of the State Committee on Television and Radio, in Ashgabat on January 8, 1993, charging him with treason. Three other television officials—Akhmadsho

Kamilov, Khayradin Kasymov, and Khurshed Nazarov—were seized in Kyrgyzstan on January 17 and charged with conspiring in the violent overthrow of the 1991–92 Nabiyev government by using the mass media to promote the interests of the opposition. All four continued to be held at year's end; no trial date has been set. In June a Helsinki Watch delegation attempted unsuccessfully to visit these four. It rejected the Government's restrictions on the distance at which the prisoners could be viewed and the Government's refusal to permit a visual examination of the defendants to check for obvious injuries.

Another politically motivated arrest was that of well-known poet Bozor Sobir, charged with inciting interethnic hatred and provoking the seizure of members of Parliament in April 1992. Sobir, the author of a poem denouncing Russian imperialism, allegedly criticized the Nabiyev government at a series of April rallies. In December Sobir was convicted and given a 4-year suspended sentence.

In September the Government formally denied requests by the International Committee of the Red Cross (ICRC) for access to persons in pretrial detention, except on a case-by-case basis. The Criminal Code prohibits access to those in pretrial detention, which the exception of immediate family members, except by special permission of the presiding judge. In highly politicized cases, judges have denied regular access by family members to those in pretial detention.

The issuance of arrest warrants for moderate members of the opposition remaining in Tajikistan prompted the flight to Moscow of deputy chairman of the Rastokhez Movement Abdukikir Kholiqzoda and deputy chairman of the Democrat Party Abdunabi Sattorov. The Procurator General, following international community interventions with Head of State Rahmanov, quashed these two warrants, as well as a third issued for the arrest of former Democrat Party stalwart Saghib Nazarov. The warrants culminated in the arrest of a fourth colleague, Democrat Party executive member Oniho Bobonazarova, who was released from prison and placed under house arrest following the personal intervention of Head of State Rahmonov.

e. *Denial of Fair Public Trial.*—The court system remains unmodified from the Soviet period. There are several tiers of courts: the city, district, regional, and republic levels, with a separate but parallel military tribunal. Higher courts serve as appellate courts for lower ones. Local, regional, and republic-level judges are, for the most part, poorly trained and lack an understanding of independent judicial function. At all levels of the court system, officials are under the strong influence of local political leaderships and armed paramilitary groups.

According to the law, trials are public, except in certain cases involving national security or the protection of minors. The court appoints an attorney for those who do not have one. Defendants are permitted to choose their own attorneys but are not necessarily permitted to choose among court-appointed attorneys. Former opposition political leaders, including Mirbobo Mirakhimov (see Section 1.d.), charge they were denied access to an attorney. Officials dispute this, stating that the prisoners had rejected the court-appointed attorneys. Mirakhimov has since acquired counsel, although the courts sentenced to death opposition commander Mullah Ajik without the benefit of counsel after he refused the court-appointed female attorney.

The procurator's office remains responsible for conducting all investigations of allegations of criminal conduct. In theory, the defendant and counsel have the right to review all government evidence, to confront witnesses, and to present evidence and testimony. No groups are barred from testifying, and all testimony is given equal weight, regardless of ethnicity or gender. Ministry of Justice and procuracy officials contend that defendants benefit from the presumption of innocence despite the unmodified Soviet legal statute which presumes the guilt of someone who has been brought to trial.

In practice, the judiciary is subject to interference from armed vigilantes and members of paramilitary groups whom the Government is not able to control. Officials candidly admit that many verdicts are decided "at the point of a Kalashnikov." In southern Tajikistan, three chiefs of police were murdered, and in the relatively stable region of Tursunzade one judge was killed, presumably for their refusal to bow to the demands of armed progovernment militias. In the GBAO, armed opposition elements regularly intimidate local authorities who lack the strength to defend themselves. Throughout Tajikistan, the fact and fear of armed intimidation affects the outcome of legal proceedings.

Opposition members and international human rights monitors, including Helsinki Watch, charged the Government with abusing the judicial system. For example, while gross abuses by members of the progovernment militias have gone uninvestigated and unpunished, two opposition political party officials in the northern region of Leninabad were arrested and sentenced to 4 and 7 years, respectively, for the possession of bullets. Opposition supporters further charged that police

planted the evidence implicating the arrestees. In January 1994, an appeals court overturned the guilty verdict of one defendant.

Estimates of the number of political prisoners range from a high of 200 to a low of 15. However, many persons currently in self-imposed exile in the CIS are wanted by the Government on charges that are political in nature

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Criminal Code provides for the inviolability of the home and prohibits interference with correspondence. Police may enter and search a private home with the approval of the procurator. In some cases, police may enter and search without permission, but they must inform the procurator within 24 hours. Police are permitted to enter and search homes without permission if they have compelling reason to believe a delay in obtaining a warrant would impair national security. There is no judicial review of police searches conducted with or without a warrant.

The procurator's office ordered thousands of random nighttime raids on homes in Dushanbe, using as justification the continued instability within Tajikistan. The raids were ordered without prior evidence of wrongdoing. On many occasions, officers conducting the raids reportedly extorted money or goods from innocent people. Official sources stated that government monitoring of correspondence also increased.

At the end of the war, members of the local population with ties to the victorious special battalions, special battalion members, and ethnic Kulyabis occupied thousands of homes belonging to displaced persons and refugees. The Government is working slowly to evict occupants and return homes to their rightful owners. Nevertheless, at the district level, local warlords have thwarted procurators' efforts and have even offered armed protection to unlawful inhabitants. International workers estimate that hundreds of homes remain illegally occupied in the south and in the capital.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—During the final phase of the civil war, both the Government and opposition were responsible for extensive violations of human rights, including summary executions of captives, disregard for civilian and noncombatant status, hostage-taking, torture, rape, looting, and forced labor and conscription. The Government entered the capital in December 1992, but fighting between government and opposition forces continued until March 1993 when government forces ousted the opposition from the Garm Valley. In the battle to retake the Garm, government forces indiscriminately bombed and shelled city centers and villages, killing and injuring civilian noncombatants. For its part, the opposition brutally exploited the local civilian population. In the Garm village of Nowabad, opposition leader Redzuan and Afghan mujahedin forcibly conscripted young males and stripped food and medicines from a local mental institution, resulting in the death of 50 of its 300 patients.

The March truce with GBAO authorities, whereby government forces were to remain outside the autonomous province in exchange for provincial government assurances that opposition forces would not be permitted to cross from Afghanistan or conduct operations in the province, broke down in August. Reacting to the opposition's buildup of Tajik opposition and mercenary fighters (including volunteers from Afghanistan and other states), the opposition's blockade of humanitarian convoys from the capital to the GBAO, and the continued military raids of opposition and Afghan mujahedin in the Darwaz valley, the Government launched a 2-week offensive, with Russian assistance, against opposition forces in the Darwaz. According to credible reports, government forces, angered that opposition forces would benefit from international assistance, also turned back at least one humanitarian aid convoy.

In areas under its control, the Government moved quickly to permit international aid agencies, including the UNHCR, the ICRC, Doctors Without Borders, the Aga Khan Foundation, and the World Food Program, access to the displaced and refugee populations. Opposition forces closed the primary supply road to the GBAO for several months. Once that route had been opened, the Government resumed supply convoys into the province. Opposition forces in the province continued to fire on these relief convoys.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—In theory, a 1991 law protects freedom of speech and press, including the right to establish independent newspapers, magazines, and radio and television centers. In practice, freedom of expression is severely restricted. Journalists, broadcasters, and individual citizens who disagree with government policies cannot speak freely or critically. Government control was exerted over the media through: the dismissal of journalists and broadcasters even tangentially associated with banned political parties; the criminal prosecution of independent journals; self-censorship by editors fearful of armed elements loyal to the Government;

government control of printing presses, the supply of newsprint, and broadcasting facilities; and government subsidies for virtually all publications.

In 1993 the number of daily and weekly publications was dramatically reduced. Most of those still being published are government publications. While deteriorating economic conditions may have played a role in the closing of publications, the fact that most publications no longer circulating favored the opposition indicates that political motives were a major factor in the closings.

Since the formation of the Rahmonov Government in December 1992, at least 30 journalists and broadcasters have fled Tajikistan due to well-grounded fears of political persecution or physical threats by armed members of militia forces. Since January at least 7 journalists disappeared and are presumed dead. None of the deaths can be linked directly to government forces, but the journalists' political orientation clearly suggests the involvement of government supporters. The Ministry of Interior has not successfully investigated any of these deaths. The local procurator's office initiated formal investigations but did not bring charges in any of the cases.

The criminal investigation of the independent journals Charogi Ruz, Adolat, Najot, Oriyon, Bomdod, Bokhtar, and Oinai Sikandart followed the June decision of the Ministry of Press and Information to suspend their publishing permits. In addition, the Procurator General's office undertook a review of all newspapers and journals to assess culpability in the September 1992 overthrow of the previous government. Due to a well-founded belief that criminal charges would be brought against his paper, the certainty of his arrest, and threats against his life, Charogi Ruz editor Dodojon Atuollo decided to publish his journal from exile in Moscow. Faidmurodi Yoriyon, a journalist for the opposition-oriented publication Farhang, was arrested in January, and no information has been made available on his legal status. Journalists for publications believed to be sympathetic to the opposition who remain in Tajikistan have regularly been called in for interrogation at the procurator's office.

Generally, Soviet-era restrictions on criticism of government figures apply: central newspapers may upbraid regional officials; and the mass media may criticize those government officials whom the Head of State, the Prime Minister, or their deputies criticize. When a major daily, Evening Dushanbe, attempted to print an article detailing the Procurator General's charges of corruption against Prime Minister Abdullajanov, however, armed senior supporters of the Prime Minister destroyed the newspaper's linotype and all copies of the article. Since that incident, armed men threatened the family of editor Javohir Kobilov during nighttime visits. The Procurator General agreed to investigate the case but forbade the newspaper to use the charges.

There are no independent broadcast media in Tajikistan. The State Committee on Television and Radio oversees the Republic's television and radio channels and is subordinate to the Ministry of Press and Information. The Dushanbe city television network is subordinate to the city executive committee, and regional television services fall under the control of regional executive committees. Strict self-censorship is practiced, and no news or programs critical of the Government are broadcast.

Current political divisions and fear of retribution by the Government's armed supporters limit academic expression. The Government dismantled the Academy of Science's Institute of Oriental Studies which was suspected of fomenting Islamic "fundamentalism." However, Institute employees were not prevented from finding employment with other Academy of Science institutes and departments. In October arrest warrants reportedly were issued for four leading opposition political party figures who had retained senior positions at Tajik State University despite strong pressure from the Attorney General and the university rector to resign. Two of the professors, deputy chairman of the Rastokhez movement Abdukokir Kholiqzoda and deputy chairman of the Democrat Party Abdunabi Sattorov, fled to Moscow. A third, Oinihol Bobonazarova, was later arrested but then released and placed under house arrest instead after the personal intervention of Rahmonov.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly. However, following imposition of a city curfew in January, only the city commandant, who was originally the Minister of Interior but is now a Ministry officer within the city executive committee, has the power to grant permission for public demonstrations. Freedom of association is circumscribed by a requirement that all organizations must register with the Ministry of Justice. In practice, strict control is exercised over organizations and activities of a political nature, while free assembly and association are permitted for nonpolitical associations, including trade unions. No permits were issued for antigovernment demonstrations in Dushanbe. A spontaneous antigovernment demonstration took place in the city of Kulyab following price increases in basic commodities, and similar smaller demonstrations took place in the mountainous districts of Leninabad. There was no government response to these demonstrations.

Since the formation of the Government in December 1992, the only political organization to operate freely is the Communist Party. On June 21, the Supreme Court formally banned the political parties that supported the former regime, including the Democrat Party, the Islamic Revival Party (IRP), the Rastokhez National Movement, and the Lali Badakhshan Movement for the Autonomy of the Pamirs. Members of banned political parties are carefully watched and periodically called in for questioning.

c. *Freedom of Religion.*—Church and state are separate in Tajikistan, and the Government places no restrictions on religious worship. According to the law on freedom of faith, the Committee on Religion under the Council of Ministers registers religious communities. Among those active in Tajikistan are the Islamic, Russian Orthodox, Jewish, German Roman Catholic, Seventh-Day Adventist, Baptist, and Baha'i. Islam is freely practiced by more than 90 percent of Tajikistan's residents. All religious communities are permitted to provide religious education, publish religious materials of a nonpolitical nature, and maintain international contacts and travel. Conversion is permitted and missionaries are free to operate. Religious faith confers no particular advantages in civil, political, economic, or military structures. However, Muslims identified as adherents of the IRP or more broadly supportive of political Islam have been purged from government and military employment.

There are no official restrictions against any religious group. The Qaziate (the Islamic Center and seat of the chief Islamic judge—and senior cleric—in Tajikistan) was closed from October 1992 to February 1993, at which time it was elevated to the rank of Muftiate. The closure of the Qaziate was related to the involvement of its former leaders in the overthrow of the Nabiyev government and its overt support for the opposition during the civil war. Akbar Turajonzoda, the former "Qazi Kalon" (chief judge), was a leader of the opposition. His position was abolished, and he was replaced as the senior Islamic figure in Tajikistan by the new mufti.

The largest religious school (madrasah), reopened in the fall of 1993, and other such schools operate around the country. However, several schools accused of open support of the IRP in the civil war were closed. Qaziate and IRP newspapers were banned, and their editors are in exile. Mullahs openly sympathetic to the IRP either fled the country following the civil war, assumed a very low profile, or were arrested by the Government. The Government announced the trial and death sentence of mullah Ajik for his alleged torture and murder of civilians and combatants during the civil war. It permitted one mullah, who openly supported the opposition but did not serve as a commander, to return from Afghanistan with his extended family.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government has stipulated two restrictions on travel within Tajikistan. Tajiks and foreigners alike are prohibited from travel within a 25-kilometer zone along the Republic's borders with China and Afghanistan. In practice, international aid workers and diplomats have traveled freely in these regions without the Government's prior authorization.

On October 1, the Government announced that all residents of Dushanbe and any travelers planning to stay longer than 3 days in the capital would have to register with central authorities and receive a permit. The move serves to prevent the migration of refugees and internally displaced persons to the capital from their homes in areas disrupted by civil war. Opposition supporters accused the Government of attempting to discriminate selectively in the issuance of Dushanbe residence permits against suspected opponents of the Government.

With the exception of residence in Dushanbe, there are no legal restrictions on changing residence or workplace. Current regulations require registration at the local Ministry of Interior office upon arrival and departure.

Tajik nationals who wish to travel abroad must obtain an exit visa. There is no evidence these are withheld for political reasons.

Tajikistan has no law on emigration. For the time being, persons who wish to migrate within the former Soviet Union must simply alert the Ministry of Internal Affairs to their departure. Persons wishing to migrate beyond the borders of the former Soviet Union must receive the approval of the relevant country's embassy prior to the issuance of an international passport. Persons settled abroad who do not intend to return are required to inform the Tajikistan interests section of the nearest Russian embassy or consulate.

Persons who have emigrated to countries within the former Soviet Union may return freely to Tajikistan. Those who wish to return to Tajikistan after residing elsewhere must submit their request to the Tajikistan interests section. The Government adjudicates each request on a case-by-case basis. Reports indicate that persons, other than those who fled Tajikistan for political reasons at the end of the civil war, are freely permitted to return.

Some 80 percent of Tajikistan's 15,000-strong Jewish community has emigrated to Israel through a travel program coordinated between the Governments of Israel and Tajikistan. Several hundred Jews who were disappointed with living conditions and the cultural climate in Israel have returned to Tajikistan, primarily to the Leninabad region.

Tajik citizenship is not known to have been revoked for political reasons.

Approximately 90,000 Pamiri and Garm-origin nationals fled to Afghanistan during the fall and winter of 1992, fearing persecution by victorious progovernment militia forces. Repatriation of the refugees commenced in the late spring, following government amnesty decrees absolving all but the opposition's political leadership from responsibility for acts committed during the war. Approximately 40,000 refugees remain in Afghanistan. Repatriation proceeded slowly due to continued incidents of harassment, murder, and discrimination against those returning to the southern Khatlon district and to the capital. In addition, armed opposition elements in Afghanistan sought to prevent refugees from returning, even threatening death to those wishing to return.

Approximately 30,000 internally displaced Pamiris and Garmis remain in the Gorno-Badakhshan region. Many of these are fearful of retribution by vigilante groups and paramilitary forces. In the southern region of Khatlon, particularly in the districts of Kabodian and Shaar Tuz, confrontations erupted between the local population and the displaced people, resulting in widespread harassment, beatings, and tens of deaths during the March-April period.

As a result of conflict and instability, as many as 90,000 Russian-speaking citizens left Tajikistan in 1993, and tens of thousands of ethnic Tajiks moved to the northern region of Leninabad. In September the Government permitted the UNHCR to issue refugee documents for Afghan nationals residing in Tajikistan.

The Government does not force refugees to return to countries where they fear persecution. However, in March it unexpectedly forced the return of approximately 50,000 internally displaced persons from Dushanbe to their home regions in the south. Progovernment paramilitary groups, including the special battalions, and groups of local men who objected to this decision for ethnic or economic reasons resisted the Government's efforts to return these displaced persons to their home areas. In addition to harassment, beatings, and rape, several returnees were abducted and later found murdered. The paramilitary groups are believed responsible for most of the abductions.

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

Citizens do not have the right to change their government peacefully. Opposition political parties were banned, and opposition political leaders were arrested and jailed or driven into exile (see Section 1.d.). No parliamentary elections have been held since independence, and only progovernment supporters ran in the elections held in June 1993 to fill the seats of parliamentarians who had been killed or were in exile, although all but one of the seats was contested.

The Government, installed in December 1992 when the Parliament voted to eliminate the presidential system, is composed principally of Kulyab, Leninabad, and Hissar regional political interests but has representation from all regions. Abdul Malik Abdullajanov, who became Prime Minister in the Iskandarov regime in the fall of 1992, retained his position, as did several officials who served in both the Nabiyev and Iskandarov administrations. Under the Rahmonov Government, the Cabinet of Ministers and Presidium of the Supreme Soviet quickly polarized into opposing bodies representing Leninabad and Kulyab regional interests, resulting in a paralysis of the central Government. In December Prime Minister Abdullajanov was forced to resign; however, his replacement by fellow Leninabad native Deputy Prime Minister Abdujalil Samadov ensures that the rivalry between the two branches of government will continue.

The Parliament was last elected in February 1990 under Soviet election laws and prior to the emergence of opposition political parties. It reflects the Communist-era, old guard power structure to a significant degree. The Parliament met only twice after the December 1992 election of the Rahmonov Government, in June and December 1993. At the June session, senior government officials criticized the Nabiyev and Iskandarov regimes' economic reform efforts and the work of certain ministries. Former opposition leader Sohibnazarov, in turn, criticized senior government leaders and was then denounced by other deputies. Opposition deputies still resident in Tajikistan were in attendance at the Parliament session, including former acting president Iskandarov, and the Government promised to ensure their security. However, deputy S. Shoyev, a resident of Garm, was abducted along with his brother

from Dushanbe at the conclusion of the session. Their bodies have not been found, but they are presumed dead (see Section 1.b.).

In June the Supreme Court banned four opposition parties and movements (see Section 2.b.) on the grounds that they had formed armed units and conspired to overthrow the Nabiyev government. The political parties were not represented by lawyers, and only one opposition political member was permitted to testify. The banning of the parties appears to have been motivated by a desire to supress and harass political dissent.

There are no legal barriers to female participation in the electoral process, although the elimination of Soviet-era quotas has resulted in proportionate declines in women's representation.

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

Fear of armed, vigilante elements suppressed nascent human rights organizations. Local citizens who served as de facto human rights monitors in the past, including the former director of the Women and Children's Hospital Sofia Hakimova, received anonymous threats. The only local organizations that are able to monitor human rights in Tajikistan are ethnic-based groups which focus on freedom of emigration of minority populations. These organizations enjoyed good working relations with the Rahmonov and previous governments.

The Rahmonov Government discussed human rights and humanitarian issues with representatives of international organizations, including the United Nations Mission of Observers to Tajikistan (UNMOT), the ICRC, and the UNHCR, all of which have offices in Dushanbe. In addition, the Government held discussions with Helsinki Watch and the Conference on Security and Cooperation in Europe. In May senior government officials participated in an UNMOT-sponsored human rights seminar which attracted more than 100 participants.

In June a full-page attack on Amnesty International (AI) by the Ministry of Interior was published in the Tajik and Russian-language dailies. The Government was harshly critical of AI's report on Tajikistan, charging that the organization was guilty of biased reporting for not indicting the record of the opposition government in 1992. The Ministry of Interior accused AI of conspiring with opposition forces to overthrow the Nabiyev government and of collaborating with opposition figures in exile.

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

Women.—One legacy of the Soviet era is the widespread participation of women in the work force and in institutes of higher education. There is no formal discrimination against women in employment, education, or housing and in urban areas women can be found throughout government, academic institutes, and enterprises. In rural areas, women marry young, rarely receive university education, and are less likely—due to the large family size—to work outside the home. Conservative Muslim traditions and ignorance in some villages result in an unknown number of cases of wife beating going uninvestigated; however, women's groups maintain that police officials and government organs responsibly prosecute those complaints that are filed. No official information is available on the prevalence of spousal abuse, or prosecution of offenders, nor do nongovernmental organizations exist which monitor this problem.

Children.—The Government has an extensive, if crumbling, security net for children. Women are provided with 3 years' maternity leave and monthly subsidies for each child. Health care is free. In the aftermath of the civil war, children returning from Afghanistan suffered from malnutrition and experienced high mortality rates in settlement camps. The Government has facilitated the work of international relief organizations in areas affected by the civil war, and public health officials reaffirm that maternal and children's health remains a top government priority. According to official figures, approximately 28 percent of the budget is devoted to social welfare expenditures.

National/Racial/Ethnic Minorities.—In southern Tajikistan, Kulyabi-origin Tajiks dominate local administrative and security offices, having displaced local Tajiks and ethnic Uzbeks. Pervasive discrimination against refugees returning from Afghanistan is perpetrated by some local officials, collective farm directors, and the local warlords technically subordinate to the Ministries of Defense and Interior and the Committee on National Security. The overwhelming majority have not been given their jobs back, despite assurances from the Government of both employment and back pay. Local government officials in the south have informed international aid representatives that political tensions preclude the return of the refugees to

white-collar or factory jobs. In practice, most refugees remain without a source of income and subsist on international aid deliveries.

The Government's intervention has been insufficient and inadequate to the task of reintegrating the returning refugees. Government pledges to provide reconstruction supplies and ensure physical security have not been fulfilled. Returnees seeking to use the legal system to evict squatters from their homes are shunted from office to office and lack the material and financial resources to overcome bureaucratic inertia. Local prosecutors willing to investigate militia members suspected of the harassment or murder of refugees are not provided with qualified staff, resources, or political support. The murders of seven returnees in the Kabodian and Shaar Tuz districts during the June-August period were investigated only after international attention was brought to bear, and even so no suspects have been arrested.

The language law promoting Tajik, the civil war, and the unresolved border conflict with Afghanistan resulted in the continued outflow of the Russian-speaking population which now numbers approximately 250,000, down from 600,000 at the beginning of 1992. In contrast to the attitude of the prior opposition regime, however, government officials have encouraged the Russian-speaking community to remain. The school system has retained its trilingual (Tajik, Russian, Uzbek) structure.

The Rahmonov Government, like governments which preceded it, has discriminated against Afghan nationals by not affording even minimal police protection to Afghans who are the victims of criminal elements. In August the security guard at the Afghan Consulate was murdered while on duty. Despite frequent official protests, security organs did not seriously investigate crimes against the Afghan community. In one case, police ruled as suicide the case of an Afghan found hanging in his apartment, despite the fact his arms were bound together.

People with Disabilities.—The Law on Social Protection of Invalids adopted on January 1, 1992, stipulates the rights of the disabled to employment and adequate medical care. However, employers are not required to provide physical access to the disabled. High unemployment and the absence of even basic technology to assist the disabled results, in practice, in widespread discrimination.

Section 6. Worker Rights

a. *The Right of Association.*—According to the Law on Social Organization and the Law on Trade Union Rights and Guarantees, all citizens are guaranteed the right of association. Included in this guarantee is the right to form and join associations without prior authorization, to organize territorially, to form and join federations and affiliate with international organizations freely, and to participate in international travel.

Although there in no longer any requirement for a single labor union structure, the Communist-era Confederation of Trade Unions remains the dominant labor organization. It has, however, shed its subordination to the Communist Party. Virtually all nonagricultural workers are members. The Confederation consists of 20 professional trade unions and claims 1,689,000 members. The separate Labor Union of Private Enterprise Workers has registered 3,000 small and medium enterprises, totaling 40,000 members, some of whom have dual membership in the Confederation. Both labor unions are formally consulted by the Cabinet of Ministers during the drafting of social welfare and worker rights legislation.

The law on tariff agreements and social partnerships mandates that arbitration take place before a strike can legally be called. Depending on the scale of the labor disagreement, arbitration can take place at the company, sector, or governmental level. In the event that arbitration fails, unions have the right to strike. Both labor unions publicly disavowed the utility of strikes in a period of deepening economic crisis and high unemployment and espoused compromise between management and workers. According to the Confederation, there were no strikes in 1993.

b. *The Right to Organize and Bargain Collectively.*—The right to organize and bargain collectively is codified in the Law on Trade Union Rights and Guarantees, the Law on Social Partnerships and Collective Contracts, and the Law on Labor Protection. Participating in collective bargaining at the company level are employees, members of the trade union, and management. Negotiations involving an industry sector include officials from the relevant ministry and members of the trade union's steering committee for that particular sector.

Antiunion discrimination or the use of sanctions to dissuade union membership is prohibited. Any complaints of discrimination against a labor union or labor union activist are immediately raised to the level of the Supreme Court and investigated by the Ministry of Justice. Any employer found guilty of firing an employee based on his union activity is compelled to reinstate the employee.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—There is no explicit injunction in the Law on Labor Protection or the Law on Employment prohibiting forced or compulsory labor. However, these laws provide that a person has the right to find work of his own choosing. Labor inspectors within the local trade union structure enforce this principle. The Soviet practice of compelling students to harvest cotton was outlawed in 1989; in January-March 1993, however, students and other state workers were used to pick cotton not harvested during the civil war. The UNHCR received credible reports that local officials and collective farm directors were responsible for instituting forced labor of returnees and other presumed supporters of the former government in the district of Bokhtar.

d. *Minimum Age for Employment of Children.*—According to labor laws, the minimum age for the employment of children is 16. With the concurrence of the local trade union, employment may begin at the age of 15. While official data are lacking, children from the age of 7 routinely perform agricultural work, which is classified as "family assistance." Trade unions report any violation in the hiring of minors for work in enterprises.

e. *Acceptable Conditions of Work.*—In consultation with trade union representatives, the Government raised the minimum wage three times in 1993. The minimum wage, however, does not provide a decent standard of living for a worker and family. By December 1993, the minimum wage was valued at only $1.25 (8,000 rubles) per month at the official exchange rate; on the black market, the dollar value would be about $0.82.

The legal workweek is 40 hours. The Government's established occupational health and safety standards fall below international standards and are not actively enforced. Work standards are enforced by the state technical supervision committee under the Cabinet of Ministers. According to official data, more than a fifth of industrial workers worked in substandard conditions.

TURKEY

Turkey is a constitutional republic with a multiparty parliament (the Turkish Grand National Assembly) which elects the President. Suleyman Demirel was elected President in May 1993. The Head of Government is the Prime Minister. Tansu Ciller, chairperson of the center-right True Path Party (DYP), became Turkey's first female Prime Minister in July.

A state of emergency declared in 1987 continued in 10 southeastern provinces where the Government continued to face terrorist violence from the separatist insurgency of the Kurdistan Workers Party (PKK) (see Section 1.g.). A regional governor retains authority over those 10 provinces, as well as 3 adjacent ones. The state of emergency allows the civilian governor to exercise certain quasi-martial law powers, including restrictions on the press and removal from the area of persons whose activities are deemed hostile to public order. The state of emergency decree with its stringent security measures was most recently renewed in November.

The Turkish National Police are responsible for maintaining public order in the cities, a responsibility which the Jandarma (gendarmerie) carries out in the countryside. Acknowledging persistent international, and growing domestic, concern about the actions of these security organs, the Ciller Government renewed the previous government's promise to establish a state of law based on respect for human rights and put an end to the use of torture by security forces. Despite these pledges, incidents of torture and excessive use of force by security personnel persisted throughout 1993.

The economy grew 7 to 8 percent in 1993. State enterprises account for nearly 40 percent of Turkey's manufacturing sector, but the Ciller administration has undertaken a privatization drive aimed at strengthening Turkey's market orientation. The economy continues to suffer from chronic inflation—approximately 71 percent in 1993. High inflation and rapidly growing private consumption, as well as the growing costs of the war in the southeast, threaten Turkey's recent economic gains.

Turkey's primary human rights problems in 1993 continued to be the torture of persons in police or security forces custody during periods of incommunicado detention and interrogation; use of excessive force against noncombatants by security forces; restrictions on freedom of expression and association; disappearances and "mystery killings" that appear to be politically motivated; and terrorist acts by armed separatists, Islamic extremists, and unknown persons. Renewed PKK violence in May ended a 2-month cease-fire declared by the PKK but never acknowledged by the Government. Violence in southeast Turkey has since reached unprece-

dented levels. Actions by both Turkish authorities and the PKK contributed to the overall deterioration of the human rights situation.

The 1991 Anti-Terror Law, with its broad and ambiguous definition of terrorism, was used to detain alleged terrorists and a broad range of people on the charge that their acts or ideas promote separatism and "threaten the indivisible unity of the State." In late 1993, the Government sought to expand the definition of terrorism under the law and to increase the permissible length of pretrial detention; at year's end the law remained in committee.

The Criminal Trials Procedure Law (CMUK), passed in November 1992, reaffirmed a common criminal suspect's right to immediate access to legal counsel and shortened permissible prearraignment detention to between 1 and 4 days, with the possibility of judicial extension to 8 days. Its provisions, however, do not apply to those detained under the Anti-Terror Law, nor to those detained within the region under a state of emergency whose cases fall under the jurisdiction of state security courts. The law is widely believed to have been effective in improving attorney access for common criminals.

The Constitutional Court in August closed down the People's Labor Party (HEP), a pro-Kurdish political party, on grounds that it advocated separatism, and at year's end was investigating the successor Democracy Party (DEP) on the same charges. In July Parliament annulled the article of the Constitution under which the Government had a monopoly on radio and television broadcasting, opening up the way for private radio and television stations to operate legally, though regulating legislation has not been passed. In September the Ciller Government established by decree a human rights undersecretariat and a High Council for Human Rights, but the Constitutional Court declared unconstitutional the law granting the Government decree powers. Several weeks later, upon the application of the opposition political parties, the Court annulled the human rights decree, along with several others. The Government promised to introduce a bill into Parliament to establish the High Council but had not done so at year's end.

In December 1992, the European Committee for the Prevention of Torture publicly condemned Turkey for the widespread practice of torture and severe ill-treatment of persons in police custody. In November 1993, the United Nations Committee on Torture called on Turkey to end what it termed as the systematic torture of detainees.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Political murders and extrajudicial killings in 1993, attributed to both government authorities and terrorist groups, continued to occur at the relatively high 1992 rates. Deaths attributed to government authorities included those in official custody, those that occurred when security forces opened fire on demonstrators, those of suspects in houses raided by security forces, and other types of civilian deaths in the southeast. The Human Rights Foundation of Turkey (HRF) claimed that government security forces were responsible for 91 extrajudicial killings in the first 9 months of 1993. A substantial number of "mystery killings," in which the assailant's identity was unknown, occurred as well. Human rights groups, journalists, and other independent observers continued to allege the complicity of security forces in a number of these killings.

Both local and international human rights organizations reported that 20 persons died in suspicious circumstances while in official custody, some allegedly as a result of torture. Of these, officials claimed that at least three committed suicide. Kutbettin Tekin who was detained by the Jandarma on April 20 in the southeastern province of Diyarbakir, reportedly upon his refusal to become a state-paid village guard (see Section 1.g.), died while in custody. The Government maintains Tekin was arrested for PKK membership. Jandarma officials claimed he committed suicide, but his relatives and the HRF maintain Tekin died during torture. According to the Government, the public prosecutor initiated an inquiry into Tekin's death. Police detained Vakkas Dost in Istanbul for unruly behavior, interrogated him at a nearby police station, and later told his relatives that he had died suddenly. Dost's family alleged that the police had tortured him to death and requested a formal investigation. Nurettin Ozturk, a policeman, was taken into custody and charged with torture in connection with the incident. After the court released Ozturk on his own recognizance, he disappeared and an arrest order was issued. The trial continued as of the end of the year. The Izmir state security court prosecutor opened an investigation into claims that Baki Erdogan, who died on September 22 in the custody of the Aydin Security Directorate, had been tortured to death. By law, authorities are obliged to investigate all death cases, but prosecutions of security force members

for deaths in custody rarely occur. The case of Yucel Ozen, reported in 1992, is still continuing. In the Basalak case, also reported in 1992, a case is under way against 11 police officers.

Human rights groups and parliamentarians continued to accuse Turkish security forces of carrying out extrajudicial killings during raids on alleged terrorist safe houses rather than trying to arrest the occupants. During the first 9 months of the year, more than 40 people died in house raids, according to human rights groups. They noted that, while the authorities announced that the suspects were killed in shootouts, eyewitnesses often reported that no shots were fired by the suspects. Significantly, security forces are rarely killed or injured in the raids. Local human rights groups cited, for example a March 24 raid on an alleged Dev Sol (Devrimci Sol or the Revolutionary Left, a Marxist-Leninist terrorist group) safe house in Istanbul, in which police killed three suspects, and an April 23 shoot-out with alleged Dev Sol terrorists in Tunceli province, where security forces killed 12; A deputy of the Socialist Democratic Populist Party (SHP) claimed 6 of the dead were killed after they had surrendered.

Security forces also continued to be charged with using deadly force against unarmed civilians participating in peaceful demonstrations. In two separate incidents (in Kars and Mus provinces, respectively) during the weekend of August 14–15, Turkish security forces took allegedly defensive actions that resulted in the deaths of at least 18 civilians and demonstrators, with no security force casualties.

During the year, a trend was reported in the southeast in which Turkish forces, after being attacked by the PKK, retaliated against the closest village or town, terrorizing or even killing civilians and destroying property and livestock.

On October 23, after the PKK apparently killed a Jandarma brigadier general in Lice, the provincial governor sealed off the town and surrounding area, and the Jandarma reportedly retaliated against the village, killing civilians and carrying out wholesale property destruction. Human rights organizations estimate that 30 civilians were killed; the official government figure is 13. Human rights monitors, journalists, and the chairman of the Republican People's Party (CHP) were denied access to Lice in the days that followed, and telephone communications with the town were cut on October 23. On October 25, the Diyarbakir HRA reported that 28 wounded persons had been evacuated. Much temporary housing, put in place after an earthquake and not yet replaced with permanent housing, was destroyed.

Another credible allegation of extrajudicial killing concerns six villagers from Ozbasoglu reportedly shot by security forces on July 2. Five died, but the sixth survived and gave his account of the incident to a Member of Parliament (M.P.) who submitted a complaint to the Human Rights Commission of the Turkish Grand National Assembly. As of the end of the year, there has been no response.

The number of "mystery killings" increased during 1993, with more than 291 civilians assassinated during the first 9 months of the year. The Turkish Human Rights Association (HRA) claimed that 524 people were killed in 1993 by unidentified attackers mostly in the east and southeast of the country. The majority were leaders or prominent members of the Kurdish community, including journalists, physicians, human rights activists, local politicians, members of the People's Labor Party (HEP) and its successor, the Democracy Party (DEP), and others viewed as sympathetic to Kurdish causes. Some human rights organizations, religious leaders, Kurdish leaders, and local Kurds asserted that the Government acquiesces in, or even carries out, the murders of civilians. They cited frequent failures of officials to investigate these murders, the fact that some victims' bodies were discovered in "security zones" to which only Jandarma or security officials are permitted access, and the fact that some victims had previously been detained, abused, or threatened by security forces. Human rights groups reported the widespread belief that at least some "mystery killings" are carried out by a counterguerrilla group associated with the security forces.

On September 4, unknown persons fatally shot Mehmet Sincar, a DEP M.P. from Mardin, and Metin Ozdemir, the local DEP chairman, in the city center of Batman, wounded four others, including DEP M.P. Nizamettin Toguc, and escaped. Other DEP M.P.'s who were in Batman at the time of the killing reported that they were given police security the day before the killing, but the police security presence disappeared on the morning of the murder. The Government pledged to bring Sincar's assassin to justice and immediately arrested a score of suspects, most of whom were eventually released. A case was opened against seven suspects alleged to have assisted in the assassination, but at the end of the year no one had been charged with the murder itself. In the past 2 years, at least 54 members of the DEP and its predecessor, the HEP, have been assassinated. Amnesty International (AI) states that it has received persistent and credible reports of members of security forces threatening to kill Kurdish activists.

Other mystery killings included Elazig HRA chairman and attorney Metin Can and Dr. Hasan Kaya, whose bodies were found in eastern Tunceli province on February 27 with their hands tied behind their backs and each with a bullet hole in his head. Family and HEP members accused government officials of failing to search for the victims once their disappearance had been reported. Kemel Kilic, the Urfa representative for the pro-Kurdish daily Ozgur Gundem (Free Agenda) and a founding member of the Urfa branch of the HRA was shot dead on his way home from work. On the day of his death, Kilic had organized a press conference in which he denounced the attempts to stop distribution of Ozgur Gundem and the "police's silence." The body of Ferhat Tepe, 19-year-old Bitlis correspondent for Ozgur Gundem, was identified on August 9 in the Elazig state hospital morgue. Reportedly, an anonymous caller told his family after his disappearance on July 28 that the so-called Ottoman Turkish Revenge Brigade had kidnaped him. Ozgur Gundem and the leftist daily Aydinlik produced witnesses who claimed Tepe had been tortured to death in the Diyarbakir provincial Jandarma interrogation center. The Government expressed its condolences on Tepe's death but took no action; it considers Tepe's death a mystery murder.

In all, five journalists were assassinated in 1993. On January 24 prominent journalist and secularist Ugur Mumcu was killed by a bomb that had been placed under his car. Three different Islamic groups claimed responsibility for his killing. By year's end, none of these murders had been solved.

On September 21 Ali Sahap Samk, a teacher in Diyarbakir and member of the leftist teachers' union, Egit Sen, was shot and killed by unidentified persons outside his home. The Diyarbakir leader of the labor union blamed security forces for the murder.

In most cases, the Government failed to initiate any public inquiry or to press charges in connection with these murders. In September the regional governor for the southeast asserted that 200 mystery murders which occurred in the region between July 1991 and July 1992 had been solved. To date none of the cases has been prosecuted, and no evidence has been proferred to back up his claim. In May the press reported that the then Interior minister downplayed the 1992 murders of 15 journalists by claiming that only 4 of the 15 murdered journalists were "real" journalists, and the others were killed as a result of clashes between rival factions in the southeast.

A delegation of the International Federation of Journalists visited Turkey in March to investigate the increasing number of unsolved murder cases in the southeast; the head of the delegation said PEN believes that Turkey, where 15 journalists had been murdered over the last 15 months, posed a major danger to reporters.

A parliamentary committee investigated the mystery murders in 1993 but had issued no report by year's end. In early March, an SHP delegation submitted its report to the Ministry of Justice and suggested assigning a team of public prosecutors to Silvan, Batman, Nusaybin, Kiziltepe, and Midyat to investigate the mysterious murders. The report said local people had lost their confidence in the current prosecutors and other officials who have been unable to solve the murders so far. As of the end of 1993, the Justice Ministry had issued no public response.

Political murders carried out by terrorists occurred predominantly in southeast Anatolia. Victims of killings almost certainly perpetrated by the PKK included state officials (Jandarma, local mayors, and schoolteachers), paramilitary village guards (and family members), and persons suspected of supporting rightwing terrorist groups. According to Milliyet, a mainstream newspaper, in the period between June 1992 and June 1993, unidentified assailants murdered 20 teachers in the southeastern province of Diyarbakir alone. In early January, a group of alleged PKK militants stabbed to death Halis Sisman, an elementary schoolteacher in Yassica village, Bitlis. On September 21, unidentified persons shot and killed primary schoolteacher Ahmet Arcagok in Diyarbakir. Other victims were found with Turkish lira notes stuffed in their mouths, a signal that the person killed was thought to be a government collaborator.

On May 24 the PKK attacked a number of buses killing 33 unarmed recruits in civilian clothing, thus ending the PKK's unilateral spring cease-fire. In that action, as many as 150 PKK members blocked the Bingol-Elazig highway, stopped buses, pulled the recruits from the buses, and executed them. The PKK also targeted state-paid village guards. On August 4, for example, the PKK raided a radio relay station near Yuksekova in Hakkari province, killing eight soldiers and two village guards.

Religious officials also were political murder victims. PKK militants on May 4 reportedly kidnaped Abdulselam Eran, imam of Baloglu village, Kulp, from his home in Comlekci hamlet, and his body was found near the village a week later. There were incidents of religious violence; the worst occurred in Sivas on July 2 when a crowd of Islamic fundamentalists set fire to a hotel, killing 37 people. The purported

target of their ire was well-known author and humorist Aziz Nesin, the translator of Salman Rushdie's "The Satanic Verses." Nesin escaped, but 37 people perished, and approximately 100 were injured. The crowd also toppled statues of Ataturk and martyred Alawi poet Abdal Pir Sultan. Many criticized the city government and police for failing to take adequate security measures in a timely manner, despite prior evidence of the potential for such violence.

Dev Sol, a violent Marxist-Leninist group, though substantially weakened by police actions against it in 1991 and 1992, resurfaced in August and September, claiming responsibility for several shootings, including the August 25 assassination of Recep Silo, an analyst with the Turkish National Intelligence Organization, as he watched a soccer game at his neighborhood field.

b. *Disappearance.*—Disappearances continued to occur in 1993, while, with one exception, those reported in 1992 and earlier remained unsolved. Some disappeared after witnesses reported they had been taken into custody by security forces. In some of these cases, the person's body was later discovered, as happened in the disappearance of Ferhat Tepe (see Section 1.a.). Ayse Malkac, a correspondent working in Ozgur Gundem's Istanbul bureau, disappeared midmorning on August 7 after leaving her office and has not been seen since. Eyewitnesses claimed to have seen her being detained in the street by plainclothes police officers, but local authorities denied taking Malkac into custody. Human rights groups, journalists, and others alleged the complicity of security forces in this and other disappearances.

PKK terrorists continued their frequent abductions of local villagers, teachers, religious figures, and officials in the southeast, many of whose bodies were later discovered. The PKK expanded its kidnaping activities to include foreign tourists. Several Western tourists were kidnaped during the summer but eventually released unharmed, after periods of captivity ranging from 2 to 5 weeks.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Despite the Constitution's ban on torture, Turkey's accession to the U.N. and European Conventions Against Torture, and the public pledges of successive governments to do away with torture, the practice continued. Human rights attorneys and physicians who treat victims of torture state that most persons charged with, or merely suspected of, political crimes suffer torture, usually during periods of incommunicado detention in police stations and Jandarma headquarters before they are brought before a court.

Anecdotal evidence suggested that the implementation of the CMUK facilitated more immediate attorney access to those arrested for common crimes. However, human rights groups have not yet ascertained a related decrease in allegations of torture. The U.S.-based Helsinki Watch advised that its reports indicated that torture continued to be used in police interrogation centers against about half of ordinary criminal suspects. CMUK does not apply to those detained under the Anti-Terror Law. The HRF reported that there was no indication either of the amelioration of treatment of those charged under the Anti-Terror Law or of an overall decrease in the incidence of torture in 1993.

Human rights observers report that the system whereby the arresting police officer is also responsible for interrogating the suspect is conducive to torture because the officer seeks to obtain a confession that would justify the arrest. According to those familiar with Turkish police operations, in petty criminal cases, the arresting officer is responsible for following up on the case, whereas in major cases such as murder and political or terrorism-related crimes, "desks" responsible for the area in question are responsible for the interrogation.

Credible reports from former detainees and professionals who rehabilitate victims state that commonly employed methods of torture include: high-pressure cold water hoses, electric shocks, beating of the genitalia, hanging by the arms, blindfolding, sleep deprivation, deprivation of clothing, systematic beatings, and vaginal and anal rape with truncheons and, in some instances, gun barrels. HRA offices have also reported the use by police of tiny cells in which detainees are incarcerated for periods up to 10 hours to coerce confessions. Within the last 2 months of 1993, the HRF received three reports from former detainees who say they have been taken to a deserted construction site and tortured there.

Nilufer Koc, an interpreter who has lived in Germany for the past 20 years, was detained in Sirnak province while accompanying a German delegation in Turkey. She claimed that her torture included being hung by handcuffs from a hook for 2 hours, repeatedly hosed with cold water while naked, beaten, grabbed by the hair and having her head hit against the wall, and a weapon held against her forehead and told to make a last wish. Security forces believed her to be involved in PKK activities and wanted information about the activities of the PKK in Germany. After her release, Koc returned to Germany. The Turkish Government denied there was a problem.

Although the Government asserted that medical examinations occur once during detention and a second time before either arraignment or release, former detainees asserted that some medical examinations took place too long after the event to allow any definitive findings, some examinations were cursory, and some were done in the presence of police officials. Human rights groups reported that some doctors were occasionally under pressure to submit false or misleading medical certificates, denying evidence of torture. According to the HRF, practice varies widely; in some cases proper examinations are conducted, and in others doctors sign off on papers handed to them.

Authorities do not consistently investigate allegations of such abuses, and perpetrators are rarely sanctioned. Credible sources in the human rights and legal communities estimate that judicial authorities investigate only about one-half of the formal complaints involving torture and prosecute only a small fraction of those. Lawyers report harassment and threats for taking on torture cases, for example, anonymous telephone calls threatening they will suffer the same fate as Metin Can (see Section 1.a.).

In one case, however, five policemen charged in a 1986 torture case which occurred in the Sebin Karahisar township of Giresun on the Black Sea coast were sentenced by the Giresun criminal court to terms ranging from 10 months to 6 years and 8 months. Two officers were acquitted. The Court of Appeals upheld the sentences leaving the convicted policemen no further legal recourse.

More typically, if law enforcement officers are convicted of torture, the sentences tend to be light, as was the case with three policemen convicted in March by the Ankara criminal court. Each received a 3-month prison sentence and was suspended from duty for 3 months. In many instances, cases drag on for years. Nazli Top, a nurse (pregnant at the time) who alleged she was tortured and raped with a truncheon during 10 days of detention in April 1992 before police released her without charge, filed criminal charges against her alleged torturers, but the case has yet to come to trial.

Under the Anti-Terror Law, officials accused of torture or other mistreatment may stay on the job while under investigation and, if convicted, may only be suspended. Special provincial administrative boards, rather than regular courts, decide whether to prosecute such cases, and suspects' legal fees are paid by their employing agencies. Under the state of emergency, any lawsuit directed at government authorities must be approved by the regional governor, which rarely happens, preventing legal pursuit of torture allegations.

As Turkey has recognized the jurisdiction of the European Court of Human Rights, Turks may file applications alleging violations of the European Convention on Human Rights with the European Human Rights Commission, and several have done so.

On December 15, 1992, the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) issued an unprecedented public statement concerning Turkey, noting that torture and other forms of severe ill-treatment of persons in police custody remained widespread, that such methods were applied to both ordinary criminal suspects and persons held under antiterrorism provisions, and that torture was a deep-rooted problem. In both the Ankara Police Headquarters and the Diyarbakir Police Headquarters, the CPT reported finding furniture and equipment consistent with detainees' reports of how they were tortured. The CPT recommended several actions it considered necessary for the Government to take to deal with the problem and emphasized that legislative measures alone would not be sufficient to eradicate the phenomenon of torture.

On November 19, 1993, the United Nations Committee on Torture called on Turkey to end what it called the systematic torture of prisoners. "The Committee remains concerned at the number and substance of the allegations of torture received, which confirm the existence and systematic character of the practice of torture." The Government contested the accuracy of the report and stated that events were taken out of context and many examples were unconfirmed.

The CMUK, which went into effect on December 1, 1992, appeared to improve attorney access to detainees, but its efficacy in decreasing incidents of torture cannot yet be ascertained. Human rights groups criticized the CMUK because its allowable, maximum, prearraignment detention periods still exceed Council of Europe maximums, it codified two different classes of suspects with different rights, and the arresting officer had the power to determine whether or not the CMUK applied.

Besides CMUK, the Government did not appear to implement any other major initiatives that could contribute to a reduction of abuse. In November the Government introduced amendments to the Anti-Terror Law that would, among other things, broaden the definition of terrorism and increase the permissible length of incommu-

nicado prearraignment detention. As of the end of the year, the bill was still pending in the Parliament's joint Justice-Interior committee.

As of September, 158 applications claiming torture, maltreatment, or arbitrary detention had been filed with the parliamentary Human Rights Commission (since its September 1991 inception), and the Commission had written to the public prosecutors in the provinces on each case, as well to the governor's office or that of the security directorate general for that province. It is unclear to what extent the Commission has followed up on these cases. The HRF's torture rehabilitation centers in Ankara, Izmir, and Istanbul reported that, within the first 6 months of 1993 they had received a total of 172 applications for treatment.

Prison conditions—and prison reform—remained an important issue in 1993. Prompted by a number of prisoner escapes, as well as hunger strikes by prisoners protesting conditions, the Government in February prepared a prison reform bill. As of the end of the year, the bill remained with the Justice Ministry and had not yet been formally submitted to Parliament.

Furthermore, while the incidence of torture in prisons has decreased in the last few years, there are continued reports of torture.

d. *Arbitrary Arrest, Detention, or Exile.*—In order to take a person into custody, a prosecutor must issue a detention order, except in limited circumstances, as when a person is caught in the act of committing a crime. The detention period for those charged with common, individual crimes is 24 hours. Those detained for common, collective crimes may be held for 4 days, and the detention period may be extended for an additional 4 days. Under the CMUK, suspects are entitled to immediate access to an attorney and may meet and confer with the attorney at any time. In practice, attorney access under the CMUK improved for detainees charged with common crimes.

Persons detained for individual crimes which fall under the Anti-Terror Law must be brought before a judge within 48 hours, while those charged with crimes of a collective, political, or conspiratorial nature may be detained up to 15 days in most of the country and up to 30 days in the 10 southeastern provinces under a state of emergency. There is no guaranteed attorney access under law. The decision concerning access to counsel in such cases is left to the independent prosecutor, who routinely denies access, usually with the explanation that it would prejudice an ongoing investigation. The Justice and Interior Ministries generally have not intervened in prosecutors' decisions or police actions denying access to counsel. Although the Constitution specifies the right of detainees to request speedy arraignment and trial, judges have ordered a significant number of persons detained indeterminately, sometimes for years. While many cases involved persons accused of violent crimes, it is not uncommon for those accused of nonviolent political crimes to be kept in custody until the conclusion of their trials.

By law, a detainee's next of kin must be notified "in the shortest time" after arrest. Once formally charged by the prosecutor, a detainee is arraigned by a judge and allowed to retain a lawyer. After arraignment, the judge may release the accused if he presents an appropriate guarantee, such as bail, or order him detained if the court determines that he is likely to flee the jurisdiction or destroy evidence.

The detention of large numbers of people occurred on several occasions in 1993, including the demonstrations on August 14 and 15 in Digor, Kars province, and Malazgirt, Mus province (see Section 1.a.). In most such cases, the majority of detainees are subsequently released without charges being filed.

In the southeast there were several mass roundups of ethnic Kurds in the wake of a crime. For example, after a night watchman was killed in Adana in August, within 24 hours, police arrested large numbers of ethnic Kurds (estimates range up to 500). Police charged them under the Anti-Terror Law so the CMUK did not apply, enabling police to hold them in incommunicado detention for 15 days without access to a judge or lawyer (though they were released earlier). Some detainees alleged they were tortured. All were subsequently released without being charged.

There is no external exile, and Turkey's internal exile law was repealed in 1987. In 1990, however, under decree 430, the Government granted the southeast regional governor the authority to "remove from the region," for a period not to exceed the duration of the state of emergency, citizens under his administration whose activities (whether voluntary or forced) "give an impression that they are prone to disturb general security and public order." Although there were no known instances of the use of this broad authority in 1993, human rights monitors and residents of towns in the southeast report credibly that officials continued to rely on "administrative transfers" to remove government employees thought liable to "create trouble."

e. *Denial of Fair Public Trial.*—The judicial system is composed of general law courts, state security courts, and military courts. Three martial law courts also remained, remnants of the 1980 military coup. Most cases are prosecuted in the gen-

eral law courts, which include the civil, administrative, and criminal courts. Appeals are heard either by the High Court of Appeals or the Council of State. There is a constitutional court as well. Provincial administrative boards established under the Anti-Terror Law decide whether cases in which state officials are accused of misconduct should be heard in criminal court. Military courts, with their own appeals system, hear cases regarding infractions of military law by members of the armed forces. In December the Military Court prosecutor ordered the arrest of two television journalists, who hosted a program on military deserters and draft dodgers on a private station, arrested for encouraging people to evade compulsory military service. The journalists, who stated that the views they presented were those of their guests, were being tried in military court as of the end of the year. This was the first time that civilians have been arrested on the order of a military prosecutor and tried in a military court while Turkey was under civilian rule.

Eight state security courts, composed of five members—two civilian judges, one military judge, and two prosecutors—try defendants accused of crimes such as terrorism, drug smuggling, membership in illegal organizations, and espousing or disseminating ideas prohibited by law as "damaging the indivisible unity of the State." Their verdicts may be appealed only to a specialized department of the High Court of Appeals dealing with crimes against state security.

The Constitutional Court examines the constitutionality of laws, decrees, and parliamentary procedural rules. However, it may not consider "decrees with the force of law" issued under a state of emergency, martial law, or in time of war.

The Constitution requires that judges be independent of the executive in the discharge of their duties and provides for the security of their tenure. The High Council of Judges and Prosecutors, which is appointed by the President and includes the Minister of Justice, selects judges and prosecutors for the higher courts and is responsible for oversight of those in the lower courts. The Constitution also prohibits state authorities from issuing orders or recommendations concerning the exercise of judicial power. In practice, the courts generally act independently of the executive.

Defendants normally have the right to a public trial, and, under the Constitution, can only be proven guilty by a court of law. By law, the bar association must provide free counsel to indigents who make such a request to the court. Costs are borne by the association, although the bar association complained in 1993 that the funds promised them by the State for the increased workload resulting from the CMUK's implementation had not been forthcoming. There is no jury system; all cases are decided by a judge or panel of judges.

Defense lawyers generally have access to the independent prosecutor's files after arraignment and prior to trial (a period of several weeks). In cases involving violations of the Anti-Terror Law and a few others, such as insulting the President or "defaming Turkish citizenship," defense attorneys may be denied access to files which the State claims deal with national intelligence or security matters.

In 1993 state security courts predominantly handled cases under the Anti-Terror Law. The State claims these courts were established to try efficiently those suspected of certain crimes. In fact, however, the law provides that those accused of crimes falling under the jurisdiction of these courts may be detained twice as long before arraignment as other defendants. These courts may hold closed hearings and may admit testimony obtained during police interrogation in the absence of counsel. According to government figures, 3,792 people were detained under the Anti-Terror Law, and 811 people are serving sentences for violations of its provisions.

The Constitutional Court, upon examination of the constitutionality of several provisions of the Anti-Terror Law, (1) streamlined procedures and reduced the average fines imposed on the press from billions of Turkish lira to millions (approximately T.L. 14,000 to $1); (2) returned the assets and properties of the Turkish Confederation of Revolutionary Workers Unions (DISK) on January 27, 1993; (3) struck down a provision which had permitted the monitoring of meetings between prisoners involved in acts of violence and their lawyers; and (4) annulled a provision which limited to three the number of lawyers permitted to follow a given case in the state security court. In September the court struck down the law under which the Government was entitled to issue certain decisions by decree. Shortly thereafter, upon application of opposition parties, the Court annulled several government decrees, including one promulgated several weeks earlier to set up a human rights undersecretariat. In July the court closed the HEP on the charge that it advocated separatism (see Section 2.a).

At the start of 1993, three Martial Law Courts remained of those established after the 1980 coup. They were engaged in completing old cases. On December 27, Parliament passed a bill which ended the Martial Law Courts and transferred their remaining cases to civilian courts. Figures provided by the Government indicate that 22 cases continued in the three martial law courts as of the end of September.

In law and in practice, the legal system does not discriminate against either minorities or women, with the following two caveats: (1) as legal proceedings are conducted solely in Turkish, and the quality of interpreters varies, some Kurdish-speaking defendants may be disadvantaged; and (2) although women receive equal treatment in a court of law, some rarely enforced laws remain on the books. For example, the husband determines the legal domicile of the family, and a married woman needs her husband's consent to be a legal partner in a company. Draft civil rights legislation which would have eliminated all existing legal inequalities between men and women currently on the books fell victim to interparty wrangling and failed to pass in 1993.

The authorities construe a wide range of political activity, including speeches, petitions, and demonstrations, as "separatist" in nature, which may lead a politician or a political party to be charged under the relevant provisions of the Anti-Terror Law. Former deputy speaker of Parliament Fehmi Isiklar was the target of such a suit (and in fact lost his seat in Parliament), as was the People's Labor Party (HEP), ordered closed by the Constitutional Court in July on just such charges (see Section 2.a.).

Because of daily fluctuations in the number of detainees, human rights monitors hesitate to offer figures on the number of persons in custody who might reasonably be considered political prisoners. They can only estimate that "thousands" have been detained. In a January 1993 report, the HRF quoted Ministry of Justice statistics released in 1992 as stating that the number of political detainees (those detained for political activities, demonstrations, speeches, etc.) in 1991 was approximately 8,000 persons. Many of them were charged for attempting peacefully to exercise their right of freedom of speech, association, or some other internationally recognized human right.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of a person's domicile and the privacy of correspondence and communication. Government officials may enter a private residence or intercept or monitor private correspondence only upon issuance of a judicial warrant. These provisions are generally respected in practice; however, in 1993 there were several complaints about violations of the privacy of correspondence, specifically, the delay in the arrival, or the nonarrival, of printed materials sent from abroad.

In the 10 provinces under a state of emergency, the governor (or regional governor) may empower authorities to search without a warrant residences or the premises of political parties, businesses, associations, and other organizations. It does not appear that police generally need a document to enter a house. Authorities in these provinces may also search, hold, or seize without warrant persons, letters, telegrams, and documents, a practice which the HRF states is unconstitutional. Roadblocks are commonplace in the southeast, and security officials regularly search vehicles and travelers.

There have been credible reports of forced evacuation and the burning of villages in the southeast by security forces allegedly seeking to prevent villagers from giving aid and comfort to the PKK (see Section 1.g.).

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Since 1984 the separatist Kurdistan Workers Party (PKK) has waged an increasingly violent insurgency that has claimed over 10,000 lives, as many as one-third of them during 1993. The PKK's campaign of violence in southeast Turkey is directed against both security forces and civilians who the PKK believes cooperate with the State. The actions of security forces and PKK terrorists, besides causing mutual casualties, resulted in the deaths of at least several hundred noncombatants (as of September 30). The HRF estimates that around 10 to 12 noncombatants are killed per day. (See Iraq report for information on the effects of Turkish raids on the PKK in northern Iraq)

As in past years, PKK terrorists attacked rural Jandarma posts, inflicting casualties, and conducted sporadic nighttime rocket attacks against Turkish towns, aimed ostensibly at security establishments, but in fact causing death, injury, and damage in surrounding neighborhoods. They continued to burn down schools and kill or threaten to kill teachers in many districts. A January 1993 report noted that, of a total of 17,000 teachers assigned to schools in the region, 6,000 had not reported because of their fear of terrorism and the lack of security. Regional officials conceded that some teachers had resigned rather than accept their assignments. Schools in 1,395 villages were unable to open their doors for the 1992–93 academic year, leaving some 500,000 children without primary school education. At least 600 schools—100 of which had been burned by the PKK—failed to open for the 1993–94 school year in southeastern Turkey. In November the PKK issued a threat

against teachers in the southeast. In some instances, the Government ordered that schools destroyed by the PKK not be rebuilt.

There were a series of PKK attacks on oil exploration sites and storage facilities during 1992 and continued harassment of oil company employees in 1993. Mobil Oil ceased production in the southeast after PKK killings and kidnapings of their personnel.

Government security forces on many occasions fired on the homes of villagers suspected of harboring PKK terrorists, causing an unknown number of casualties and destroying villagers' property, including livestock. Villagers and human rights groups complained that the actions of Jandarma and security team searches for PKK terrorists and evidence of local support for them resulted in expulsions, beatings, torture, and the arbitrary killing of innocent civilians. In April Sirnak HEP deputy Selim Sadak submitted an interrogatory motion to the office of the speaker of Parliament, demanding that the Interior Minister investigate allegations by the people of Ormanici, a village in Sirnak's Guclukonak township, that security forces had burned down the village, killed a 5-year-old child, and taken into custody and tortured for prolonged periods 43 villagers, one of whom, Ibrahim Ekinci, allegedly died under police torture. Villagers were reportedly kept in a construction site near Jandarma headquarters for 12 days without shoes or adequate clothing and stripped naked for interrogations in subzero temperatures while they were subjected to various forms of torture. After having been subjected to falaka (beating on the soles of their feet), they were allegedly forced to stand barefoot for days on wet concrete in subzero temperatures. Many suffered severe frostbite that subsequently became gangrenous, requiring some cases of amputation of toes or feet. Villagers claimed they were hosed with cold water, raped with truncheons and bottles, that in some cases toenails and fingernails were pulled out with pliers, and that excrement was mixed with their food. The people of Ormanici referred their case to the European Commission of Human Rights which reportedly decided the case warranted investigation. The Government view is that any abuses of the sort alleged must be seen against the background of conflict between security forces and PKK terrorists. The Eruh public prosecutor is investigating the deaths of a 7-year-old child and of Ibrahim Ekinci, as well as the death of another village child and the wounding of a third, when a munition dump exploded two days after the incident.

There were credible reports that government security forces forcibly evacuated and burned down villages allegedly to prevent their inhabitants from providing aid and comfort to PKK guerrillas. Credible reports also note that security forces, after being attacked by the PKK, at times retaliated by attacking nearby villages. In February the daily Hurriyet reported that the state of emergency coordination committee had decided on several new measures, including evacuation of small, remote settlements, which the Government claimed had been used by the PKK as shelters or bases, and resettlement of the villagers to more centralized places. Other purported reasons for the evacuations included the difficulty in protecting the villages against terrorist attacks; the inhabitants' fear of being caught in the cross-fire; and the refusal of village men to participate in the paramilitary village guard system. In February the state minister responsible for human rights categorically denied allegations that security forces were following a scorched earth policy in order to force inhabitants to leave their homes. He stated that no villages in the area had been evacuated by force and that villagers left only by "force of circumstances."

The English-language Turkish Daily News reported that, as of September 17, approximately 70 villages and hamlets had been evacuated or burned in 1993. The article stated that, although the number of torchings had declined after mid-August, complaints continued. For example, Kurdish activists claimed that, on September 12, security forces torched 12 houses and the village mosque in Diyarbakir's Eloxuso (Kurdish name) hamlet. The article also reported that President Demirel had ordered a stop to the torching of villages. The HRA estimated that about 400 villages had been abandoned in the southeast through March.

Turkish security authorities have been charged with driving 200 Syriac Christians from the village of Hassana in Mardin province in November. According to reports from villagers, the order came to evacuate the village because of a statement by a local tribal leader that it was an Armenian village, and Turkish officials often accuse Armenians of supporting the PKK. The villagers were reportedly moved to a neighboring village, to Midyat, and to the city of Mardin. In a separate incident, village guards investigating an arson attack on an electricity station in Alagoz village in Mardin province allegedly seized seven Syriac Christian shepherds. The seven were released after a night in detention. A resident who saw them after their release claimed the shepards had been tortured and one had a cross burnt into his chest with molten plastic.

The Government organizes, arms, and pays for a civil defense force in the southeast known as the village guards. Participation in the paramilitary militia by local villagers is theoretically voluntary, but villagers are in effect caught between the two sides. If the villagers agree to serve, the PKK may target them and their village. If the villagers refuse to participate, government security forces may retaliate against them and their village. On June 21, several hundred Jandarma reportedly entered the village of Ortasar, Diyarbakir province, where the villagers had refused to join the village guard militia, rounded up all the inhabitants, male and female, and began beating them with their rifle butts. Some villagers were given electric shocks and burned with cigarettes. Several were detained, two of whom returned the following day "in an unrecognizable state" due to ill-treatment. On June 25, the Jandarma returned to the village and threatened to kill any villagers who complained to newspapers or the local human rights organizations.

There were also unsubstantiated claims of government forces preventing injured villagers or PKK members from seeking medical help, as well as instances of physicians who were prosecuted for giving medical care to alleged PKK terrorists, a practice that could deter other physicians from extending such aid. For example, Dr. Ilhan Diken was tried at Diyarbakir state security court for treating a wounded PKK militant, an offense for which the court demanded a 5-year sentence. As of the end of the year, the case has not concluded.

Throughout 1993 there were reports of an undeclared food embargo on the towns of Uludere and Guclukonak in Sirnak province. Initially, HEP deputies charged that security forces had imposed the embargo to intimidate the populace. When a Motherland Party delegation visited the head of the Siirt HRA branch in February, he claimed the embargo had been imposed because state-paid village guards refused to continue to serve. As of August, the villages were reported by the mainstream press to be suffering a food embargo at the hands of the PKK, which accused their inhabitants of collaborating with the State.

In mid-March the PKK declared a unilateral cease-fire; it claimed it no longer insisted on an independent Kurdish state and wanted to pursue its objectives through the democratic channels available in Turkey. For the most part, the PKK suspended its hostile operations, although it did not withdraw its guerrillas. The Government refused to open discussions with the terrorist PKK. Not recognizing the cease-fire, the Government continued its military operations against alleged PKK targets. On May 24, the same day the Government had approved a partial amnesty, the PKK abruptly terminated its own cease-fire with an ambush on a convoy of soldiers (see Section 1.a.). Although the PKK leadership later publicly expressed regret about the incident, the ambush signaled renewed hostilities, which were accompanied by a sharp increase in reports of human rights abuses by both sides in 1993.

On June 8, the Government put into effect a limited amnesty for PKK members. Under the terms of the amnesty, "those who are not members of an armed organization, but who are in the organization for another reason, will not be prosecuted if they have not committed any crime and if they give themselves up voluntarily." "For another reason" appears to mean that persons who were kidnaped, pressured into cooperation, or otherwise involuntarily involved in the PKK's activities will not be prosecuted. The burden of proof, however, appears to lie with those who surrender to the State. According to the Ministry of Foreign Affairs, 95 persons took advantage of the limited amnesty offer.

Government state of emergency decree 430, codified in 1990 and most recently renewed in November, imposes stringent security measures in the southeast. The regional governor may censor news, ban strikes or lockouts, and impose internal exile (see Section 1.d.). The decree also provides for doubling the sentences of those convicted of cooperating with separatists. Informants and convicted persons who cooperate with the State are eligible for rewards and reduced sentences. Provisions in the decree that specifically prohibited court challenges to the regional governor's administrative decisions were amended in 1992 to permit limited judicial review.

In November the Government introduced amendments to the Anti-Terror Law that would broaden the definitions of terrorism and collaboration, place more stringent restrictions on the press, and increase the permissible length of incommunicado prearraignment detention. As of the end of the year, the bill was still pending in Parliament's joint Justice/Interior Committee.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Despite constitutional provisions for freedom of speech and press, there were significant limitations on these freedoms, which came under increasing pressure in 1993.

The Anti-Terror Law and Penal Code provisions that make it a crime to insult Kemal Ataturk, secularism, Islam, the security forces, and the President, are used

to restrict free expression. In some cases, the laws provide for increased punishment if the offense is committed in a publication. The press law permits prosecutors to halt distribution of a newspaper or magazine without a court order and requires that each publication's "responsible editors" bear legal responsibility for the publication's content.

After the leftwing daily newspaper Aydinlik announced on May 23 that it would publish excerpts from Salman Rushdie's book, "The Satanic Verses," its offices, vendors, and distributors were attacked several times in the following week. Reportedly, the newspaper asked for police protection but did not receive it. The Government confiscated all 12 issues of Aydinlik which printed the excerpts and brought the paper and its chief editor to trial under the Penal Code for insulting Islam. (See also Section 1.a.)

The unsolved murders of five journalists (see Section 1.a.) and the failure of the Government to charge a single suspect, even in a high-profile case such as that of Ugur Mumcu, led populace, officials, and international organizations alike to denounce government inaction. The International Federation of Journalists sent a delegation to Turkey to investigate the increasing number of unsolved murder cases affecting members of the press.

Several organized panel discussions were banned in 1993, including a symposium on the Kurdish issue, organized jointly by the HRA and a number of Turkish intellectuals, which was to be held in Ankara on June 25–27. President Demirel, the acting Prime Minister, and other political party leaders were to have delivered speeches on the Kurdish issue at the symposium. In a letter sent to the HRA, the Ankara deputy governor wrote that the symposium had been banned on the grounds that it could have "grave consequences in the light of the latest developments in the country." (See also Section 2.b.)

Throughout the year, state security court prosecutors ordered the confiscation of numerous issues of leftist and pro-Kurdish periodicals, including Yeni Ulke, Newroz magazine, Ozgur Gundem, and Azadi. Many editions of Kurdish-oriented periodicals were seized before they could be distributed nationally to newsstands. Court proceedings were instituted against several editors and publishers. PEN reported that as of mid-September more than 70 court cases were pending against Ozgur Gundem. Its editor in chief Davut Karadag was arrested at the behest of the Istanbul state security court on July 15 on charges of spreading subversive Kurdish propaganda in 30 news items in the daily's July 12, 13, 14, and 15 issues. Karadag was released from custody on September 17. No decision has yet been reached in that case, but in another case, Karadag was given a 5-month sentence.

The Anti-Terror Law, which provides that "written and oral propaganda . . . aiming at damaging the indivisible unity of the State of the Turkish Republic . . . (is) forbidden, regardless of the method, intention and ideas behind it," severely restricts freedom of speech. It had a chilling effect against writers, journalists, publishers, politicians, musicians, and students and has been used against them. A number of prominent, generally center-left and pro-Kurdish politicians were detained under, or otherwise affected by, the Anti-Terror Law in 1993 for speeches made both within Turkey and beyond the country's borders. The HEP and its successor, the DEP, representing Kurdish interests, are particularly targeted. For example, DEP chairman and Ozgur Gundem owner Yasar Kaya was ordered arrested in September by the Ankara state security court prosecutor for "separatist" language he had allegedly used in an August speech at a political party congress in Erbil, northern Iraq. This case was subsequently combined with another case against him for a speech he made in Bonn, Germany.

In July the Constitutional Court ruled that then SHP deputy and deputy speaker of Parliament Fehmi Isiklar be deprived of his seat in Parliament in connection with allegedly separatist speeches he had made in his role as HEP chairman in the runup to the October 1991 elections. Parliament permitted the ruling to take effect November 11. DEP parliamentarian Leyla Zana is reportedly under investigation for statements she made before the Congressional Helsinki Commission while visiting the United States in the spring. The Constitutional Court ordered the closing of the HEP on the grounds that it "defended the national existence, identity, and rights of the Kurdish people." Its members subsequently formed the DEP and were soon subjected to similar investigations. On November 8, 15 DEP executives were formally charged with spreading separatist propaganda. The Court has asked Parliament to lift the immunity of several DEP parliamentarians so they may be tried in the state security court.

Prosecutions against authors, publications, and publishers continued under the provisions of the Anti-Terror Law, under which both significant sentences and prohibitively expensive fines can be, and in practice are, imposed. For example, in January the Ankara state security court fined Fikret Ontal T.L. 1.5 billion ($107,000)

for publishing Kahraman Demirkapi's book, "Developments in the World and in our Country." The book was condemned for "spreading subversive propaganda." The prosecutor in the same court brought a case against author Edip Polat, already serving time in an Ankara prison for prior writings, for his biology book entitled "Kurds and Kurdistan in Scientific Language," which claimed that the Turkish names of 83 plants and 9 animals are actually Kurdish. The charge again was "spreading subversive propaganda." The prosecutor demanded a sentence of from 2 to 5 years and a fine of T.L. 50 million ($3,570). According to Unsal Ozturk, owner of the Yurt publishing house, the same court demanded a T.L. 26 billion ($1.8 million) fine for the printing of allegedly pro-Kurdish books by author Ismail Besikci. Ozturk was sentenced to 2 years and 4 months, but the sentence was converted to a fine of T.L. 4,390,000 ($313). In September the Istanbul state security court sentenced journalist Selami Ince to 2 years' imprisonment and fined him T.L. 100 million ($7,140) for violating the Anti-Terror Law by publishing an interview with Besikci entitled "Kurds must Establish their own National Assembly" in the leftwing monthly Demokrat in December 1992. The court also imposed a 6-month prison term on the magazine's editor in chief and fined him T.L. 50 million ($3,570); the magazine's owner was fined T.L. 100 million ($7,140) as well.

Ismail Besikci himself served 10 years in prison between 1971 and 1987 because of his publications on the Kurdish question in Turkey. On May 28, he was again brought to trial at Ankara state security court under the Anti-Terror Law for disseminating separatist propaganda in his book "The Imperialist Repartition Struggle in Kurdistan 1915–1925." In a separate case in November, the Appeals Court upheld sentences of 20 months each and fines of T.L. 42 million each for his books "CHP Program 1931 - The Kurdish Problem" and "Thoughts on the PKK." On July 15, Besikci's book about his 1991 trial, "The Way Opened by Courts," was confiscated by the Istanbul state security court on the grounds that it disseminated separatist propaganda. For the year 1993, as of June 30, some 307 magazines and newspapers and 28 books had been confiscated by court decision.

Legislative reforms in 1991 partially removed the ban on the use of the Kurdish language. Kurdish-language cassettes and publications on Kurdish subjects continued to be available, although suppression continued as well. The Diyarbakir governorship, for example, banned the production and sale of 23 Kurdish cassettes in a 271-page decree. One Kurdish-language newspaper, Welat, is publishing currently. Several others publish in a combination of Turkish and Kurdish. There is anecdotal evidence that potential consumers are afraid to purchase Kurdish-language materials for fear that possession of such items may be seen as evidence of PKK sympathies. Kurdish-language broadcasts are still illegal. The Government monitors the Kurdish broadcasts of the Voice of America but has not attempted to jam the frequencies.

Journalists sometimes face harassment and mistreatment by police and other authorities. In May, for example, the Istanbul-based Press Council lodged a protest with the Istanbul governor regarding the Istanbul police's beating of seven reporters in three separate incidents in the city. Correspondents in the southeast, especially those for the pro-Kurdish press, were harassed and alleged that they were beaten and tortured in police stations during periods of detention. Police attacked the office of Ozgur Gundem in Van, destroyed the furniture, and detained two correspondents, two workers, and one visitor. Two days earlier, security forces had detained the daily's Van representative Yusuf Cacim. The newspaper has been harassed consistently since its April 1992 inception and was forced to close from January through April 1993, reportedly because of a shortage of funds due in part to numerous court cases and fines levied against it. In November the Istanbul state security court ordered Ozgur Gundem to suspend publication for 15 days for promoting separatism and printing the views of the banned PKK, an order that was still under appeal at year's end. Both the publisher and editor in chief were fined, and the latter was sentenced to 5 months in jail. Ozgur Gundem was unable to publish for three days after police raided its Istanbul office December 10 and detained all people present. All but 18 were released within the next 72 hours. Charges against Ozgur Gundem in various cases included "separatist propaganda," "portraying Turkish citizens as Kurds," and "using the words 'Kurd' and 'Kurdistan' in a way that breaches the Constitution in which Turkey is defined as a unitary state."

On September 30, the Istanbul state security court ruled to suspend the publication of Newroz magazine for a month for publishing articles deemed to be separatist propaganda. The court sentenced editor in chief Dogan Karakuzu to 6 months in prison and a fine of T.L. 50 million (approximately $3,570). At the end of the year, the case was on appeal, and the magazine was still publishing. As of October, all but two issues of the magazine had been the subject of prosecution. Eight court cases had been concluded, and 24 cases were still being tried.

Two foreign journalists were detained, one of whom was tried and sentenced, and both were released in 1993. On January 22, the Diyarbakir state security court convicted and sentenced German journalist Stefan Waldberg to 3 years and 9 months in prison for acting as a courier for the PKK. Waldberg accused the Turkish police of mistreating him in custody. On April 28, the High Appeals Court upheld the Diyarbakir court's decision, thereby exhausting Waldberg's appeals. The case, which attracted considerable attention among international journalist groups, was raised both during German Chancellor Kohl's May visit to Turkey, and Prime Minister Ciller's September trip to Germany. At the end of 1993, at the suggestion of a joint German-Turkish juridical experts' meeting, Waldberg applied for presidential pardon, which was granted December 23. In a separate case, the police detained British journalist Andrew Norman Penny as he entered Turkey from northern Iraq on May 17 on suspicion of being a PKK courier and for allegedly possessing illegal Kurdish documents and videotapes. Once international journalist organizations certified that Penny was, indeed, a journalist, the authorities dropped charges, returned Penny's materials, and allowed him to leave Turkey.

Nezahat Ozen, an Ozgur Gundem correspondent, was arrested on July 17 for a report she had prepared on a 17-year-old girl allegedly raped by the police. Ozen, who was detained until her formal arrest on a court order on July 21, was not allowed to see her lawyer or relatives during her initial detention period. She was released from custody on September 14.

The public prosecutors' aggressive application of the law also affected the content of Turkey's press. Publications must designate a "responsible editor" who is legally accountable for a publication's contents. Many have faced repeated criminal proceedings. Ozgur Gundem editor in chief Davut Karadag, for example, was confined for over 2 months in 1993. In September the Istanbul public prosecutor, claiming press reporting on the "Iski" waterworks scandal was prejudicial to the ongoing criminal investigation, placed a gag order on continued press coverage and threatened to bring charges against those who failed to comply. At year's end an estimated 55 journalists were in custody.

Turkish press coverage of the situation in the southeast tended to be unreliable, underreporting in some instances and grossly sensationalizing in others. Government decree 430 requires self-censorship of all news reporting from or about the southeast, and, upon the request of the regional governor, gives the Interior Ministry the authority to ban distribution of any news viewed as misrepresenting events in the region. In the event such a government warning is not obeyed, the decree provides for a 10-day suspension of operations for a first offense and 30 days for subsequent offenses.

In general, the mainstream Turkish-language press demonstrated its fidelity to self-censorship strictures by limiting its independent reporting of southeast-related news. Aside from Ozgur Gundem correspondents' access to the southeast and reporting in the English-language Turkish Daily News, most papers relied on official reports. Because of the security threat, some journalists are afraid to go to the southeast, and others know their editors will sanitize their reports. During a July 11 press briefing at the headquarters of the Turkish armed forces, the media were invited to support the Government and security forces by reporting events with a "unity of voice." Human rights groups expressed fears that this may involve a disinformation campaign. For instance, after 26 Kurdish nomads, including 14 children and 8 women, had been killed on July 18, the mainstream press immediately reported that their killers were PKK guerrillas. One of the papers later reported that survivors stated that the attackers spoke poor Kurdish and only began shooting after learning that this particular settlement had not joined the village guard system. In August the Government called in representatives of the mainstream newspapers, except Ozgur Gundem, and asked them to help the Government in the fight against the PKK.

In October the PKK placed a ban on press reporting from the southeast and threatened to retaliate against those journalists who did not comply. The ban was reportedly lifted a month later.

The Criminal Code provides penalties for those who "insult the President, the Parliament, and the army," ranging from a 3-year minimum sentence for insulting the President to a 6-year maximum for insulting other branches of government. Although judges generally examine evidence rigorously and dismiss many charges brought under these laws, police still detain people and prosecutors still charge them, often resulting in long and expensive trials. For example, on March 2, an Ankara civil court rejected a T.L. 100 million ($7,140) libel suit filed by then President Turgut Ozal against Turkish Daily News editor in chief Ilnur Cevik. Ozal had claimed he was personally insulted in two of Cevik's editorials.

Until mid-1993 Turkish Radio and Television (TRT) had a legal monopoly on broadcasting. Opposition figures asserted TRT broadcasts have a progovernment bias, despite coverage of opposition leaders and their parties. A government commission generally apportions party access to television and radio during election and referendum campaigns on the basis of the proportion of parliamentary seats that each party holds. With the increasing availability of satellite dishes and cable, many Turkish viewers may now watch foreign broadcasts, including several Turkish-language private channels.

Private radio stations began operating in Turkey in 1991. On January 22, the Ministry of the Interior issued a directive banning all private television and radio stations, which resulted in the closure of a few hundred radio stations and several television stations. On February 2, the Interior Minister issued a new directive permitting broadcasting via satellite from abroad. On March 31, the Government again ordered all privately owned radio and television stations to cease broadcasting. A few hundred radio stations and about 50 local television stations closed down. On July 8, however, Parliament voted to repeal article 133 of the Constitution, thereby eliminating the State's monopoly and permitting the establishment of private radio and television stations. At the end of 1993, 44 private radio stations were operating in Ankara and approximately 50 in Istanbul. The stations currently operate in a form of legal no-man's land as, at the end of 1993, no regulating legislation had been enacted.

While the Culture Minister lifted bans against all formerly prohibited books at the end of 1991, the Education Ministry continued to make recommendations on the "utility" of books proposed for school curriculums or libraries. Books declared "without utility" are not allowed. On October 1, the film "Yol," which had been banned for years, was permitted to be shown for the first time.

Academic freedom is also severely restricted in practice by the provisions of the Anti-Terror Law. For example, professors have been sentenced for books they have written. The Constitution and the law governing political parties proscribe student and faculty involvement in political activities.

b. *Freedom of Peaceful Assembly and Association.*—Peaceful assemblies are permitted upon prior notification to government authorities, who may restrict them to designated sites. Authorities may deny permission if they believe the gathering is likely to disrupt public order. For example, in the aftermath of the July 2 events in Sivas (see Section 2.c.), local authorities across Turkey prevented a number of demonstrations, including the laying of a black wreath in Antakya and a demonstration in Izmir province. In September the Ankara governorship refused to permit the DEP to conduct the funeral of assassinated DEP Deputy Mehmet Sincar as planned. Through stepped-up security measures, officials stopped groups of would-be mourners from entering Ankara, and security officials in Istanbul prevented some DEP supporters from even departing that city for Ankara. A serious instance of police overreaction also occurred in connection with Sincar's death when, in a clash in front of DEP's Ankara headquarters, police severely beat several demonstrators who had come to pay their last respects to Sincar, a scene aired across the country via private television.

Associations and labor unions are prohibited by law from having ties to political parties or engaging in political activities. Police raided a number of associations and organizations in 1993 and harassed some of their members. For example, police closed temporarily in May, and indefinitely in July, the Mersin office of the HRA on the grounds that it had sponsored an event at which allegedly separatist songs were sung. Earlier in January, the Adana HRA branch was allowed to reopen after a 2-month closure, although its president believes it is still under surveillance (see Section 4). In July the Istanbul governor's office closed the Istanbul-based Marmara Freedoms and Rights Association on the grounds that the organization "engaged in activity outside the scope of activities it was entitled to by law."

A gay and lesbian pride conference scheduled for July 2–6 in Istanbul was banned at the last minute by the governor of Istanbul on July 2, apparently on the grounds that it would be contrary to Turkey's "tradition and moral values" and that it might disturb the peace. He allegedly sent men to many hotels in Istanbul, instructing them not to provide lodgings for participants. The next day, Turkish authorities arrested 28 foreign delegates, most of them while they were on their way to participate in a press conference in protest of the ban. They were detained for over 5 hours, threatened with possible strip searches and human immunodeficiency virus (HIV) tests, and deported on a Turkish airline to Germany. The organizers had previously received approval of the event from the Interior Ministry.

Associations must submit their charters for government approval, a lengthy and cumbersome process.

c. *Freedom of Religion.*—The Constitution establishes Turkey as a secular state and provides for freedom of belief, freedom of worship, and private dissemination of one's religious ideas. Turkey's population is 99 percent Muslim. Under Turkish law, religious services may take place only in designated places of worship. In Adana, Turkey's fourth largest city, the only approved sites are mosques, one Jewish synagogue, and one Roman Catholic church. A Protestant expatriate group petitioned to have a house of worship designated for its use. The petition has been under consideration in Ankara since at least 1992.

Although Turkey is a secular state, religious instruction in state schools is compulsory for Muslims. Upon written verification of their non-Muslim background, non-Muslims are exempted by law from Muslim religious instruction, although students who wish to attend may do so with parental consent.

The Alawi Muslim minority (an offshoot of Shi'ite Islam) has expressed interest in Alawi religious instruction in schools. Some Alawis allege informal discrimination, in the form of failure to include any Alawi doctrines or beliefs in religious instruction classes and limits on university entrance and professional advancement.

Although the majority of Turkey's Alawi population—estimated to be at least 12 million—is Kurdish, there are no government-paid Alawi religious leaders in the southeast. No Religious Affairs Directorate funds go to the Alawi community. In Tunceli province, which is almost 100-percent Alawi and Kurdish, the Government built a cavernous mosque in the center of the city of Tunceli which is used solely by the Sunni employees of the central government working in Tunceli. Alawis are disgruntled by the Sunni bias in the Religious Affairs Directorate and the Directorate's tendency to view the Alawis as a cultural group, as opposed to a religious sect.

Many prosecutors regard proselytizing and religious activism on the part of either islamic extremists or evangelical Christians with suspicion, especially when they deem such activities to have political overtones. Since there is no law prohibiting proselytizing, Islamic extremists and evangelical Christians are sometimes arrested for disturbing the peace. Courts usually dismiss such charges. The Kayseri state security court, however, indicted members of an extremist organization called "Muslims" for attacking and setting on fire a hotel in Sivas in which satirist Aziz Nesin, translator of Salman Rushdie's "The Satanic Verses", was staying, causing a death toll of 37. The case's venue was later transferred to Ankara.

Police also continued their surveillance and detention of evangelical Christians. In July prosecutors urged an Istanbul court to send 14 Spanish members of a Protestant sect to prison for singing hymns and handing out Christian pamphlets outside a mosque during Muslim prayers. They were charged with disturbing the peace. The court released them on bail in late August and ordered them to stand trial.

Turkey's non-Muslim religious groups include some 50,000 Armenian Apostolic Christians, 25,000 Jews, 20,000 Syriac Christians, 18,000 Arab Orthodox, less than 5,000 Greek Orthodox, and 5,000 to 6,000 Roman Catholics and Chaldean Christians. Most religious minorities are concentrated in Istanbul, and the number of Christians in the south has been declining as the younger generation leaves Turkey for Europe and North America. Also there have been reports of intimidation of non-Muslims living in the southeast (see Section 1.g.). The number of Assyrian Christians in the Midyat-Mardin area has dropped from some 50,000 a decade ago to about 5,000 now. The status of only three minorities—Armenians, Jews, and Greeks—was recognized under the Lausanne Treaty. Other religions may not acquire property for churches. The Catholic Church in Ankara, for example, is confined to diplomatic property. The State must approve the operation of churches, monasteries, synagogues, schools, and charitable religious foundations, such as hospitals and orphanages.

Turkey's Jewish community is well integrated into Turkish society, although, it fears the possibility of rising Islamic extremism. Aside from occasional stones lobbed at synagogue windows and petty thefts, the Jewish community reported no problems in 1993.

The activities of Armenian and Greek Orthodox churches and their affiliated operations are carefully monitored. The Ministry of Education tightly controls the curriculums in their schools. Since the Turks in western Thrace in Greece cannot provide their own schoolteachers and must bring them from Turkey, the Government is reportedly beginning to question whether teachers from Greece ought to be brought in to teach the few Greek residents here. The Greek Patriarchate (Istanbul is the see of the ecumenical Patriarchate of the Eastern Orthodox faith), whose seminary on the island of Halki in the Sea of Marmara has been closed since the 1970's when the State nationalized all private institutions of higher learning, has consistently expressed interest in reopening the seminary. Turkish officials, however, have

used a variety of excuses to keep it closed, claiming most recently that the Greek community in Turkey is "too small" to justify a seminary. Armenian church officials complain of petty harassment from local officials (such as delays or refusals in receiving building permits) and growing encroachment by certain Muslim extremist groups on lands belonging to the Armenian community, especially on the Princes Islands in the Sea of Marmara near Istanbul.

Bureaucratic procedures relating to historic preservation impede repairs to some religious facilities. Ankara's sole remaining synagogue, for example, is sorely in need of renovation, a project currently under negotiation between the community and the Ministry of Culture because the community cannot afford meticulously to replicate the original interior decoration. Under Turkish law, religious buildings that become "extinct" (because of prolonged absence of clergy or lay persons to staff local religious councils) revert to government possession. Some non-Muslim minorities, particularly the Greek Orthodox and, to a lesser extent, shrinking Armenian Orthodox and Jewish communities, are faced with the danger of losing their houses of worship.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Turkish citizens generally enjoy freedom of movement within Turkey and the freedom to travel abroad. The Constitution provides that a citizen's freedom to leave may be restricted only by the national economic situation, civic obligations (e.g., military service), or criminal investigation or prosecution. Each Turkish citizen (except those regularly working abroad) must pay a departure tax of $100 for every departure from the country. Travel in the southeast sometimes is restricted for security reasons. There have been allegations that security forces on occasion closed off villages and surrounding regions to hide evidence of government human rights abuses (see Section 1.a.). Roadblocks, set up by both Turkish security forces and the PKK, seriously impede travel in the region.

Although Turkey is a signatory of the U.N. Convention on Refugees, it officially accords refugee status only to claimants from Eastern Europe. Asylum seekers from elsewhere are referred to the United Nations High Commissioner for Refugees (UNHCR) for third-country resettlement.

Turkey still hosts approximately 6,000 Iraqi refugees who are awaiting resettlement or who simply refuse to return to Iraq. Some 2,000 refugees remain in a camp near the Iraqi border, with another 4,000 living with temporary residence permits elsewhere. Other Iraqis, who entered Turkey after October 1991, are considered to be illegally in Turkey and are subject to deportation to northern Iraq, although few are actually deported.

Turkey also hosts a large and revolving population of Iranians, whose presence is generally tolerated. Those seeking refugee status are referred to UNHCR and resettled in third countries. In addition, at least 15,000 Bosnians have found temporary refuge in Turkey, with the majority living with friends and relatives and another 3,000 in camps established by the Turkish government with UNHCR support.

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

Turkish citizens have the right and ability to change their government peacefully. Turkey has a multiparty parliamentary system, in which elections are held at least every 5 years on the basis of mandatory universal suffrage for all citizens aged 20 and over. There are no restrictions in law or practice against women or minorities voting or participating in politics, with the notable exception of the harassment of the Kurdish HEP and its successor, the DEP. Fifty-four party administrators of HEP and DEP have been killed in the past 2 years. Hundreds of DEP members have been detained in recent months on various charges of disseminating separatist propaganda and supporting the PKK. Party buildings in Erzurum, Bursa, Van, Agri, Siverek, and Hakkari were attacked. The DEP also alleges that mayors who are members of the DEP are attacked and their towns and municipal buildings raided by security forces. Several parliamentarians who represent the DEP are threatened with losing their parliamentary immunity to prosecution (see also Sections 1.a. and 2.a.).

As of October, 25 political parties were operating in Turkey, 10 of which were represented in Parliament. Several political parties banned after the 1980 military takeover benefited from a 1992 parliamentary decision permitting them to reorganize and resume custody of buildings and assets that had belonged to them before their closure, a process that was completed by January 1993.

The Turkish United Communist Party, decriminalized in 1991, was outlawed in 1992 along with the Socialist Party on grounds that they violated article 14 of the Constitution which prohibits "establishing the hegemony of one social class over others." As of the end of the year, the Constitutional Court had ruled for the closure

of HEP (see Section 2.a.) and its interim successor OZDEP and was considering whether or not to ban HEP's successor, DEP.

The Grand National Assembly (Parliament) elects the President as Head of State every 7 years, or when the President becomes incapacitated or dies, as occurred in April when Turgut Ozal died and Suleyman Demirel was elected to succeed him. The 1991 parliamentary elections gave the True Path Party (DYP) a plurality of 27 percent of the vote and 178 seats in the 450-member unicameral Parliament. The DYP formed a coalition with the Social Democratic Populist Party (SHP) to achieve a parliamentary majority. In June, after Demirel's election as President, the DYP chose Tansu Ciller as its new chairperson, after which the President appointed her Turkey's first female Prime Minister.

To prevent political fragmentation, seats are allocated on a weighted proportional representation basis in which parties that poll less than 10 percent of the total national vote are excluded. The 1991 elections brought 5 parties into Parliament; however, party alignments have since changed, and 10 parties are now represented, alongside almost two dozen independent deputies, who resigned from the parties under whose banners they won election.

The Constitution provides equal political rights for men and women; however, only eight women, representing three parties, were elected to the Parliament in 1991. In addition to Prime Minister Ciller, there is one female Cabinet minister. Political parties now recruit female delegates for their party conferences and electoral lists. Women's committees are active within political party organizations.

In November the Turkish General Staff (TGS) urged the mainstream parties to field united slates for the March 1994 local elections in the southeast, lest PKK-supported candidates win as a result of divided opposition. The Government disavowed the army's intrusion into the political process, and the TGS said its statement had been a suggestion.

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

A nongovernmental human rights association (HRA), officially approved in 1987, has branches in 50 provincial capitals, including a branch in Mersin, which at year's end was closed indefinitely pending a court case against it. It claims a membership of about 20,000. In 1990 the HRA established its companion Human Rights Foundation (HRF) which, in addition to operating torture rehabilitation centers in Ankara, Izmir, and Istanbul, serves as a clearinghouse for human rights information. Human rights activists, including lawyers and doctors, are routinely threatened. There are credible reports of the involvement of security forces in these threats, which appear to be related to their human rights activities documenting human rights violations allegedly perpetrated by government forces.

Some government officials, including some prosecutors and police, punitively apply various laws to restrict HRA activities. For example, officials ordered various branches of the HRA closed for periods of weeks or months generally on charges that they had published allegedly separatist material or sponsored a speech that was allegedly separatist in nature. Police raided HRA branches in Mersin and elsewhere and confiscated written materials. An HRA president in southern Turkey said he and his board remained under surveillance. Many HRA branch officers spent time in detention or under arrest (see Section 2.b.), and one—Kemal Kilic, Urfa HRA steering committee member and former Ozgur Gundem reporter—was killed by unidentified assailants on the Urfa-Akcakale highway in February (see Section 1.a.). Reliable eyewitnesses observed the surveillance and harassment of one HRA branch office in the southeast and watched as security police entered another HRA office in the region uninvited and began, without permission, to make telephone calls. The president of the HRA office in Diyarbakir, Fevzi Veznedaroglu, who reported receiving death threats from plainclothes police officers, and the HRA Van president never returned from their 1992 "trips to Europe." The president of the Siirt HRA was arrested on February 26, 1993, and detained for 3 months on charges of giving aid and comfort to the PKK. The HRA representative in the town of Derik, Mardin province, was detained six separate times in 1993. Many of these investigations and prosecutions, as well as many arrests of human rights monitors, stemmed from alleged violations of the law on associations or the holding of illegal demonstrations. Surveillance and harassment of HRA members in the southeast appears to have become increasingly common.

In operation since 1991, Parliament's multiparty Human Rights Commission in February completed its report on allegations of widespread torture in Turkey. The report conceded that the practice of torture had continued since the DYP/SHP coalition came to power but denied allegations that torture was an official government policy. It sent a delegation to Diyarbakir to monitor the 1993 Kurdish new year cele-

bration launched an investigation into the Sivas incident (Section 2.c.) and is investigating the incidents at Lice (Section 1.a.). The Commission is authorized to oversee Turkey's compliance with the human rights provisions of Turkish law and international agreements to which Turkey is a signatory, investigate alleged abuses, and prepare reports.

While representatives of diplomatic missions or foreign private organizations who wish to monitor the state of human rights in Turkey are free to speak with private citizens, official visitors to the southeast may be watched by security police, and the presence of security officials may have an intimidating effect upon those interviewed. Access to government officials or facilities at times has been restricted, although, in 1992 for the very first time, Helsinki Watch visitors obtained every appointment they requested, including access to detention facilities.

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

The Constitution proclaims Turkey to be a secular state, regards all Turkish citizens as equal, and prohibits discrimination on ethnic, religious, or racial grounds. The Government officially recognizes only those religious minorities mentioned in the Treaty of Lausanne (1923), which guarantees the rights of non-Muslim Greek Orthodox, Armenian Apostolic, and Jewish adherents. Despite constitutional provisions, discrimination remains a problem in several areas.

Women.—Women are improving their situation in Turkish society, including the professions, business, and civil service, although, they continue to face discrimination to varying degrees. While traditional values continued to discourage women from entering some career fields, there are numerous female judges, doctors, and engineers. Women comprise about 36 percent of the paid Turkish work force and generally receive equal pay for equal work. The Constitution prohibits women from engaging in physically demanding jobs and from night work, and applicable laws are effectively enforced. In the past there has been an arbitrary barrier to women becoming governor's and subgovernors (government appointed positions). Women may now take the examination necessary to become a subgovernor and several have been appointed. There is also one female governor.

Traditional family values in rural Turkey place a greater emphasis on advanced education for sons than for daughters. In principle, primary education reached all children in 1993, but far fewer girls than boys continued their education after primary school. In 1992 Parliament passed a law increasing universal mandatory education from 5 to 8 years. The law will be implemented gradually throughout the country. For the 1993–94 school year, it was put into effect in several pilot regions. A delegation of some 50 women representing the Women's Studies Center of Istanbul University and numerous other private organizations presented a petition to Parliament on February 17 calling for legislation to abolish the special position of husbands as head of family. As noted in Section 1.e., there are some seldom enforced laws that discriminate against women.

Spousal abuse is still considered an extremely private matter, although it is a widespread problem, interest in which is growing. Few women go to the police, who in any case are reluctant to intervene in domestic disputes. Turks of either sex may file civil or criminal charges but rarely do. Turkish law and courts make no discrimination between the sexes in laws concerning violence or abuse. In July 1992, the Purple Roof Foundation (for battered women) opened a "hello shelter" telephone line; it attracted 3,300 callers in its first 3 months, even under Transportation Ministry regulations restricting its operating hours to weekdays. The Purple Roof has since expanded its service to two lines, one of which focuses on helping battered women, and the other of which deals with a variety of other subjects. The Government also has opened shelters in major cities for abused women and their children who have left their homes.

Independent women's and women's rights associations exist, but the concept of lobbying for women's rights has not gained great currency.

Children.—The Government is committed to furthering children's welfare and is working to expand opportunities in education and health, including further reduction of the infant mortality rate.

Turkey's children have suffered greatly from the cycle of violence in southeastern Anatolia. School closings and the decision by many families to move westward, be it for economic reasons or to escape the violence, have uprooted children to cities which are hard pressed to find the resources to extend basic, mandatory services, such as schooling. The Government is exploring the possibility of establishing regional boarding schools to help combat this problem. Although primary schooling is mandatory, many young children, ages 9 to 12, can be seen on the streets hawking goods or shining shoes (see Section 6.d.).

National/Racial/Ethnic Minorities.—Ethnic and religious minorities face various forms of societal discrimination. The minority of Turkish Kurds who were long-term residents in industrialized cities in western Turkey have been, for the most part, assimilated into the political, economic, and social life of the nation. Kurds who are currently migrating westward (including those displaced by the conflict between the Government and the PKK), bring with them their Kurdish cultural and village identity from the east. Most parliamentary representatives from southeastern Turkey are ethnic Kurds, but representatives of Kurdish ethnic origin have been elected from districts far removed from the southeast. Several cabinet ministers, as well as other government officials, claim an ethnic Kurdish background.

The increasing violence of the fighting in the southeast is polarizing ethnic Turks and Kurds and creating a climate of intolerance. Particularly, in cities such as Adana and Mersin, which have witnessed a large influx of Kurds fleeing the violence in the southeast, tensions are rising. For example, three friends in Adana were stopped by a policeman demanding to see their identification papers. The man from Sivas, a predominantly Turkish province, was allowed to proceed; the two friends from Mardin, a predominantly Kurdish province, were detained and taken to the local police station for questioning. Tensions have also begun to spread westward, for example, in a fight between a Kurdish construction worker and a grocer in the Aegean province of Kutahya, local inhabitants hurled stones at a cottage inhabited by eight Kurdish workers and shouted anti-PKK slogans.

The 1991 repeal of the law prohibiting publications or communication in Kurdish legalized some spoken and printed Kurdish communications. However, under the political parties law, all discussion which takes place at political meetings must be in Turkish. Kurdish may only be spoken in "nonpolitical communication." Court proceedings (and all government functions, including public education) continued to be conducted in Turkish, disadvantaging those Kurdish-speaking defendants who had to rely on court-provided translators. Moreover, materials dealing with Kurdish history, culture, and ethnic identity continued to be subject to confiscation and prosecution under the "indivisible unity of the State" provisions of the Anti-Terror Law.

The Gypsy population is extremely small, and no reported incidents of public or government harassment directed against Gypsies occurred during 1993. In January a Democratic Left Party deputy announced he had prepared a draft bill proposing the adoption of Turkey's Gypsies as Turkish citizens, but the legislation made no headway.

The Greek community complained of petty harassment by police, restrictions on freedom of expression and religion, discrimination in education involving teachers, books, and curriculum, limitations on the right to control their charitable institutions, and the denial of their ethnic identity. The Government approves teacher candidates and new textbooks in step with reciprocal approvals by the Greek Government for the Turkish minority in Thrace. (See also Section 2.c.)

People with Disabilities.—Parliament established a commission to look into the problems of the disabled, but to date legislation dealing with the disabled is piecemeal, and there is little legislation regarding accessibility for the disabled. Certain categories of employers are required to hire disabled persons as 2 percent of their employee pool, although there is no penalty for failure to comply. One M.P., himself disabled, is working on a draft law which would fold all current provisions regarding the disabled into one piece of legislation. The draft reportedly will include educational provisions (currently there are special schools for the blind, deaf and mentally handicapped), provisions to educate the general public, a provision that municipalities not issue building permits unless the plans for the building provide for access for the disabled, and provide for an easing of customs regulations to allow for easier importation of special equipment.

Section 6. Worker Rights

a. *The Right of Association.*—Most workers have the right to associate freely and form representative unions. Exceptions are schoolteachers (both public and private), civil servants, the police, and military personnel. Upon taking office in November 1991, the Government of Prime Minister Demirel declared, as part of its pledge to bring Turkish labor legislation into conformity with the standards of the International Labor Organization (ILO), its intention to grant trade union rights to civil servants. Implementation requires a three-step process: parliamentary ratification of ILO Conventions 87 on freedom of association and 151 on freedom of association in the public sector; amendment of the relevant article of the Constitution; and revision of the law on trade unions. In 1992 the Government began the process by ratifying seven ILO Conventions, including Conventions 87 and 151.

Permission for civil servants to form trade unions and for unions to engage in political activity will require amendments to the Constitution—a procedure further

complicated by the need to gain support among the opposition parties in order to secure the requisite two-thirds majority. The Government told the ILO's Committee on the Application of Standards in June that, with ratification of Convention 87, new legislative measures with regard to the right of civil servants to organize could be expected. At year's end, the Government finished its consultations with civil servant representatives and stated it planned to submit draft legislation that would legalize civil servant union organization to the Council of Ministers for review in early 1994.

The law states that unions and confederations may be founded without prior authorization based on a petition to the governor of the province where the union's headquarters are to be located. Although unions are independent of the Government and political parties, they must have government permission to hold meetings or rallies and must allow police to attend conventions and record the proceedings. Union officers may serve no more than eight consecutive 3-year terms in a given union position. The Constitution requires candidates for union office to have worked 10 years in the industry represented by the union.

Unions and their officers have a statutory right to express views on issues directly affecting members' economic and social interests, but the Constitution prohibits any union role in party politics (such as organic or financial connections with any political party or other association). In practice, unions have been able to convey clearly in election and referendum campaigns their support for, or opposition to, given political parties and government policies. Prosecutors may request labor courts to order a trade union or confederation into liquidation based on alleged violation of specific legal norms. The Government, however, may not summarily dissolve a union. The ILO's Committee on Standards noted in June that public servants who had been dismissed under martial law were being reinstated as a result of the Fight Against Terrorism Act of 1991, but expressed concern that the Act's broad definition of terrorism and propaganda could lead to workers' being deprived of employment on the basis of political discrimination.

During 1993, the assets and property of the Turkish Confederation of Revolutionary Workers Unions (DISK), which had been seized when DISK was banned after the 1980 military coup, were returned.

The right to strike, while guaranteed in the Constitution, is partially restricted. For example, workers engaged in the protection of life and property and those in the mining and petroleum industries, sanitation services, national defense, and education do not have the right to strike. Collective bargaining is required before a strike. The law specifies the series of steps a union must take before it may strike or an employer may engage in a lockout. Nonbinding mediation is the last of those steps. In sectors in which strikes are prohibited, disputes are resolved through binding arbitration. A party that fails to comply with these steps forfeits its rights. The struck employer may respond with a lockout but is prohibited from hiring strikebreakers or using administrative personnel to perform jobs normally done by strikers. Unions are forbidden to engage in secondary (solidarity), wildcat, or general strikes. The Government also has the statutory power to suspend strikes for 60 days for reasons of national security or public health and safety. Unions may petition the Council of State to lift such a suspension, but if this appeal fails the strike is subject to compulsory arbitration at the end of the 60-day period.

Some 45 strikes, involving about 6,900 workers, took place in the first 10 months of the year. All were peaceful, and most resulted in sizable wage and benefit settlements. The Government suspended 1 strike in 1993. This involved a strike by workers at a printing facility at the Prime Ministry which produces Turkey's official gazette. The Government invoked compulsory arbitration to end this strike and adjusted the wages of the workers to make them comparable to those of workers who had similar jobs in other establishments.

With government approval, unions may and do form or join confederations and international labor bodies, as long as these organizations are not hostile to Turkey or to freedom of religion or belief. The International Confederation of Free Trade Unions (ICFTU) approved DISK as an affiliate in December 1992. Turk-Is is a longstanding member. Hak-Is, the Islamic union confederation, applied for ICFTU affiliation in 1993. In its December 1993 meeting, the ICFTU postponed consideration of HAK-IS' application, pending further consultations with the European Free Trade Union Confederation and the ICFTU's Turkish affiliates.

b. *The Right to Organize and Bargain Collectively.*—All industrial workers have the right to organize and bargain collectively, and most industrial activity and some public sector agricultural activities are organized. The law requires that, in order to become a bargaining agent, a union must represent not only 50 percent plus one of the employees at a given work site but also 10 percent of all the workers in that particular industry. This 10-percent barrier has the effect of favoring established

unions, and particularly those affiliated with Turk-Is, the confederation that represents nearly 80 percent of organized labor in Turkey. The ILO has called on Turkey to rescind this 10-percent rule, and the recently relegalized DISK, which is seriously disadvantaged by it, raised the issue with the ILO in 1992. Both Turk-Is and the Turkish employers' organization favor retention of the rule, however, and the Government is not pursuing a change. Antiunion discrimination by employers is prohibited by law. An effective means for resolving complaints of such discrimination exists within the system of labor courts.

Union organizing and collective bargaining are permitted in the duty-free export processing zones at Antalya, Istanbul, Izmir, and Mersin. Workers in those zones, however, are not allowed to strike during the first 10 years of operation. Until then, settlements not otherwise reached will be determined by binding arbitration.

In its 1993 report, the ILO Committee of Experts on the application of conventions noted that it has expressed its concern over the years regarding legislative infringement of free collective bargaining, compulsory arbitration in cases of disputes other than those relating to essential services, and denial to civil servants of the right to bargain collectively.

c. *Prohibition of Forced or Compulsory Labor.*—Compulsory labor is prohibited by the Constitution and statutes and is not practiced.

d. *Minimum Age for Employment of Children.*—The Constitution and labor laws forbid employment of children younger than 15, with the exception that those aged 13 and 14 may engage in light part-time work if enrolled in school or vocational training. The Constitution also prohibits children from engaging in physically demanding jobs, such as underground mining, and from working at night. The Ministry of Labor effectively enforces these laws only in the organized industrial sector.

In practice, many children work because families frequently need the supplementary income. An informal and essentially unsupervised apprenticeship system provides work for young boys at low wages, e.g., in auto repair shops. Girls are rarely seen working in public, but many are kept out of school to work in indoor handicrafts, especially in rural areas.

Turkey is participating in the ILO's international program on the elimination of child labor (IPEC). In 1992, with technical assistance from the ILO, the Government established a child labor unit within the Ministry of Labor tasked with training labor inspectors for better enforcement of child labor laws. According to the Ministry of Labor, in 1993 the number of trained assistant inspectors for child labor had increased from 160 to 700. The ministry has held training seminars and workshops on the problems of child labor. The workshops have included representatives from the Turk-Is Labor Confederation and from employers. Turk-Is itself has established a child labor office within the confederation. A center in Ankara has also been opened to help children found working in the streets.

e. *Acceptable Conditions of Work.*—The Labor Ministry is legally obliged to set minimum wages at least every 2 years through a minimum wage board, a tripartite government-industry-union body. In recent years it has done so annually. On July 23, the minimum wage was increased by 70 percent over the year before. The monthly minimum wage rate (after taxes), effective August 1, is $138 (T.L. 1,563,000) for workers older than 16 and $99 (T.L. 1,116,000) for workers under 16.

Without support from other sources, it would be difficult for a single worker, and impossible for a family, to live on the minimum wage. Most workers earn considerably more. In addition to wages, workers covered by the labor law, who constitute about one-third of the total labor force, also receive a hot meal or food allowance daily; transportation to and from work; a fuel allowance; and other fringe benefits which, according to the Turkish employers' organization, makes basic wages alone only about 37 percent of total remuneration.

Labor law provides for a nominal 45-hour workweek, although most unions have bargained for fewer hours in the workweek. Labor law limits the number of overtime hours to 3 hours a day for up to 90 days in a year. The labor inspectorate of the Ministry of Labor in the unionized industrial, service, and government sectors effectively enforces wage and hour provisions.

Occupational health and safety regulations are mandated by law, but the Government has not carried out an effective inspection and enforcement program. In practice, financial constraints, limited safety awareness, carelessness, and fatalistic attitudes result in scant attention to occupational safety and health by workers and employers alike.

TURKMENISTAN

Turkmenistan, a one-party state dominated by the President and his closest advisers, made virtually no progress in 1993 in moving from a Soviet-era authoritarian style of government to a democratic system. Saparmurad Niyazov, head of the Communist Party since 1985 and President since October 1990 when the post was created, was elected President in a direct election on June 21, 1992. The Democratic Party, the old Communist Party under a new name, retained a monopoly on power; the Government registered no opposition parties in 1993 and continued to inhibit opposition political activities. Emphasizing stability over reform, the President's nation-building efforts centered on renewing Turkmen nationalism, a feature of which has been a personality cult around the President which continued to grow in 1993.

The Committee on National Security (KNB) took on the responsibilities formerly held by the Soviet Committee for State Security (KGB), with membership and operations essentially unchanged. The Ministry of Internal Affairs directs the criminal police, which works closely with the KNB on matters of national security.

Turkmenistan remained a centrally planned economy, although the Government took small steps toward a transition to a market economy. The Government announced a land privatization policy and continued to encourage private investment from abroad, including in the energy sector which was previously completely under government control. In October it ceased subsidizing most prices.

Turkmen authorities severely restricted political and civil liberties. They maintained strict controls over opposition political organizations and completely controlled the media, censoring all newspapers and rarely permitting criticism of government policy or officials. The Government used its powers to issue passports and exit visas as a means of restricting the movement of political opponents, and it inhibited attempts by foreign visitors to talk with its domestic critics. The Government generally gave favored treatment to ethnic Turkmen over minorities and to men over women.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killings.*—No political or extrajudicial killings are known to have occurred.

b. *Disappearance.*—An economic editor of a government daily newspaper disappeared in June. The foreign press suggested that her disappearance may have had a political dimension. However, there was no evidence to support this allegation. The Government investigated the disappearance but did not report any results. It also restricted publicity about the case.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The 1992 Constitution prohibits torture or other cruel, inhuman, or degrading treatment, and such practices are not known to have occurred.

Turkmen prisons are unsanitary, overcrowded, and unsafe. Food is poor, and facilities for prisoner rehabilitation and recreation are extremely limited.

d. *Arbitrary Arrest, Detention, or Exile.*—On two occasions in 1993, the Government temporarily detained political critics to prevent them from meeting with foreign visitors. In April the authorities briefly detained the cochairman of the opposition Agzybirlik movement to prevent him from meeting with a delegation from the Conference on Security and Cooperation in Europe (CSCE). They held two others under house arrest. In August the authorities detained four opposition leaders for questioning after they met with a visiting U.S. Congressman. They held two others under house arrest to prevent their participation in the meeting and arrested a third while he was walking to the meeting site. In all cases, authorities questioned the detainees for a few hours and did not hold them overnight.

The authorities in August arrested an independent journalist, who had written critically about the Government for the Moscow press, and investigated charges that he had embezzled funds from the government enterprise which employed him. The journalist claimed the charges were trumped up in a government attempt to silence him. After more than 4 months of pretrial detention, the court heard his case and found him guilty. The authorities released the journalist after he signed an admission of guilt. He still maintains his innocence.

e. *Denial of Fair Public Trial.*—The Constitution theoretically established judicial independence; however, the President's power regarding the selection and dismissal of judges subordinates the judiciary to the Presidency. The court system in Turkmenistan has not been reformed since Soviet days. It consists of a Supreme Court, 6 provincial courts (including 1 for the capital city of Ashgabat only), and, at the lowest level, 61 district and city courts. There are also military courts to han-

dle crimes involving military discipline, criminal cases concerning military personnel, and crimes by civilians against military personnel; and a Supreme Economic Court, which hears cases involving disputes between state economic enterprises and ministries. The President appoints all judges for a term of 5 years without legislative review, except for the Chairman (chief justice) of the Supreme Court, and he has the sole authority to remove them from the bench before the completion of their terms.

Turkmen law provides for due process rights for defendants, including a public trial, the right to a defense attorney, access to accusatory material, and the right to call witnesses. The accused has the right to select counsel, but there are few independent lawyers. When a person cannot afford the services of a lawyer, the court appoints one. A person may represent himself in court. Decisions of the lower courts may be appealed to higher courts, and in the case of the death penalty, the defendant may petition the President for clemency. In practice, adherence to due process rights is not uniform, particularly in the lower courts in rural areas.

There are no known political prisoners in Turkmenistan.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the right to protection from arbitrary interference in a citizen's personal life. However, there are no legal means to regulate the conduct of surveillanceby the state security apparatus, which regularly monitors the activities of opponents and critics of the Government. Security officials use physical surveillance, telephone tapping, and electronic eavesdropping, and recruit informers. Critics of the Government report credibly that their mail is intercepted before delivery.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for the right to hold personal convictions and to express them freely. In practice, however, freedom of speech is severely restricted, and there is no freedom of the press. The Government completely controls radio and television. Its budget funds all print media. The Government censors all newspapers; the Committee for the Protection of State Secrets must approve all prepublication galleys. The Government also refuses to allow the media to report the views of opposition political leaders and critics, and it rarely allows the mildest form of criticism in print. The Government press has condemned the foreign media, including Radio Liberty, for broadcasting or publishing opposition views, and the Government has subjected those mentioned in critical foreign press items to threats and harassment.

The Government also restricts academic freedom. It does not tolerate criticism of government policy or the President in academic circles, and it discourages research into areas it considers politically sensitive. The government-controlled Union of Writers expelled members who have criticized government policy; libraries have removed their works.

b. *Freedom of Peaceful Assembly and Association.*—The Government restricts the freedom of peaceful assembly. Unregistered organizations, including those with a political agenda, are not allowed to hold demonstrations or meetings. No political groups critical of government policy have been able to meet the requirements for registration (see Section 3). Social and cultural organizations without political aims may normally register and hold meetings without difficulty. Those with an ethnic or religious orientation may, however, be refused registration under constitutional provisions that prohibit political parties and other organizations based on nationality or religion.

Citizens theoretically have the freedom to associate with whomever they please. However, supporters of opposition movements have been fired from their jobs for political activities, removed from professional societies, or threatened with dismissal or with the loss of their homes or work space. On numerous occasions in 1993, the Director of the KNB and a Deputy Chairman of the Cabinet of Ministers summoned political opponents to warn them not to meet with foreigners or give press interviews. The Government also limited the access of foreigners to Islamic leaders and often insisted that a government official sit in on any meetings.

c. *Freedom of Religion.*—Turkmen are overwhelmingly Muslim, but Islam does not play a dominating role in society, largely due to the 70 years of repression under Soviet rule. The Constitution provides for freedom of religion and does not establish a state religion. Official harassment of religious groups has largely ended, and the State generally respects religious freedom. A revival of Islam has occurred since independence. The Government has incorporated some aspects of Muslim tradition into its efforts to define a Turkmen identity, and it gives some financial and other support to Islamic groups.

The Government's Council on Religious Affairs plays an intermediary role between the government bureaucracy and religious organizations. Religious congrega-

tions are technically required to register with the Government, but there were no reports that the Government prevented those that had not yet complied from practicing their faith. Nor were there any reports that attempts to register religious groups were denied.

There is no law specifically addressing religious proselytizing. The Government, however, would have to grant permission for any mass meetings or demonstrations for this purpose and would not do so for nonregistered groups. The Government does not restrict the travel of clergy or members of religious groups to Turkmenistan. Islamic religious literature, largely donated from abroad, is distributed through the mosques. Orthodox churches also offer a variety of Christian religious literature.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government does not generally restrict movement within the country. Turkmen citizens still carry internal passports, which are used more as a form of identification than a means of controlling movement. Residence permits are not required, although the place of residence is registered and noted in internal passports.

The Government uses its power to issue passports and exit visas as a means of restricting international travel for its critics. Although legally the Ministry of Foreign Affairs is responsible for issuing passport and exit visas, the International Department of the Presidency must also signify its approval. The Government denied travel documents to three human rights advocates who wanted to travel to the United States to attend a conference in April. It used similar tactics to prevent a prospective intern with Radio Liberty from traveling to Germany and an opposition journalist from attending a conference in the Netherlands.

Citizens of Turkmenistan are permitted to emigrate without undue restriction. Russians and other non-Turkmen residents left for other former Soviet republics during 1993, and members of the small Jewish community continued to emigrate to Israel.

The government-funded Council of World Turkmen provides assistance to ethnic Turkmen abroad who wish to return to Turkmenistan and apply for citizenship. A large number of refugees from the turmoil in Tajikistan fled to Turkmenistan in 1992–93. The Government provided housing and social assistance. Most were ethnic Turkmen, and some were Uzbeks with historical ties to Turkmen territory. The Government deported some ethnic Tajik refugees who entered Turkmenistan.

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

The Constitution declares Turkmenistan to be a secular democracyin the form of a presidential republic. In practice, it remains a one-party state dominated by the President and his closest advisers within the Cabinet of Ministers. Citizens have no real ability peacefully to change the government and have little influence on government policy or decisionmaking. In the 1992 presidential election, the sole candidate was Saparmurad Niyazov, the incumbent and nominee of the Democratic (formerly Communist) Party. The Government announced the election barely a month before voting day, giving opposition groups insufficient time to organize and qualify to submit a candidate. Niyazov was elected to a 5-year term with, according to government statistics, 99.5 percent of the vote.

The members of the Mejlis (Parliament) were elected for 5-year terms in 1990 under the old Communist system which allowed little popular participation in the selection of candidates. The Parliament passed a resolution on December 28 calling for a national referendum on January 15, 1994, on whether to extend the President's term of office for an additional 5 years, thereby canceling the 1997 presidential election.

The Constitution calls for the separation of powers between the various branches, with concomitant checks and balances. However, it vests a disproportionate share of power in the Presidency, particularly at the expense of the judiciary. In practice, the President, in concert with his Cabinet of Ministers, makes all policy decisions, appoints government officials down to the level of city mayors, and decides which legislation will be considered by the Mejlis. The Mejlis has no genuinely independent authority.

Government officials state that their goal is political pluralism and the establishment of a multiparty system, perhaps as soon as 1996. However, there were few indications in 1993 that the present leadership will permit any meaningful opposition to develop. In addition to its near total control over the flow of information, the Government also uses laws on the registration of political parties to prevent the emergence of would-be opposition groups. At present the only registered party is the Democratic Party of Turkmenistan, the successor to the Communist Party. The pol-

icy of the Democratic Party, according to its leadership, is to implement the policy of the President.

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

There are no local human rights monitoring groups in Turkmenistan, and government restrictions on freedom of speech, press, and association would preclude any effort to investigate and criticize publicly the Government's human rights policies. Several independent journalists report on these issues in the Russian press and have contact with international human rights organizations. Midlevel government officials met with a visiting Helsinki Watch delegation in May, providing assistance in making appointments and permitting meetings with opposition elements. A month earlier, however, the Government had detained some of its critics and attempted to prevent members of a CSCE delegation from meeting with opposition leaders. The Government also on numerous occasions warned its critics against speaking with visiting journalists or other foreigners wishing to discuss human rights issues.

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

Women.—The Constitution provides for full equality for women. In practice, women are greatly underrepresented in the upper levels of government and state economic enterprises and are concentrated in health care, education, and service industries. Women are restricted from working in some dangerous and ecologically unsafe jobs. Under the law, women are protected from discrimination in inheritance and marriage rights. In traditional Turkmen society, however, the woman's primary role is as homemaker and mother, and family pressure often limits opportunities for women to enter outside careers and advance their education. Among practicing Muslims who seek the advice of religious authorities on matters concerning inheritance and property rights, men often take precedence over women.

The Women's Council of Turkmenistan, a carryover from the Soviet system, addresses issues of concern to women, and a professional businesswomen's organization has recently been founded. While no reliable statistics on domestic violence against women are available, womens' groups and medical personnel say that it is not a major problem. Women are subject to harassment on the streets by males, and such incidents may be on the increase, particularly against women of non-Turkmen appearance. The Government has no program specifically aimed at rectifying the disadvantaged position of women in Turkmen society, as it does not believe women suffer discrimination.

Children.—Turkmenistan's social welfare umbrella adequately covers the welfare needs of children. The Government has not, however, taken effective steps to address the environmental and health problems that have resulted in a high rate of infant and maternal mortality, particularly in areas affected by the Aral Sea ecological disaster.

National/Racial/Ethnic Minorities.—The Constitution guarantees equal rights and freedoms to all citizens. Turkmen comprise 72 percent of the population of about 4 million, Russians 9.5 percent, and Uzbeks 9 percent. There are smaller numbers of Kazakhs, Armenians, Azerbaijanis, and many other ethnic groups. In 1993 Turkmenistan was spared the ethnic turmoil that afflicted other parts of the former Soviet Union.

As part of its nation-building efforts, the Government has attempted to foster Turkmen national pride, in part through its language policy. The Constitution designates Turkmen the official language, and it is a mandatory subject in school, although not necessarily the language of instruction. The Constitution also guarantees speakers of other languages the right to use them. Russian remains in common usage in government and commerce. The Government insists that discrimination against Russian speakers will not be tolerated. However, efforts to reverse past policies that favored Russians work to the benefit of Turkmen at the expense of other ethnic groups and not solely ethnic Russians. Non-Turkmen fear that the designation of Turkmen as the official language will put their children at a disadvantage educationally and economically. They complain with justification that some avenues for promotionand job advancement are no longer open to them. Only a handful of non-Turkmen occupy high-level government jobs, and minority government employees are often shunted off to lesser positions than their experience and qualifications would warrant. The Ministry of Education, which controls access to numerous educational opportunities and exchanges, acted in flagrant violation of equal rights in insisting on reserving these opportunities for ethnic Turkmen males. Higher authorities, however, overturned many of its decisions.

People with Disabilities.—Government subsidies and pensions are provided for those with disabilities, and those capable of working are generally provided with jobs under still-valid preindependence policies which virtually guarantee employment to all. According to existing legislation, facilities for the access of the disabled must be included in new construction projects. Compliance is not, however, complete, and most older buildings are not so equipped.

Section 6. Worker Rights

a. *The Right of Association.*—Turkmenistan has inherited the Soviet system of government-associated trade unions. The Federation of Trade Unions claims a membership of some 1.6 million and is divided along both sectoral and regional lines. Turkmenistan is not a member of the International Labor Organization (ILO). It has submitted an application for membership, but the ILO has not formally accepted the application.

While no law specifically prohibits the establishment of independent unions, there are no such unions, and no attempts were made to register an independent trade union in 1993. The state-sponsored unions control key social benefits such as sick leave, health care, maternal and childcare benefits, and funeral expenses. Automatic deductions from payrolls to cover these benefits are transferred directly to the Federation, raising uncertainty as to how or whether members of independent unions would be covered.

The law does not prohibit strikes, but none occurred in 1993. Disputes over working conditions and other grievances were resolved through negotiation among the trade union, government, and the employer (which represents, invariably, a state-owned enterprise).

b. *The Right to Organize and Bargain Collectively.*—Turkmen law does not protect the right to collective bargaining. The Ministry of Economics and Finance prepares general guidelines for wages and sets wages in health care, culture, and some other areas. In other sectors, it allows for some leeway at the enterprise level, taking into account local factors. Annual negotiations between the trade union and management determine specific wage and benefit packages for each factory or enterprise. In practice, in the predominantly state-controlled economy, the close association of both the trade union and the enterprise with the Government seriously limits the workers' ability to bargain. There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution specifically prohibits forced labor. No incidents of compulsory labor were reported in 1993. The Government has abandoned its past policy of requiring students to pick cotton at minimal rates of pay during the annual harvest.

d. *Minimum Age for Employment of Children.*—The minimum age for employment of children is 16; in a few heavy industries it is 18. The law prohibits children aged 16 through 18 from working more than 6 hours per day (the normal workday is 8 hours).

Fifteen-year-old children may work only with the permission of the trade union and their parents; this rarely is granted. Such children are permitted to work only 4 to 6 hours per day. Violations of child labor laws occur in rural areas during the cotton harvesting season, when teenagers work in the fields and children less than 10 years of age sometimes help with the harvest.

e. *Acceptable Conditions of Work.*—The Government sets the national minimum wage quarterly, based on the cost of a market basket of commodities reviewed by the Ministry of Economics and Finance. On November 1, with the introduction of a new national currency, the Government set new minimum wages at $75 (150 manats). This figure falls far short of the amount required to meet the needs of an average family. Most households, however, are multigenerational, with several members receiving salaries, stipends, or pensions.

The standard legal workweek is 40 hours. Turkmenistan inherited an economic system with substandard working conditions from the Soviet era, when productivity took precedence over the health and safety of workers. Industrial workers often labor in an unsafe environment and are not provided proper protective equipment. Agricultural workers in particular are subjected to ecological health hazards. The Government recognizes that these problems exist but has not moved effectively to deal with them.

UKRAINE

Ukraine was governed in 1993 by the 1978 Constitution of the Ukrainian Soviet Socialist Republic, modified by the introduction of a Presidency and a multiparty

system. The President, elected for a 5-year term, nominates the Prime Minister and members of the Cabinet, who are subject to confirmation by the Parliament. Day-to-day government operations are the responsibility of the Prime Minister and the Cabinet. The 450-member parliament, called the Supreme Rada (Council), was elected in 1990, before Ukraine's 1991 declaration of independence and while the country was still dominated by the Communist Party. It is responsible for initiating legislation, ratifying international treaties and agreements, and approving the state budget.

A parliamentary commission, formed in 1992 to prepare a new constitution, had not completed its work by year's end. In general, 1993 was a year of increasing governmental and executive-legislative deadlock. As an extension of his de facto control over economic and administrative reforms, President Leonid Kravchuk continued to use his authority to appoint presidential representatives with broad powers to each oblast (provincial) government; the Rada curtailed some of their powers during 1993. The ability of the legislative and judicial branches to function independently from the executive branch remained limited. In an effort to break the deadlock, the Rada called for early parliamentary elections in March 1994 and presidential elections in June 1994.

The National Security Service of Ukraine (SBU), the Ministry of Internal Affairs (MVD), and the Ministry of Defense all have equal status and report directly to the President through the Council of Ministers. The chairmen of these institutions sit on the Council of Ministers and simultaneously chair executive committees of the Council responsible for each of their ministries. The senior leadership of each of these services and officials in related ministries comprise the membership of these executive committees. The Rada confirms the appointment of each chairman after hearings and has established committees to advise and consult with the executive committees on a regular basis.

The armed forces have largely remained outside politics. The SBU participates in parliamentary debate in a technical advisory capacity. Although the SBU has affected the political process with its corruption investigations against leading politicians, it has not engaged in purely partisan political activity. Human rights organizations have not reported any violations of human rights by the SBU.

In November 1992, the Rada granted extraordinary powers to the Prime Minister for reform and regulation of the economy. The Prime Minister was empowered to issue economic decrees with the force of law, unless vetoed by the Rada within 10 days. The Government used this authority to introduce small-scale privatization, some financial stabilization, and limited land reform. Because of the opposition of conservative factions to broader reforms, in May 1993 the Rada refused to extend the extraordinary powers. The economy did poorly in 1993: production in state-owned industries declined rapidly while state subsidies increased, the budget deficit jumped, the currency remained unstabilized, and the economy fell into hyperinflation.

The human rights picture remains mixed. While there are few significant violations, the populace as a whole lacks an understanding of its human rights. The 1991 law on the rights of ethnic minorities (enhanced by the 1992 law on national minorities) guarantees persons belonging to ethnic minorities the right to schools and cultural facilities and the use of their languages in business and official correspondence. While some ethnic tension persists, particularly between Ukrainians and Russians in Crimea, Ukraine has been remarkably free of interethnic antagonism and conflict. There is residual anti-Semitism. Other human rights problems include continuing restrictions on freedom of the press and unreformed Soviet-era prison and legal systems.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Several political killings (of officers of the Black Sea fleet and a political candidate) were alleged to have occurred in Crimea in late 1993. Some accused the Government of participating in these killings and of refusing to conduct thorough and timely investigations. At year's end, there was no conclusive evidence that the killings were politically motivated or that they were perpetrated by government agencies.

b. *Disappearance.*—There were no reported incidents of abductions or disappearances.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The 1978 Constitution prohibits torture. However, police beatings occasionally occur, and there is no mechanism for registering complaints about mistreatment or for obtaining redress. Visitors to Ukrainian prisons describe conditions as severely sub-

standard. Prisons are overcrowded, with the number of prisoners sometimes four times capacity. Because of poor hygenic conditions and inadequate diet, full-scale riots have erupted. Prison authorities and the MVD have done little to reform prison conditions and have also refused to discuss the subject with foreign governments, other Ukrainian government bodies, human rights groups, or Ukrainian civic organizations.

The Ukrainian psychiatric community has begun to adopt more humane methods of treatment. Some in the Government support the adoption of less coercive and degrading modes of treatment. Despite the resource constraints imposed by the economic crisis, efforts to improve medical training, hospital conditions, patients' rights, and legal norms are proceeding.

d. *Arbitrary Arrest, Detention, or Exile.*—There were no reported cases in 1993 of arbitrary arrest or detention of persons. Ukraine has only slightly amended its Soviet-era law on detentions. A person suspected of a crime may be detained for 3 days without warrant. A prosecutor must issue an arrest order permitting detention beyond 3 days. The maximum period of detention after charges have been filed could be as much as 1½ years. The law permits citizens to appeal the legality of an arrest either to the court or to the prosecutor. As citizens gain a better understanding of their rights under a 1992 law, they are increasingly filing appeals with the courts. The authorities have dismissed individual officials for not adhering to legal guidelines. There is no bail system, although once charges are filed the court may release the defendant on his own recognizance.

A judge must initiate a trial within 3 weeks from the time charges are filed, a limit that not always met in practice. In the overloaded court system, months may pass before a defendant is brought to court. The law provides for a detainee's access to a defense attorney from the moment of detention or the filing of charges, whichever comes first. To protect the defendant, each investigative file must contain a document signed by the defendant and his counsel attesting that the defendant's rights were explained to him in the presence of an attorney. An appeals court may dismiss a conviction or order a new trial if this document is missing.

As defendants became aware of their rights, they increasingly took advantage of the changes in criminal procedure. However, many still do not know about, and therefore cannot avail themselves of, these procedures. Defense attorneys' fees also have become prohibitively expensive.

There is no exile.

e. *Denial of Fair Public Trial.*—The Ukrainian court system follows the Soviet model. Aside from a December 1991 law modifying the Ukrainian system of prosecution and a June 1992 law creating the Constitutional Court, there has not been major structural reform. All the candidates selected by the Government for the Constitutional Court refused appointments, and the Court has not been able to begin work.

The courts are undifferentiated as to function. In the same day, judges may hear criminal, civil, and juvenile cases. The courts are organized on three levels: rayon courts (regional, also known as people's courts); oblast (provincial) courts; and the Supreme Court. All may act as the court of first instance depending on the severity of the crime. A case heard in the first instance by the Supreme Court, therefore, may not be appealed or reviewed. There are no clear rules to determine which court first hears a case. As a rule, military tribunals handle cases involving military personnel only.

Prosecutors, like the courts, are organized into offices at the rayon, oblast, and republic levels. They are ultimately responsible to the Prosecutor General appointed by the Rada. Prosecutors and defense attorneys have equal status before the courts. Prosecutors still are very influential in court proceedings. The prosecutor directs the Security Service in an investigation or uses the investigative resources of the prosecutor's office.

While the defendant is presumed innocent and tried before a panel of judges, conviction rates have not changed from the Soviet era. Nearly 99 percent of cases end in convictions. However, the structure of the system is such that judges frequently send back for additional investigation those cases unlikely to end in convictions. These cases are then sometimes dropped or closed, occasionally without informing the court or the defendant. Consequently, convictions rates are a somewhat misleading statistic.

Oblast and Supreme Court judges may not be members of political parties and must have at least 5 years of legal experience. The Rada selects judges on the basis of recommendations from the Ministry of Justice which are based in part on examination results. The chief prosecutor and deputy chief prosecutor are nominated by the President and confirmed by Parliament. State and local prosecutors are appointed by the chief prosecutor. Many current judges and prosecutors were ap-

pointed in Soviet times when political influence pervaded the judicial system. It is unclear how free the judiciary now is from influence and intimidation by the executive branch of government. At the oblast level especially, judges, prosecutors, and other court officials appear to remain closely attuned to local government interests.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The SBU may conduct intrusive surveillance and searches without a warrant on national security grounds. Human rights observers report receiving no complaints of invasion of privacy by the SBU. According to the SBU charter, persons subject to surveillance must be informed after a month's time. The Prosecutor General's office has oversight responsibility over the SBU and is utilizing its authority to monitor its activities and to curb excesses by security officials. In the past, excesses have included overzealous surveillance and searches, and unwarranted detentions.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—A 1991 Ukrainian law purports to protect freedom of speech and press. However, there are significant impediments to the exercise of these freedoms, and the 1991 law only covers printed media. Criticism of the Government is tolerated, but lack of independent funding and of public support for independent media make it difficult for opposition leaders to disseminate their views widely. Most newspapers continue to receive state subsidies, a form of indirect control over their activities. While no direct government censorship mechanism exists, official newspapers in the past have been reluctant to publish antigovernment editorials or information that could offend the Government because of the ingrained habit of following the party line formed during Soviet times.

In December opposition parties and candidates asserted that the Government reduced media availability and access for candidates for public office. One paper critical of the Government was closed for nonpayment of debt to the state monopoly enterprise selling newsprint. The editor of the most popular newspaper in Ukraine, also critical of the Government (and the opposition), was replaced with a more progovernment editor. The parent company asserts that the editor was replaced because the newspaper was 12 billion karbovontni in debt to the State. Opposition politicians claim that the parent company, subject to pressure from the Government, actually was practicing self-censorship. Official publications, heavily subsidized despite the economic crisis, continue to publish without hindrance.

A recent Ukrainian decree placed newsprint in the category of a strategic material, giving the Government control over the distribution of all paper. The President, in announcing the decree, stated that this would enable the Government to ensure equal distribution of paper to all government and independent newspapers in a time of shortage. Generally, paper shortages appear to affect all papers regardless of political orientation.

In the second half of 1993, press criticism of the Government was more open, notably regarding the Government's economic program and policy toward Russia.

A new threat to free and open discussion of issues came from criminal elements and organized crime. This is an aspect of Ukrainian life that has grown dramatically, nearly undeterred by the Government, since independence. Some journalists and editors report they fear reprisals from criminal elements if they expose how Ukrainian organized crime has come to control much of private and governmental life.

No law protects or defines the role of government in the electronic media. In the state-sponsored broadcast media, the Government has been known to restrict discussion of such domestic problems as inter-Orthodox Church squabbles. Several private Ukrainian television channels rebroadcast uncensored foreign news programs and create their own programming. Foreign broadcasts are received without interference. Russian broadcast media are more popular than their Ukrainian counterparts and frequently criticize the Ukrainian Government. Senior government officials are highly critical of the Russian media, but the Government does not attempt to jam Russian broadcasts.

b. *Freedom of Peaceful Assembly and Association.*—The law on public assembly, which dates from 1989, stipulates that organizations must apply for permission to the respective local administration 10 days before a planned demonstration. Participants in demonstrations are prohibited by law from instigating violence or ethnic conflict and from calling for the violent overthrow of the constitutional order. Demonstrations may not interfere with traffic, take part near the Rada when it is in session, or otherwise hinder municipal life. In Kiev permits are routinely granted. Unlicensed demonstrations, including demonstrations and hunger strikes at the Parliament building when the Rada is in session, often occur without police interference.

The 1992 law on public organizations prohibits the State from financing political parties and other public organizations. According to the law, political parties may not receive funds from abroad or maintain accounts in foreign banks. The law prohibits organizations advocating the violent overthrow of the Government and constitutional order or undermining Ukraine's state security by collaboration with other states. Political parties are barred from having administrative or organizational structures abroad. The law prohibits police, members of the armed forces, and executive branch officials from joining political parties, but many such individuals nonetheless publicly associate themselves with specific parties.

Political parties may be dissolved only by a court decision. The Supreme Court may dissolve a party for advocating the overthrow of the State, for anti-Ukrainian activities, for violating or advocating the violation of the constitutional rights of citizens, or for urging citizens not to honor their constitutional duties. Because there have been no dissolutions since independence, the criteria are not yet set by precedent. The Communist Party of Ukraine, a subsidiary of the former Communist Party of the Soviet Union (CPSU), was banned immediately after the coup attempt of 1991, and many Communists participated in establishing the Socialist Party of Ukraine. In December 1993, the Government reregistered the Communist Party.

c. *Freedom of Religion.*—The 1991 law on freedom of conscience and religion permits religious organizations to establish places of worship and train clergy. Religious organizations are required to register with local authorities and with the Government's Council of Religious Affairs. As a rule, the registration process lasts about 1 month. The State has not interfered with the registration of minority religions (e.g., Islam, Mormon, Jehovah's Witnesses, and the Church of the Nazarene).

Obstacles to complete religious freedom still exist at the local level where in some places the bureaucracy has delayed registration of religious organizations. However, a Ukrainian religious organization may not be denied registration. Any Ukrainian group representing itself as a church can apply for registration. While technically no church has been denied registration to date, the application of the Ukrainian Autocephalous Orthodox Church has not been acted upon for over a year, pending the resolution of very contentious property issues between Ukrainian communions.

Churches are permitted to maintain links with coreligionists in other countries. Religious publications are freely allowed. Greek Catholic, Orthodox, and Jewish services are televised on major religious holidays. Easter and Christmas are official holidays. Religious groups are allowed to proselytize and distribute Bibles and other religious publications.

An amendment to the 1991 law, passed by the Rada on December 23, 1993, raised religious freedom concerns. President Kravchuk, as of the end of the year, had not signed this legislation. The amendment in question states: "Clergymen, religious preachers, teachers, other representatives of foreign organizations who are foreign citizens and come to visit temporarily in Ukraine may preach religious doctrines, administer religious ordinances, or practice other canonic activities only in those religious organizations which invited them to Ukraine and with official approval of the governmental body that has registered the statutes (and) the articles of the pertinent religious organization." This amendment could be used to restrict the activities of non-native Ukrainian religious organizations.

Some government officials, citing a desire to preserve Ukrainian culture, have stated that restrictions on the activities of non-native religious organizations would be appropriate.

Religious education classes are permitted in public schools as an extracurricular activity. The Greek Catholic and Orthodox churches have seminaries. Jewish religious schools (yeshivas) operate in Kiev, L'viv, Odesa, Kharkiv, Uman, and Vinnytsia.

Jews in Ukraine have expanded opportunities to pursue their religious and cultural activities, but anti-Semitic incidents continue to occur. In September a Jewish leader's home was set on fire, and another leader received anonymous death threats. Jewish cemeteries in Cherkasy oblast were desecrated by construction authorized by local authorities that resulted in remains being unearthed. The authorities responded to protests by halting the construction. In addition, several synagogues were restored to Jewish communities, and approvals were given for the construction of new ones.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Ukraine continues to require its citizens to register with a local Visas and Registration Office (OVIR), a Soviet-era relic. In 1993 Ukraine dropped its requirement for exit visas, and all citizens are eligible for passports that permit free travel abroad. Passports issued before independence must be submitted for certification of citizenship status.

Ukraine assures the right of return for all those it considers its citizens. Persons born in Ukraine and living in Ukraine at the time of independence are considered citizens. The right of return is available to people of Ukrainian descent who left the country prior to independence and did not assume other citizenship. Dual citizenship is not permitted. In mid-1992 the Government issued a statement allowing all those born in Ukraine to receive a document from any Ukrainian diplomatic mission abroad that would serve as a travel document to Ukraine.

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

The peaceful, democratic transfer of power from an incumbent government to an opposition party has yet to be tested. The present Rada was elected under the Soviet system and during Communist party domination. On September 24, the Rada, already rendered ineffective by a continuing deadlock with the Government, voted to hold early elections for a new president and a new Rada. The parliamentary elections are scheduled for March 27, 1994, and presidential elections are to be held on June 26, 1994. However, a new law on elections has yet to be adopted. The right to vote is granted to all adult citizens regardless of nationality, religion, or sex.

In 1992 the Rada gave extraordinary powers to President Kravchuk and temporarily (until May 1993) relinquished its powers to the Prime Minister in a number of crucial economic areas. The Rada recovered those powers from the Prime Minister in May 1993 without a serious confrontation with the executive branch.

President Kravchuk continues to dominate political life. During 1992, at Kravchuk's request, the Rada passed a law on "presidential representation" which gives the President authority to appoint a representative to each oblast. The law gave the representative broad powers over local government and further concentrated political power in the executive branch. In many cases, presidential representatives used these powers to promote reform in oblasts and cities. In 1993, however, the Rada, many of whose members were alarmed at the pace of reform or at the growth of presidential authority, successfully curtailed the powers of presidential representatives. The effect was to slow economic reforms.

Deputies to the Rada, as well as the members of oblast councils, were elected to 5-year terms in 1990, before independence. Most of the deputies at both the national and local levels are conservatives drawn from the Communist Party nomenclatura. A number of reform-minded Communist deputies formed new parties or joined forces with the opposition, and the Rada is now divided about equally between the conservatives and the opposition coalition of nationalists and reform-oriented deputies.

The Rada continues to debate the provisions of a new constitution, but there is no clear timetable for its adoption. The division of power between the legislature and the executive has yet to be determined. Many deputies have criticized the draft for giving the President too much authority. A coalition of democratic forces, including Rukh and a political alliance, New Ukraine, spearheaded a campaign to hold a popular referendum on the President and the Rada that eventually led to the Rada's decision to call early parliamentary and presidential elections.

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

The Government allowed local and international human rights groups to operate freely. The Union of Councils for Soviet Jews has an active office in Kiev, staffed with local human rights monitors. The Government also welcomed visits by foreign human rights organizations. The U.S. Commission on Security and Cooperation in Europe was invited to observe the independence referendum (later canceled) and presidential elections.

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

Discrimination on the basis of race, sex, and other grounds is prohibited in the Constitution.

Women.—There are reports of violence against women, often involving the high incidence of alcoholism, but no statistics are available. Ukrainian labor law guarantees all work-related rights to women as well as men. Although equal pay for equal work is the law, women are seldom seen in high-level managerial positions or in high political office. However, educational opportunities for women are improving, and more women are entering the legal, medical, and journalism professions. Women may be the chief victims of unemployment caused by the economic crisis. Some estimates indicate that women account for 90 percent of the unemployed. There is poor understanding of the meaning of discrimination against women and no widespread women's rights activity.

There is a lack of awareness of spouse abuse and other violence against women as a women's rights issue. There are no separate statistics on prosecutions for wife beating or on average sentences. Some sources assert that the low incidence of reported crimes against women is evidence that violence against women is not a problem. However, other sources assert that women may not report crimes against them because they perceive the legal system to be ineffective and inhospitable. Government officials have acknowledged that women are often pressured by authorities to drop charges against their husbands to preserve the family.

Children.—Government officials assert that the Government is committed to children's rights. Because of the deepening economic crisis, the Government has taken few specific steps to further a children's rights agenda. Much of the social welfare system is dedicated to the support of children, including: supplemental state payments to families with children, generous postpartum paid leave benefits, numerous children's hospitals, and universal free education at all levels.

National/Racial/Ethnic Minorities.—Although a 1989 law promotes Ukrainian as the state language, the November 1991 law on the rights of national minorities allows individual citizens to use their respective national languages in conducting personal business. Laws and decrees are published in both Russian and Ukrainian. In areas where there are large Russian minorities (Crimea and eastern Ukraine), Russian is permitted as a language of official correspondence alongside Ukrainian and is also the language of instruction in schools. Russian is recognized as the official language of Crimea. Elsewhere, the Russian minority complained of language discrimination. There was no evidence of serious Russian-Ukrainian ethnic tension except in Crimea, where the Ukrainian minority complains of discrimination by the Russian majority, and in some parts of western Ukraine, where local Ukrainian nationalists discriminate against the minority Russian population.

Some Russians (and Ukrainians) in Ukraine have complained about the increased use of Ukrainian (the official state language) in schools and in the media. The Russian-speaking people of eastern Ukraine have claimed that their children are forced to take Ukrainian-language tests, and their poor showings on these tests negatively affect their scholastic careers. It is up to the municipality, not the central Government, to determine the language of instruction in the schools. The draft constitution also guarantees local minorities the choice of language in public and private life.

Polish, Hungarian, and other ethnic minorities have been granted sites for schools and cultural organizations. While there may be some isolated cases of discrimination against ethnic Russians, the majority of Ukrainian citizens do not appear to differentiate between Ukrainian and Russian ethnicity.

The Ukrainian citizenship law confers the same legal status on all citizens regardless of ethnic affiliation. However, it does not recognize dual citizenship, unless specifically guaranteed by a bilateral treaty. Russia and Ukraine, for example, have no bilateral treaty on this subject, although Russia has repeatedly urged Ukraine to discuss dual citizenship. In 1991 the Rada amended the citizenship law to remove notations in passports identifying citizens by ethnicity and religion.

Religious Minorities.—Jews are the second largest minority in Ukraine. Emigration to the West and Israel has resulted in a decline in their population. Despite government statements denouncing anti-Semitism, manifestations of it continue, exemplified by the growth of an ultranationalist extremist group in western Ukraine which professes strong anti-Semitic sentiment. The group applied for recognition as a political party, but the Government refused to register it. Distribution of anti-Semitic posters and literature appeared to increase during the year.

People with Disabilities.—By law, no discrimination based on disability is permitted; however, persons with disabilities are rarely employed. In the present economic crisis with high unemployment, there are no effective governmental programs targeted at increasing opportunities for the disabled. Public facilities are poorly adapted for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—Soviet law, or pertinent parts of the 1978 Ukrainian Constitution, continue to regulate the activities of trade unions. The law on citizens' organizations passed in 1992 guarantees noninterference by public authorities in the activities of citizens' organizations and the right of these organizations to establish and join federations, and to affiliate with international organizations on a voluntary basis. A new constitution and new law on trade unions are being debated, which will affect the future status and activities of trade unions. In principle, all workers and civil servants (including members of the armed forces) are free to form unions. In practice, the Government discourages certain categories of workers (e.g., nuclear power plant employees) from doing so.

A successor to the former official Soviet trade unions, the official Ukrainian trade union, known as the Federation of Trade Unions (FTU), has begun to work independently of the Government and has been vocal in opposing draft legislation that would restrict the right to strike. The FTU is considered a partner with management in the running of state enterprises. The Government provides this organization with office buildings and resort properties. The FTU has no official or legal relationship with the Socialist Party of Ukraine.

Many independent Ukrainian unions now provide an alternative to the official unions in most sectors of the economy. Some, such as the Independent Miners' Union of Ukraine (NPGU), emerged out of the 1989 strike committees and were instrumental in creating the independent miners' unions of the U.S.S.R. but broke away when Ukraine became independent. Independent unions were established in the Black Sea fleet, among the military officers of Ukraine, and among the scientific workers of the academy of sciences. In early 1992, the NPGU, pilots, civil air dispatchers, locomotive engineers, and aviation ground crews unions formed the Consultative Council of Free Trade Unions. This entity acts independently of the FTU. In negotiating wages, the Government has invited all unions, not just the FTU, to participate.

The law on labor conflict resolution guarantees the right to strike to all but members of the armed forces, civil and security services, and employees of "continuing process plants" (e.g., metallurgical factories). The law prohibits strikes that "may infringe on the basic needs of the population" (e.g., rail and air transportation). Strikes based on political demands are illegal. However, this did not stop miners and transportation workers from making political as well as economic demands during their September strike. The law forbids penalizing union members who participate in strikes. The Government has relied on the courts to deal with strikes that it feels have violated the law. The courts, however, have not always ruled in favor of government views.

There are no official restrictions on the right of unions to affiliate with international trade union bodies; the NPGU is a member of the International Miners' Union. The American Federation of Labor-Congress of Industrial Organizations has a permanent representative in Kiev who interacts freely with the Consultative Council of Independent Trade Unions. Independent unions have not been pressured to limit their contacts with international nongovernmental organizations.

In October a leader of one of the independent labor organizations alleged that the Security Service seized documents relating to international activities and detained a union official responsible for international affairs. While the union official remains in custody, due to the lack of bail in the Ukrainian system, this incident appears to be an isolated case which may involve criminal activity. No similar reports of harassment, before or after this incident, have been noted.

b. *The Right to Organize and Bargain Collectively.*—In accordance with the law on enterprises, joint worker-management commissions should resolve issues concerning wages, working conditions, and the rights and duties of management at the enterprise level, a system that is not clearly defined. Overlapping spheres of responsibility frequently impede the collective bargaining process. Wages in each industrial sector are established by government agreements with trade unions. All unions are invited to participate in the negotiations. The law on labor conflict resolution introduced another bureaucracy, the National Mediation and Reconciliation Service, to mitigate labor-management disputes that cannot be resolved at the enterprise level. The President appoints the head of this service.

Collective bargaining law prejudices the bargaining process against the independent trade unions and favors the official unions. The collective bargaining law provides for dues to be taken from the pay of every worker in a collective and paid to the official union. The social welfare benefits of workers paid by an enterprise are administered for the enterprise by the official union.

Most workers are never informed that they are not obligated to join the official union, and joining an independent union can be bureaucratically onerous. Three steps must be followed to direct one's dues to an independent union. First, the worker must submit a form to the official union stating that the worker does not wish the official union to represent the worker. Second, the worker must submit a form to the independent union declaring the worker's desire to join the independent union. Finally, a third form must be submitted to the enterprise directing that payroll deductions be given to the indpendent union. Independent unions are not given resources to administer social welfare benefits. Enterprise directors discourage departures from the offical union by meeting with workers to discuss the benefits of official union membership.

The collective bargaining law prohibits antiunion discrimination. The courts resolve disputes under that law. There have been cases in which such disputes have not been resolved in a fair and equitable manner.

There are no export processing zones in Ukraine.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution forbids compulsory labor, and it is not known to exist.

d. *Minimum Age for Employment of Children.*—The minimum employment age is 17. However, in certain nonhazardous industries, enterprises can negotiate with the Government to hire employees between 15 and 17 years of age. Education is compulsory up to age 15. The Ministry of Education vigorously enforces the law on education.

e. *Acceptable Conditions of Work.*—In 1992 the Government established a countrywide minimum wage. Prior to the onset of high inflation, the minimum wage and numerous other mandatory subsidies provided a decent income for a family. However, monthly inflation rose dramatically during 1993, beginning at about 40 percent in January, according to unofficial estimates, and reaching about 70 percent in December. This hyperinflation has seriously eroded incomes, and over half the population of Ukraine now lives below the poverty level, with further declines expected. In theory, the current law on wages, pensions, and social security provides for mechanisms to index the minimum wage to inflation.

The Labor Code provides for a maximum 41-hour workweek and at least 15 workdays of paid vacation per year. Ukrainian labor law provides for at least one 24-hour rest period per week. Economic stagnation in some industries (e.g., defense) have significantly reduced the workweek for some categories of workers. Gross undercompensation for overtime work in some sectors (e.g., railroad workers) has resulted in strikes.

The Constitution and other laws contain occupational safety and health standards, but these are frequently ignored in practice. Lax safety conditions were the principal causes of two serious mine accidents that occurred in the summer of 1992, resulting in dozens of casualties. In theory, workers have the legal right to remove themselves from dangerous work situations without jeopardizing continued employment. In reality, however, labor experts say that continued employment would be in question. The Labor Ministry is currently rewriting the mine safety law. The NPGU is demanding that the Government improve worker safety in the mines.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND*

The United Kingdom of Great Britain and Northern Ireland (UK) is a constitutional monarchy with a democratic, parliamentary government elected in periodic, multiparty elections. Although there is no written constitution, human and civil rights are recognized by statute and strongly held traditions. Human rights are "residual," i.e., assumed unless limited by statute.

Throughout the UK, public order is maintained by civilian police forces responsive to and controlled by elected officials. Because of terrorist violence, the Royal Ulster Constabulary (RUC) in Northern Ireland is supported by army units.

The United Kingdom has a highly developed industrial economy. Persons may own property and pursue private economic interests. The Government provides comprehensive social welfare services.

Terrorist bombings and killings carried out by the illegal Provisional Irish Republican Army (Provisional IRA) and other "Republican" (Catholic) and "Loyalist" (Protestant) terrorist groups in Northern Ireland and Great Britain continue to be the greatest threat to public order and security in the UK. By the end of 1993, over 3,000 people had died in 24 years of "the troubles" in Northern Ireland, which has a population of 1.5 million. Since the troubles began, more than 100 persons have been killed in Provisional IRA attacks in Great Britain, including 3 in 1993. Emergency measures enacted because of the terrorist problem in the past 20 years suspend certain due process guarantees and restrict freedom of movement, expression, and association. There were no new reported instances of extrajudicial killings by security forces in Northern Ireland. However, allegations of the use of excessive force continued. Eleven members of the security forces were killed in Northern Ireland. Aspects of the criminal justice system remained under scrutiny as investiga-

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*A separate report on Hong Kong, a dependent territory of the United Kingdom, follows this report on the United Kingdom.

tions exposed shortcomings, and a Royal Commission recommended extensive changes in the treatment of confession evidence and handling of appeals.

Primarily because of fear of terrorist violence, Protestant and Catholic communities in Northern Ireland are increasingly segregated. Most firms continue to recruit predominantly from one community or the other, and workers are reluctant to commute across sectarian borders. In December the British and Irish Governments issued a joint declaration which seeks to accomodate the aspirations of all communities in Northern Ireland and to encourage an end to violence.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no political killings by the Government and no charges of other extrajudicial killings by government forces. However, during 1993 there were four inquests into the deaths of people killed by the security forces under disputed circumstances in previous years. In Northern Ireland, 84 persons were killed in incidents related to terrorism, including 47 by Loyalists and 35 by Republican terrorists (one Loyalist and one Republican accidentally killed themselves). Eleven victims were members of British security forces, all killed by Provisional IRA. Although no deaths resulted from shootings by security forces in Northern Ireland, charges continued that soldiers resorted to lethal force precipitately and carried out a "shoot to kill" policy.

The Committee on the Administration of Justice (CAJ), an independent Northern Ireland civil liberties organization, claims that there have been approximately 340 killings by the security forces under disputed circumstances since "the troubles" began in 1968, with criminal prosecutions in only 30 cases, and 4 convictions by the end of 1993.

The authorities investigated several deaths in which critics of the security forces alleged a "shoot to kill" policy was in effect. A January inquest into the 1986 killing of Seamus McElwaine, an acknowledged Provisional IRA volunteer and escaped prisoner, ruled that soldiers had opened fire without giving him the opportunity to surrender and that McElwaine had actually been killed 5 minutes after being wounded in the initial gunfire. The Director of Public Prosecutions reviewed the case to determine whether prosecution was warranted. An inquest into the August 1988 killings of three IRA members was inconclusive. None of the security forces members involved in the shooting was required to be present at the inquest; their written statements were read out as evidence. They admitted they gave no warnings before firing, and the jury found inconclusive the evidence on who had fired first. An inquest into another case, a February 1988 death in which a soldier claimed his fingers were wet and had slipped on the trigger of his gun, determined that the soldiers involved were guilty of contravening orders in relation to the handling of weapons.

In the case of the deaths of four Provisional IRA terrorists after an attack on a police station in Coalisland in 1992, the court ruled in 1993 that the involved security forces were innocent of murder but enjoined five of the six accused to take more caution. Relatives of the three Provisional IRA terrorists who were killed in Gibraltar by UK security forces in 1988 have claimed that the terrorists were lured into an ambush. They were unarmed at the time the attack occurred, although British officials have claimed that they intended to bomb a military band concert. A police investigation and inquest in Gibraltar found in favor of the Government, but the relatives sued the Government for compensation. The Government claimed exemption for actions of its forces overseas, but the European Commission on Human Rights ruled that the European Court should consider the case. Two Royal Marines who were charged with the murder of Fergal Caraher in 1992 were acquitted in December when the judge, citing conflicting and in some cases apparently perjured testimony, accepted the Marines' contention that they believed another member of their patrol was in danger. In the September 1990 killing of Karen Reilly, a Belfast Crown Court found one soldier guilty of murder and another guilty of evading the investigation. They were sentenced to life in prison and 7 years respectively. The McBride case and another case involving the death of a 19-year-old student were still pending at year's end. Following an investigation, the DPP decided not to prosecute in the case involving the death of Pearse Jordan (see 1992 report).

In 1993 the European Commission found that the use of lethal force to prevent the running of a roadblock by a person reasonably suspected of being a terrorist is not a violation of international human rights law.

The RUC investigates all killings committed in Northern Ireland by the RUC, as well as by the Army. The Independent Commission for Police Complaints (ICPC), established by the Government, supervises investigations by police but has little

independent investigative capability. The RUC Chief Constable may accept or reject its recommendations for disciplinary action, as may the DPP in the case of criminal prosecutions. In 1992, 66 police officers were disciplined as a result of ICPC investigations, and criminal charges were brought against 8 police officers. The ICPC has no responsibility for complaints leveled against the Army (see Section 1.c. for additional discussion of the ICPC). In early 1993, the Northern Ireland Secretary named a senior British lawyer as Independent Assessor of Military Complaints to deal with procedures for complaints against the Army; he has no independent investigative powers. His first report was due in early 1994.

Although the European Convention on Human Rights established a standard for use of lethal force only when "absolutely necessary" in specific circumstances, British law requires only that the use of lethal force be "reasonable in the circumstances." Soldiers involved in shooting incidents have argued that they were in "imminent danger" before opening fire. The courts have generally accepted this defense, and very few on-duty soldiers have been convicted.

Security forces members are subject to the same legal guidelines on the use of lethal force as are other citizens. In practice, this means that if a court determines in a death case that a policeman or soldier intended to cause serious bodily harm but was not justified in doing so, the only applicable charge is one of murder. Manslaughter is applicable in death cases only where there is no intent to cause serious bodily harm. This means a charge of manslaughter is possible when a negligent discharge of a weapon is suspected, and there have been a few convictions on this basis. Since sentencing rules require a life sentence for murder, the courts have been unwilling to impose such heavy penalties in borderline cases.

Human rights organizations have called for the establishment of an independent public inquiry to investigate allegations of police threats to and intimidation of defense lawyers in Northern Ireland, including an investigation of the 1986 killing of Patrick Finucane, counsel to many Provisional IRA suspects. In February the U.S.-based Lawyers Committee for Human Rights released the report of its investigation into Finucane's death, in which they concluded that there was "credible evidence suggesting collusion between elements within the security forces and Loyalist paramilitaries" in Finucane's killing. Three people were charged and convicted of possession of the weapons used to kill Finucane, but police have not found sufficient evidence to charge them with murder. The case remains open. The Government maintained that harassment of defense lawyers was unacceptable and invited those with evidence of such actions to provide it to the ICPC.

Security forces in Northern Ireland continued the use of plastic bullet rounds (PBR's) for riot control, though in recent years their use declined sharply, consonant with the decline in the number of street riots. PBR rounds were shot at Protestant groups in the riots leading up to the annual July 12 celebration, resulting in some minor injuries and a serious one.

For the second year in a row, Loyalists killed more people than did the Provisional IRA. Loyalist terrorists continued to perpetrate random sectarian killings of Catholics in Northern Ireland, culminating in the indiscriminate slaughter of seven Catholics in Greysteel in late October. The Provisional IRA conducted bomb attacks that led to numerous deaths. A Provisional IRA bomb in Belfast in October killed nine civilians as well as one of the bombers. A huge Provisional IRA bomb in London in April caused massive damage and one death, and two smaller bombs in a shopping district in Warrington, England, killed two small boys and injured more than 50 others.

In August police arrested Joy Gardner, a Jamaican illegal alien subject to a deportation order. According to official reports, she collapsed and died of renal failure after 4 days on life support in a hospital. Her family alleges she died of asphyxiation after being gagged by the police. The Commissioner of the Metropolitan Police ordered an immediate investigation and suspended the officers involved. In January 1994, the Home Office issued guidelines banning the use of gags.

b. *Disappearance.*—There were no disappearances attributed to government forces. Instances of persons abducted or held hostage by terrorists in Northern Ireland continued.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—British laws forbid torture and other cruel, inhuman, or degrading treatment of prisoners and provide penalties for violations of those laws. Confessions obtained by such methods are not admissible as evidence in court. However, Helsinki Watch asserted that "evidentiary rules in nonjury courts permit the admission into evidence of unreliable confessions, some of which may have been secured by abusive treatment in detention." Allegations of torture and ill-treatment of persons detained by the police in holding facilities in Northern Ireland continued. A new code of practices, which went into effect January 1, 1994, is designed to implement greater

standardization of police interrogation procedures and strengthen oversight requirements.

The "Beechmount Five" and the "Ballymurphy Seven" were two groups of teenagers arrested and interrogated in connection with two separate attacks on the RUC. They alleged that they were coerced into making confessions, in the absence of their lawyers, after being subjected to mental and physical abuse. Inadequate methods for monitoring police interrogations make it virtually impossible to prove or disprove these claims. The Beechmount Five were convicted primarily on the basis of confession evidence. The trial of the Ballymurphy Seven began but has not been concluded. In March an eighth teenager from Ballymurphy was tried, convicted, and sentenced to 14 years. The principal evidence against him was the statement which he claimed he was coerced into signing.

The Independent Commission for Police Complaints in Northern Ireland has limited powers. It reviews all complaints against the police and automatically supervises police investigations in cases involving death or serious injury, as well as any other cases of its choosing. It may insist that disciplinary charges be preferred against police officers and may comment on the quality of police investigations, but it has no control over the outcome of disciplinary cases. The ICPC has been unable to substantiate any claim of ill-treatment in police custody submitted. In most cases, complainants refused to cooperate with the police or the ICPC. Some claimed they could not get a fair trial. The Government notes that complainants often prefer to sue in civil court, where they may be awarded substantial damages as a result of court rulings or out-of-court settlements, and where a lower evidentiary standard is applied.

The U.N. Committee Against Torture as well as many human rights groups have raised concerns about ill-treatment of detainees in Northern Ireland and recommended that interrogations in police custody be videotaped. The Government refused to accept their recommendation on the grounds that the tapes could compromise ongoing operations and jeopardize the safety of detainees who cooperate with the police. Instead, the Government announced in December 1992 the appointment of a senior barrister as Independent Commissioner for Holding Centers in Northern Ireland. He has the authority to make irregular and unannounced visits to any of the three holding centers, observe interrogations on television monitors, and interview detainees. His first report is due to be submitted in early 1994.

Security forces in Northern Ireland, both the Army and the RUC, frequently harass citizens verbally, particularly young people in areas where community support for terrorists is considered strong. Security forces have also been accused of more serious incidents of physical mistreatment. The CAJ reported that harassment included threats to kill, kidnap, or maliciously prosecute. Most complaints come from Republican neighborhoods, but after police crackdowns on Loyalist terrorism, there were also reports of abusive house searches and street harassment in some Protestant areas. Officials state that soldiers and policemen found guilty of harassment are punished severely but have provided no statistics.

Northern Ireland terrorist groups, both Loyalist and Republican, frequently carry out "punishment shootings" of persons allegedly engaged in "antisocial activities." These assaults, which typically involve shooting through one or both knees at short range, have been widely condemned.

Prison facilities in the UK vary depending upon location. Remand facilities, which tend to be located in old Victorian structures, are often overcrowded and lack proper exercise areas and modern sanitation. Permanent facilities are generally good, although a government-appointed investigator found problems of overcrowding, substandard conditions, and lax discipline at some prisons in Great Britain. In Northern Ireland, prison facilities have improved notably in recent years, but conditions at the three holding centers are substandard. Uniformed police can observe all interrogations on television monitors although the content of the interviews cannot be heard, and, as noted above, they do not allow tapes to be made.

Some teenagers continued to be detained in adult holding centers in Northern Ireland despite a government policy to separate them from adult prisoners. Helsinki Watch reported allegations by young detainees that they had been subjected to physical and mental abuse and pressured to become informers during detention.

Children under the age of 18 convicted for murder may be held for an indeterminate length of time. for example, the two 10-year-old children who murdered toddler Jamie Bulger received indeterminate sentences. Such sentences are periodically reviewed. If it is found that a person has been rehabilitated, the individual may be released. Throughout the UK there are some 400 children under the age of 18 serving indeterminate sentences.

d. *Arbitrary Arrest, Detention, or Exile.*—In instances when reasonable cause to suspect criminal guilt exists, police may make arrests without warrants. Those ar-

rested without warrants must be released on bail within 36 hours unless brought before a magistrate's court. The court may authorize an additional 60 hours of detention before charges must be brought. Generally, persons charged with what British law defines as "nonserious" offenses may be released on bail. In cases such as crimes of violence, however, magistrates have remanded persons for periods of up to 3 years before trial.

Reacting to the violence in Northern Ireland, the Government adopted the Northern Ireland (Emergency Provisions) Act of 1991 (EPA), which is applicable only to Northern Ireland, and the Prevention of Terrorism (Temporary Provisions) Act of 1989 (PTA), most of which is applicable to the entire United Kingdom. Both Acts replaced earlier versions enacted in 1973 and 1974 respectively, and both must be renewed annually by Parliament.

Under the EPA, police and military personnel, in dealing with cases of suspected terrorism, may enter and search without a warrant, and members of the armed forces on duty may arrest without a warrant any person suspected of having committed or being about to commit any offense. Such persons may be held for up to 4 hours, after which they must be transferred to police custody or released. The 1991 EPA introduced new offenses—of directing a terrorist organization and possessing items intended for terrorist purposes—and gave authorities new powers to examine financial and other documents found in terrorist-related searches. The PTA allows the police to arrest without a warrant, anywhere in the UK, persons whom they reasonably suspect to be involved in terrorism. The authorities may detain such persons, even those under 18, for up to 48 hours without legal representation or judicial review. Suspects may be interrogated during this time, and confessions obtained may be used in subsequent court proceedings. Although people detained in England and Wales under the PTA have the right to have lawyers present during interrogation, in Northern Ireland lawyers are never allowed to be present during interrogation of PTA detainees. Judicial review may be delayed up to a further 5 days on the authority of the Home Secretary or, in Northern Ireland, the Secretary of State for Northern Ireland. In 1988 the European Court of Human Rights held that this practice violated the European Human Rights Convention. As a consequence, the UK derogated from that portion of the Convention. In 1993 the European Court held that British derogation from this portion of the Convention was allowable. The Court reasoned that detention of suspected terrorist beyond 4 days was reasonable under the circumstances.

The Government does not practice exile (see, however, Section 2.d.). In Northern Ireland, the Provisional IRA and to a lesser extent Loyalist paramilitaries forced a substantial number of Catholics and Protestants to leave the province by threatening them with death or injury if they remain. The paramilitaries claim that these persons have cooperated with security forces or engaged in "antisocial behavior", but the latter reportedly includes personal feuds with paramilitary members. Families Against Intimidation and Terror, an organization that assists persons under threat, dealt with 35 cases in 1993, including 7 entire families.

e. *Denial of Fair Public Trial.*—Fair trial is provided for by law and observed in practice, but there have been some serious exceptions. In the late 1980's, after 10 years of intense public pressure on several cases, the Home Secretary directed the courts to reconsider them. The cases were reviewed at the appellate level and the appellate courts reached a number of troubling conclusions: lower courts often relied too heavily on uncorroborated confessions and assumed the integrity of the police was irreproachable; appellate court judges tended to accept lower court rulings without closely examining procedural flaws and new evidence and occasionally displayed open hostility to the defense; and courts accepted tainted forensic evidence and exculpatory evidence was withheld from the defense. As a result of these apparent miscarriages of justice, the Government in 1991 established a Royal Commission to review all aspects of the criminal justice system in England and Wales (see below).

An indigent defendant has the right to counsel of his choosing. All criminal proceedings must be conducted in public, with the exception of juvenile court cases and cases involving public decency or security. In a trial under the Official Secrets Act, the court may be closed at the judge's discretion, but the sentence must be passed in public.

The UK has several levels of courts. The vast majority of criminal cases are heard by magistrate's courts, which are managed by locally based committees. Their decisions may be appealed to the Crown Court, which also hears criminal cases requiring a jury trial, or to the High Court. From the Crown Court, convictions may be appealed to the Court of Appeal, which in turn may refer cases involving points of law to the House of Lords. The Appellate Committee of the House of Lords (which consists of senior judges and is functionally distinct from the legislative arm of the House) is the final court of appeal in the UK. Once all these appeals have been ex-

hausted, defendants in England and Wales may appeal to the Home Secretary to refer a case back to the courts if fresh evidence has emerged which casts doubt on the conviction. (Appeals may be made to the Northern Ireland Office and the Scotland Office in those jurisdictions.)

Since 1989, following referrals from the Home Secretary, courts in England have overturned the convictions of 18 persons previously imprisoned in connection with Provisional IRA terrorist attacks in the 1970's. A precedent has been established that all evidence held by the prosecution, whether or not intended for use in court, may be released to the defense at the judge's discretion.

Perceived miscarriages of justice prompted the Government in March 1991 to appoint a Royal Commission to review all aspects of the criminal justice system in England and Wales. The Commission spent 2 years collecting submissions from numerous professional bodies, nongovernmental organizations, and individuals, and commissioning surveys of lawyers, defendants, and the general public on how the administration of justice is perceived. The Commission's report was released in 1993 and includes 352 recommendations. The following recommendations have generated the most discussion: credible confession evidence should be allowed, if the judge gives a strong warning to the jury; in so-called either way cases—triable in either a magistrate's court or the Crown Court; where the case is tried is dependent upon the severity of the case—a defendant should not have the right to insist on trial by jury; the defense should disclose its theory of the case after the prosecution has disclosed its case; an independent criminal cases review authority that would send cases to the Court of Appeal (instead of the Home Office) should be established; and continuous video recording of all custody offices, passages, and stairways should be introduced as soon as possible. The proposal that the defense should reveal its case theory and the denial of a defendant's right to opt for a jury in an either way case stirred the most controversy. Some proposals from the report were included in the crime bill introduced into Parliament in December (see below).

Although the Commission did not study Northern Ireland, the Government indicated it would consider whether changes implemented as a result of the Commission's findings might also be applied in Northern Ireland.

In October the Home Secretary announced a series of proposals designed to crack down on rising crime rates throughout the UK, some of which have caused concern among human rights monitors. These include allowing judges, at their discretion, to instruct juries that they could draw an inference of guilt from a defendant's refusal to answer questions during interrogation or trial; ending the presumption in favor of bail for serious or repeated offense; and creating new categories of terrorism offenses. The proposals were included in a criminal justice bill introduced into Parliament in December. Opposition parties and human and civil rights groups particularly criticized the erosion of the right to remain silent.

In 1973 the Government suspended the right to trial by jury for certain terrorist-related offenses in Northern Ireland because of intimidation of the judiciary, jurors, and lawyers. In such cases, a "Diplock Court," in which a single judge presides over a trial without jury, is used. The judge in a Diplock Court must justify his or her decision to convict in a document that becomes part of the court record, and appeal courts may overturn Diplock Court convictions on substantive as well as legal grounds. These courts have been widely criticized. The Government claims that the conviction rate for defendants pleading not guilty in Diplock Courts is virtually identical to the rate in regular courts, but one human rights group has contested this claim, citing other statistics that indicate a 50 percent higher conviction rate in Diplock Courts in 1991. The group also notes that most Diplock convictions are based on uncorroborated confessions.

A court in Northern Ireland may draw whatever inference it deems proper, including an inference of guilt, if a subject remains silent during interrogation by police or at trial, though he cannot be convicted solely on the basis of such an inference. The change was intended to deal with a Provisional IRA tactic of advising members not to say anything under interrogation, then to present a surprise alibi at trial, but it substantially erodes the presumption of innocence and the right not to be compelled to testify against oneself or confess guilt. Furthermore, it is part of the general criminal law of Northern Ireland and applies to all criminal suspects, not only terrorist suspects.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The right to privacy is generally respected in both law and custom, though see below on Northern Ireland. Warrants are normally required for a police search of private premises. However, under the EPA, on-duty members of the armed forces or policemen may enter any premises or other place if they consider it necessary to preserve peace or maintain order. The Act requires a standard of "reasonable grounds of suspicion" before a dwelling may be entered without a warrant.

In Catholic communities in Northern Ireland, where distrust of the Government has deep historical roots, many believe that the conduct of some members of the security forces in carrying out security checks constitutes unwarranted harassment and intimidation. The Government conducts intensive training of security personnel in proper procedures but acknowleges that official guidelines are still sometimes violated.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Strongly held common law tradition, an independent press, and a democratic political system combine to secure freedom of speech and press. Viewpoints critical of the Government are well represented. British print media are dominated by a handful of national daily newspapers, all privately owned and highly independent (though often generally aligned with one of the major political parties). About half the electronic media are run by the British Broadcasting Service (BBC), which is funded by the Government but enjoys complete editorial independence. The remainder are run by corporations under renewable government license.

The Government continued to prohibit radio and television in the UK from broadcasting the voices of members of proscribed terrorist organizations such as the Provisional IRA, and of representatives of Sinn Fein (the legal political arm of the Provisional IRA), as well as the voices of those who "solicit, support, or invite support for such organizations." Critics charge that the vagueness of this last category intimidates broadcasters into applying the ban even in ambiguous cases. However, there are no restrictions on reporting such persons' words, and broadcasters may and do use actors with similar accents to read the words in synchronization with the lips of the actual speaker. Exceptions to the ban are made for coverage of election campaigns and parliamentary proceedings.

Human rights and civil liberties organizations continued to criticize the Official Secrets Act of 1990, which prohibits disclosure of a broad range of foreign policy and national security information. They claim that, in the absence of freedom of information legislation, actions of the Government are effectively shielded from the public, even in instances where government agencies have acted improperly or illegally. Alleged offenses under the Act may be tried in secret, and the Government need not disclose its justification for holding a secret trial. In practice, however, the Act is seldom invoked and has not prevented the disclosure of numerous internal government documents and instances of alleged wrongdoing. Attempts by the Government in the 1980's to prosecute officials who leaked documents generally failed.

The Government demonstrated its commitment to freedom of speech by providing police protection to author Salman Rushdie, the subject of an incitement to murder by former Iranian leader Khomeini, and by affording Rushdie a series of meetings with senior British officials. The Government has stated that the refusal of Iranian authorities to repudiate the incitement to murder, or to lift the bounty offered for his death by an Iranian organization, prevents the restoration of full relations between the two countries.

b. *Freedom of Peaceful Assembly and Association.*—The Public Order Act of 1986 gives police broad powers to restrict or ban public demonstrations, marches, and assemblies when they deem that violence or vandalism is likely to result. The Act is seldom invoked, but has been used in recent years to prevent "New Age Travelers" from gathering on private property or at ancient monuments such as Stonehenge. The PTA and EPA include sections prohibiting membership in, or support of, organizations involved in terrorism. These organizations are specifically listed in the statutes. The lists do not include political parties.

c. *Freedom of Religion.*—Government policy and general practice ensure freedom of religion. Britain has two established churches legally recognized as official churches of the State: in England the (Anglican) Church of England, and in Scotland the (Presbyterian) Church of Scotland. In Northern Ireland, the Constitution Act of 1973 prohibits discrimination by public authorities on the basis of religious belief or political opinion (see Section 5 concerning the Fair Employment Act). Ministers of the Church of England and the Church of Scotland are ineligible to sit in the House of Commons. However, the most senior ministers of the established religions hold seats in the House of Lords.

The Government provides funds for many schools maintained by various religious denominations, including Anglicans, Catholics, Methodists, and Jews. In May 1992, the High Court ruled that a local council's decision to deny funding to a Muslim-run school was "manifestly unfair" and that the Education Secretary should reconsider. In August the decision not to fund the school was reconfirmed. In Northern Ireland, the Government provides full funding for nonsectarian (but overwhelmingly Protestant) state schools. For denominational (mostly Catholic) schools, the Govern-

ment provides 100 percent of operating costs and 85 percent of capital costs. In December 1992 the Government announced that denominational schools could qualify for full state funding if no single (sectarian) group comprised a majority of the school's board of governors.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens of the UK enjoy freedom of movement within the country and in foreign travel, emigration, and repatriation, with very limited exceptions as noted below. The Home Secretary may exclude from Great Britain anyone connected with terrorism in Northern Ireland, unless that person was born in Great Britain or has been resident there for 3 years. Similar authority is granted to the Secretary of State for Northern Ireland to exclude persons not native to or resident in that province. In ordering exclusion, the Secretary of State need only be "satisfied" that a person is or has been involved in the commission, preparation, or instigation of acts of terrorism. Currently 92 persons are subject to exclusion orders, including 2 new orders issued in 1993 by the Home Office. In April John Matthews was arrested in London and detained for 10 weeks in connection with a Provisional IRA bombing. When the case came to court in July, the prosecution dropped charges, but Matthews was immediately served with an exclusion order and flown back to Northern Ireland. Several Members of Parliament, human rights groups, and most of the British media objected to the exclusion order. In October the exclusion order on Sinn Fein president Gerry Adams was reinstated after 10 years during which he had been elected to Parliament but had not traveled to Britain. Exclusion orders are contentious because the Secretary of State need not reveal the grounds for exclusion, the evidence is not tested in any court, and there is no formal right of appeal to the courts.

Immigration rules require that all requests for asylum be considered by the Home Office in accordance with the 1951 Convention Relating to the Status of Refugees. The Government makes generous provision for political refugees, but faced with an exponential rise in asylum applications in recent years, it introduced legislation to speed processing of unsubstantiated requests. Human rights groups claim the legislation would undermine Britain's commitment to provide haven for legitimate refugees. In 1992 approximately 24,000 people (excluding dependents) applied for asylum. This was about 20,000 fewer than in 1991. The Government believes the decrease is largely due to a more rigorous applicant recording system. Approximately 5 percent of the applicants received asylum; most of the remainder were granted exceptional leave to stay in the UK. In July former Home Secretary Baker was found in contempt of court for failing to stay the deportation of a Zairian teacher, whom the court had granted a right to remain in the UK.

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

The Government is formed on the basis of a majority of seats in the House of Commons, which are contested in elections held at intervals not longer than 5 years. Participation in the political process is open to all persons and parties. All citizens 18 years of age and older may vote. Northern Ireland has city and district councils, as in the rest of the UK, but with somewhat fewer powers. England and Wales also have county councils, while Northern Ireland does not. (Scotland's structure is different still.) From 1922 to 1972, Northern Ireland had a devolved provincial Parliament at Stormont, which was suspended because its domination by the unionist majority was seen as contributing to the troubles. Several attempts have been made since then to restore devolved government. Another major effort continued in 1993.

Women and minorities face no legal constraints on their ability to participate in the political process through voting or holding office. The Head of State is a Woman, the Head of Government was a woman from 1979 to 1990, two women are members of the present Cabinet, and the deputy leader of the main opposition party is a woman. The Labor Party has initiated a policy of reserving a substantial number of candidacies for women, with the goal of equalizing the number of its male and female Members of Parliament (M.P.'s). Several members of minority ethnic groups serve in parliament. However, voter turnout among some ethnic minorities is far below that of the majority community, and some women M.P.'s complain that late-night sittings and lack of child care facilities pose unfair obstacles to female politicians.

Most British dependent territories—Hong Kong is an exception—have small populations, under 60,000, and all are ruled by appointed governors or administrators assisted by executive councils (usually appointed) and legislative assemblies or councils (partly elected).

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

A large number of local nongovernmental human rights organizations operate freely with no government interference or restriction. In 1973 a Standing Advisory Commission on Human Rights was established by the Government to monitor human rights in Northern Ireland, although the Government has declined to adopt many of its recommendations.

A number of international nongovernmental human rights organizations, including Amnesty International, are based in the UK. The Government cooperates fully with international inquiries into alleged violations of human rights and usually takes steps to rectify its own laws and policies when they are found inconsistent with human rights agreements to which it is a party.

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

The law in Great Britain bars discrimination on the basis of race, color, nationality, or national or ethnic origin and outlaws incitement to racial hatred (see below).

Women.—Equal opportunity for both sexes is protected by law. An Equal Opportunities Commission (EOC) supports persons who bring discrimination cases before industrial tribunals and courts, and it produces guidelines on good practice for employers. Employed women throughout the UK earned approximately 25 percent less than their male counterparts in comparable positions.

In 1992 the number of complaints filed with the EOC, including those involving sexual harassment, reportedly increased almost 65 percent. Complaints from males made up about 40 percent of the total. The Inspectorate of Constabulary, in an official report, said there were "serious" problems of sexual harassment and denial of equal opportunities in the country's police forces. On December 8, Sarah Locker was awarded an out of court settlement of 32,000 pounds (approximately $50,000), an apology from the Metropolitan Police Commissioner, and a promotion. Scotland Yard decided to set up a women's support network and begin training for all ranks in equal opportunity and race awareness.

Although there were continuing reports of career progress by women in most sectors of the economy, the adequacy of British law and administration in dealing with sex discrimination was subjected to a series of legal challenges. In August 1992, the European Court of Justice ruled that the UK's statutory limit on financial awards in discrimination cases, the equivalent of $16,500, was illegal. Shortly after that ruling, the Trade Unions Congress (TUC), Britain's central labor organization, filed a complaint with the European Commission charging that the Government, by abolishing the statutory wage councils (which set minimum wages in certain low-paid and largely female industries), was violating its obligations under EC law to provide the affected women workers with equal opportunity. (Other aspects of the abolition of the wage councils were the subject of a separate complaint to the International Labor Organization (ILO); see Section 6.b.) The EOC endorsed the TUC action and announced it would be filing its own complaint with the EC, alleging that the UK legislation, in its entirety, "fails to provide effective access to justice."

The same statute which abolished the wage councils also established EC-mandated maternity leave of 14 weeks, and protections against dismissal on maternity-related grounds.

Women have equal property rights and equal rights in the divorce courts, and in 1993 a divorced wife's claim to a share of her husband's pension was upheld in court. Although there are no reliable statistics, experts on women's studies suspect that violence against women is the predominant form of violence in the UK. However, in an effort to educate and encourage women who have been the victims of abuse, the Women's Aid Federation, a private voluntary organization, organized an advertising campaign outlining the problems of abuse and stressing that women need not suffer them. The advertisement gives phone numbers where women may seek help. It has been disseminated widely. Offenders in domestic violence cases are prosecuted and are subject to imprisonment. Victims of battery and rape are given assistance, including accommodation and counseling, and the courts have held that nonconsensual marital sex can constitute a criminal offense.

Women in Northern Ireland's Maghaberry Prison maintained that the conditions under which they were imprisoned were abusive and discriminatory, and a group brought an action for sex discrimination against the Northern Ireland Office. They complained that, compared to the male prisoners at Maghaberry, women had shorter visiting hours, poorer facilities for visits, and, as opposed to male prisoners, no provisions for care of visiting children. The women further claimed they had less access to educational and exercise facilities than men.

Children.—In 1989 Parliament passed the Children's Act, which covers England and Wales and highlights growing acceptance of children's rights in domestic law. The basic premise of the Act is twofold: first, the best interests of the child must be taken into account when decisions are made regarding the child; and second, children should be consulted about their wishes and desires. Various governmental agencies (e.g., health, education, social services) also play a role in childrens' law. The overlapping legislation paints a complex legislative picture. However, it is clear that children have the right to apply for court orders, to give or withhold consent for medical treatment (where they have sufficient cognitive ability to make an informed decision), to make complaints to the relevant local authority, to have their ethnic, linguistic, and religious background considered, to have reasonable contact with their family (usually applied in a circumstance where there has been abuse), and to be consulted regarding their desires. Scotland and Northern Ireland employ principles and law similar to that found in the children's act. Children receive generous benefits packages. Children's advocates have commented that the laws reflect a growing acceptance of children's rights in domestic law. However they are concerned about cuts in social services to children, inconsistent application of the Children's Act of 1989, and lack of adequate monitoring of the law (e.g., statistics are not adequately kept).

National/Racial/Ethnic Minorities.—Approximately three million persons in the UK, representing 5½ percent of the population, belong to ethnic minorities. About half of them are Asians of Indian, Pakistani, and Bangladeshi descent. While British law bars discrimination on the basis of race, color, nationality, or national or ethnic origin and outlaws incitement to racial hatred, racial discrimination is not specifically outlawed in Northern Ireland. The Secretary of State for Northern Ireland agreed to investigate the scope for possible legislation on racial discrimination and determine what additional action should be taken by government departments to further enhance equal treatment of ethnic groups. A government-appointed, independent Commission for Racial Equality (CRE) supports persons taking court action under the Race Relations Act of 1976, provides guidelines on good practice, and may initiate court action. After formally investigating complaints, the CRE may issue notices requiring that discrimination cease. Such notices are followed up over a 5-year period to ensure compliance.

Although law prohibits discrimination based on race, persons of African and South Asian origin face substantial discrimination. In 1992 a government study concluded that racial discrimination existed at all stages of the criminal justice system. Several studies showed that ethnic minorities were less likely to obtain jobs and mortgages and more likely to live in overcrowded housing than were whites. Members of Asian and African minorities were also victims of racial insults and occasional "skinhead" violence. The Home Office reported over 7,700 racial incidents in England and Wales in 1992. CRE commented that the great majority involved insults or verbal abuse. About a dozen persons have been killed in racial attacks since June 1992. In April a black youth was stabbed to death by whites at a south London bus stop. In September a Bangladeshi youth was badly beaten by a group of whites in London's East End, sparking a weekend of violent clashes between Asians and whites. In October a black man was beaten, stabbed, and run over with a car by three white persons in east London. The Government is strongly opposed to discrimination and violence and prosecutes cases in which evidence is available.

Religious Minorities.—Although discrimination in employment on the grounds of religious belief or political opinion has been unlawful since 1976, it continued to occur in Northern Ireland, including at times by local governments. Within the Northern Ireland civil service, the proportion of Catholics under age 36 reflects overall demographic patterns, but they continue to be underrepresented in the upper age groups and grades. A Fair Employment Tribunal adjudicates individual cases of alleged discrimination. In 1992 the Fair Employment Commission noted that Catholics were not as well represented in the senior management levels of the public work force. In mid-November the civil service announced its intention to increase Catholic representation in the senior management levels. Government efforts to increase recruitment of Catholics into the police force and related security fields have been hampered by Provisional IRA assassinations and death threats, as well as public suspicion of the security forces. For a variety of historical and social reasons, the Protestant community controls much of the local economy, and anti-Catholic discrimination persists in the private sector. Despite government efforts and a recent drop in unemployment in Northern Ireland, the Catholic male unemployment rate remained 2½ times that of Protestant men, partly due to Catholic inability or unwillingness to engage in security-related work.

The Fair Employment (Northern Ireland) Act of 1989 was intended to end employment discrimination and aimed at outlawing even unintentional or "indirect" dis-

crimination. All public sector employers and private firms with more than 25 workers must register with the Fair Employment Commission, monitor the religious composition of their work force, supply annual monitoring reports to the Commission, and review their overall employment practices at least once every 3 years. These obligations were extended to small firms (employing between 11 and 25 workers) beginning in 1992. While the Fair Employment Act has been criticized for not establishing sufficiently rigorous targets and timetables, it has generally been praised by leaders of the Catholic community as a positive step. Employers who fail to comply face criminal penalties and loss of government contracts, and victims of employment discrimination may be awarded damages. In 1992, six companies were subject to criminal sanctions and fines for failure to comply with the Act.

People with Disabilities.—According to surveys, 6.5 million inhabitants of the UK have disabilities. Official discrimination against disabled persons is not sanctioned. However, studies indicate that social discrimination exists. Although the UK does not have one overarching law which addresses the rights of disabled people, a number of pieces of legislation guarantee social services. Benefits packages for disabled people are administered by various governmental departments. The benefits are designed to provide education, mobility, home care, and access to buildings. Access to buildings is generally poor.

Interest groups point out that the age of most buildings in London makes it difficult for a physically disabled person to obtain access even if there are ramps. Many buildings do not have elevators. Since 1985, government regulations have required that all new buildings meet the access requirements of all individuals with impaired mobility. In June 1992, the government made similar regulations for sensory impaired persons.

Government regulations mandate that by the year 2000 all taxis be wheelchair accessible. In 1944 the Government passed the Disabled Person's Employment Act, which instituted a quota system requiring businesses with more than 20 employees to hire disabled persons as 3 percent of their workforce. There have been 10 prosecutions under this Act. Government estimates are that 75 percent of companies fail to comply with the Act. Statistics with regard to unemployment of the disabled are not kept.

Section 6. Worker Rights

a. *The Right of Association.*—Workers have the right to form and join representative organizations, associate freely, choose representatives, publish journals, openly promote members' interests and views, and elect representative assemblies to determine union policies and procedures. Unions participate freely in international organizations.

Unions are free of government control but, like employers' associations, must register their accounts with a government-appointed "certification officer." Senior union officers must be elected by secret ballot. The law mandates secret ballots before a strike call, prohibits unions from disciplining members who reject a legal strike call, and allows individual trade union members to lodge complaints against their union with a government-appointed "Commissioner for the Rights of Trade Union Members."

No specific statutory "right to strike" exists in the UK. Voluntary cessation of work may be considered a breach of contract. A system of legal immunities, which protected unions from prosecution when engaged in lawful industrial action, was narrowed by a series of acts of Parliament introduced in the 1980's. These acts excluded secondary strikes and actions judged to have political motives. Unions encouraging such strikes are subject to fines by the courts and may have their assets seized. The legislation also restricts the ability of unions to act against subsidiaries of prime employers with whom they are in dispute when the subsidiaries are not party to the dispute and are the employers of record. This has led to union complaints that they have no protection against the transfer of work within the corporate structure (making unions the victims of a form of employer secondary action). The 1990 Employment Act made unions liable for all industrial actions, including unofficial strikes, unless the unions concerned write to strikers repudiating their action. Unofficial strikers may be legally dismissed. In instances where the right to strike is prohibited (e.g., for police officers), there are alternative means to resolve differences.

The Trade Union Reform and Employment Rights Act of 1993 abolished the Wage Councils (see also Section 5 above) and placed new procedural requirements on union strikes, dues collection, and membership rules. It also permits private citizens to seek damages, with government aid, when denied goods or services through illegal strike action.

Except in the case of the armed forces, the police, or the security services, it is illegal to deny a person employment on the ground he or she is not a union member. An amendment to the 1993 Act also reverses a court ruling that banned employers from offering financial inducements to workers in exchange for giving up trade union representation.

The compatibility with Great Britain's international undertakings of parts of the recent legislation affecting unions has been subject to challenges by the TUC in various European and international bodies (see below and also Section 5).

b. *The Right to Organize and Bargain Collectively.*—Although there is no legal obligation for employers to bargain with workers' representatives, and despite the fact that labor-management contracts are not enforceable in the courts, collective bargaining is longstanding and widespread, covering about 40 percent of the work force.

Recent British legislation affecting trade union rights and protection have been the subject of challenge by the TUC in various international forums (see below and also Section 5).

Workers who believe themselves victims of antiunion discrimination may seek redress through industrial tribunals. Remedies available include payment of indemnities and reinstatement.

The adequacies of these protections and the impact of recent legislation on trade unions and their members have been the subject of repeated complaints by the TUC to the International Labor Organization (ILO), the European Community (EC) and the Council of Europe (COE).

In May 1993, the Governing Body of the ILO endorsed the findings of the Committee on Freedom of Association on complaint filed by the TUC. At issue was the compatibility of British law and practice with ILO Convention 98 on the Right to Organize and Bargain Collectively, as it concerned the circulating of blacklists of trade unionists seeking employment. The ILO held that the British Government is obliged, inter alia, to protect trade unionists from such discrimination.

In September 1993, the Committee of Ministers of the COE accepted its Committee of Experts' finding that UK labor law was in violation of the European Social Charter. The issue, based on a TUC complaint, was that the British legislation which permits an employer to dismiss all employees who take part in strikes and then, after 3 months' time, selectively rehire them, was incompatible with the Charter's protection of collective action. The Committee recommended that the Government take this decision into account and notify it of what measures it will adopt.

As of August 1993, the Committee of Experts of the ILO had before it several other outstanding complaints from the TUC concerning various aspects of British labor law and practice. These were:

—the ban on unions at the Government's communications center GCHQ, an alleged violation of Convention 87 on Freedom of Association. The Government is to report in 1994 on efforts to negotiate a settlement.

—various provisions of the Trade Union Act of 1988 which prevent unions from disciplining members who refuse to join lawful strikes and bar unions from reimbursing their officials or members. All are alleged violations of Convention 87.

— the removal of unions' protection from civil liability for strike action, and the inadequacy of legal protection against the dismissal of strikers. Both are alleged violations of Convention 87.

—the denial to school teachers in England and Wales of the right to have their pay determined through collective bargaining. An alleged violation of both Convention 87 and 98 (right to organize).

—various provisions of the Trade Union Reform and Employment Rights Act of 1993, including the abolition of the wage councils (Convention 100 on equal pay), abolition of the Mediation Services' mandate to promote collective bargaining, new procedural limits on strikes and the collection of dues, and the removal of protection from disciplinary action short of dismissal designed to deter trade union membership. All are alleged to be violations of Conventions 87 and 98.

Export processing zones do not exist.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited and is not practiced.

d. *Minimum Age for Employment of Children.*—School attendance until the age of 16 is compulsory. Children under the age of 16 are not permitted to work in an industrial enterprise except as part of an educational course.

e. *Acceptable Conditions of Work.*—There is no legislated minimum wage. The Trade Union Reform and Employment Rights Act of 1993 abolished the wage council system, which prior to August 30, 1993 had established minimum hourly wages and overtime rates for adult workers in 26 low-wage industries. The UK does not have a law limiting daily or weekly working hours.

The Health and Safety at Work Act of 1974 requires that the health and safety of employees not be placed at risk. A Health and Safety Commission enforces regulations on these matters and may initiate criminal proceedings. The system of occupational health and safety is efficiently managed and operates with the full involvement of workers' representatives.

HONG KONG

Hong Kong, a small, densely populated British dependency, is a free society with legally protected rights but without a broad democratic base. Its constitutional arrangements are defined by the Letters Patent and Royal Instructions. Executive powers are vested in a British Crown-appointed Governor who holds extensive authority. The judiciary is an independent body adhering to English common law with certain variations. Fundamental rights ultimately rest on oversight by the British Parliament. In practice, however, Hong Kong largely controls its own internal affairs.

A well-organized civilian police force maintains public order and respects the human rights of the populace.

Hong Kong's free market economy is among the world's most important shipping, marketing, and finance centers. It serves as an investment center for trade with China and as a communication and transportation hub for Asia. Annual per capita gross domestic product increased by 5.5 percent in 1993 to a projected $18,948.

The Bill of Rights, passed in June 1991, continued to make an impact on legislative process and criminal law. Hong Kong political leaders and human rights groups have criticized the Government for not conforming Hong Kong laws to the Bill of Rights. The Legislative Council is expected to consider measures aimed at further reconciliation during the 1993–94 session. The principal human rights problem is the inability of citizens to change their government. China strongly criticized and opposed the Governor's 1992 proposed measures to broaden the political franchise before the colony reverts to China in 1997. In ongoing political talks, the United Kingdom (U.K.) and China have not reached agreement on these proposals. Discrimination and violence against women are continuing human rights concerns.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no instances of deaths in police custody or as a result of using force in restraining unarmed persons during arrest.

b. *Disappearance.*—There were no reports of any disappearance.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture and other extreme forms of abuse are forbidden by law and subject to punishment. Individual acts of police brutality occurred. From January to July 1993, 996 allegations of police assault were lodged. The total number of complaints against the police during this period numbered about 2,000. As of July, 34 cases were substantiated, none of which resulted in death. End of year figures were not available. Disciplinary action can range from criminal proceedings to dismissal or warnings. Complaints are investigated by an internal police unit, subject to outside review. The authorities continued to reject calls from some legislators that investigations should be conducted by an independent body.

d. *Arbitrary Arrest, Detention, or Exile.*—British legal protections and common law traditions govern the process of arrest and detention and ensure substantial and effective legal protections against arbitrary arrest or detention. Exile is not practiced.

e. *Denial of Fair Public Trial.*—Hong Kong's judicial and legal systems are organized according to principles of British constitutional law and legal precedent and feature, inter alia, an independent judiciary and trial by jury. The right to a fair public trial is guaranteed and respected in practice.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The right of privacy is generally respected and provided for by law. The Independent Commission Against Corruption (ICAC) is vested with powers which are normally exercised only by a judicial officer. Amendments to ordinances governing ICACdeprived it of its independent authority to issue arrest or search warrants (it must now go to the courts), but it still operates on the assumption that any excessive, unexplainable assets held by civil servants are considered ill-gotten until proven otherwise.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—There is a tradition of free speech and press as practiced in Great Britain. However, the admission by China's Ministry of Public Security that it has been gathering information on Hong Kong residents who are "against the Chinese Government" has had some chilling effect on free speech. Numerous views and opinions, including those independent or critical of the British and Hong Kong Governments, are aired in the mass media, in public forums, and by political groups. International media organizations operate freely in Hong Kong. Although rarely imposed, several ordinances permit restrictions of the press.

Journalists report that self-censorship is on the increase as Hong Kong-based media organizations which are expanding their commercial ties in China, seek to avoid giving offense to the Chinese Government. Following Chinese objections to a Hong Kong government proposal to "corporatize" the government-owned Radio Television Hong Kong (RTHK), there have been no further efforts by the Hong Kong Government to do so. The Government continues to refuse to consider freedom of information legislation proposed by Hong Kong civil liberties groups.

b. *Freedom of Peaceful Assembly and Association.*—These freedoms are practiced without significant hindrance, although the amended Societies Ordinance requires officeholders to notify the Police Commissioner (who is the Registrar of Societies) of the formation of a society. The Ordinance permits the Registrar to refuse to register an organization that is found to be "incompatible with peace, welfare, or good order" or is affiliated with a politica' organization abroad. There were no instances of this provision being applied arbitrarily in 1993.

c. *Freedom of Religion.*—Government policy and general practice ensure freedom of religion.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Travel documents are obtainable freely and easily, subject to neither arbitrary nor discriminatory practices. There is freedom of movement within Hong Kong.

By 1991 more than 200,000 Vietnamese had arrived in Hong Kong seeking refugee status. Hong Kong has never refused to accept, or pushed off, Vietnamese boat people. Prior to June 1988, they were automatically accorded refugee status. Thereafter, they were screened to determine their status and were held in prison-like detention centers awaiting resettlement in other countries or repatriation to Vietnam. As of November 1993, only 67 Vietnamese had arrived Hong Kong since agreement was reached in late 1991 by the U.K. and Vietnam The agreement provided for the immediate screening of new arrivals, mandatory repatriation to Vietnam of those whom the authorities determined not to be refugees, and the decision by the U.N. High Commissioner for Refugees (UNHCR) to cease providing a reintegration subsistence allowance to new arrivals.

A trial of 13 Vietnamese accused of murdering 24 fellow detainees, who burned to death in a February 1992 riot when their hut was barricaded and set afire, is expected to continue until mid-1994. In addition to the 13 defendants, 2 key defense witnesses were prevented from returning to Vietnam—despite volunteering to return home—until they have testified in the case. Gang violence continues to be a problem in the camps, and women are often raped. On September 1, the UNHCR began cutting nonessential services in the detention centers. The move, which eliminated adult education, community and recreational activities in the camps, and cut back employment opportunities and some medical facilities, was criticized by some nongovernmental human rights organizations.

The Hong Kong Government has said it hopes to have all initial screening of Vietnamese asylum seekers completed by January 1994. Reintegration assistance programs inside Vietnam funded by the European community, the Hong Kong Government, and the United States provided an incentive for those not eligible for third country resettlement to return to Vietnam. In order to spur voluntary repatriation of those not recognized as refugees, the Government slashed the assistance package available to those returning home by a third, effective November 1. Anyone who volunteered before that time could still receive the full amount. Those who have not completed the screening process by the deadline will have 90 days to make a decision for voluntary repatriation before benefits are cut. Of those found ineligible for resettlement or not yet screened, more than 10,000 persons had voluntarily returned to Vietnam by year's end and more than 34,000 since the agreement on the Comprehensive Plan of Action in 1989.

On May 12, 1992, the Hong Kong government reached agreement with Vietnamese authorities on an Orderly Return Program (ORP) for screened-out nonrefugees in Hong Kong detention centers. Under the program, people are randomly chosen from among the nonrefugee camp population and are moved to a separate location several days before the flight's scheduled departure. Hong Kong government secu-

rity officers then escort all those being mandatorily returned on to the plane and accompany the flight to Vietnam. Security officials have used limited force in the past when some nonrefugees resisted repatriation. To date the Government has returned 730 persons aboard 14 ORP flights.

The Government maintained its policy of deporting illegal Chinese immigrants to China, except in rare instances in which a person qualified as a refugee within the meaning of the U.N. Protocol on the Status of Refugees. In 1992 an average of 130 illegal immigrants, mostly young men, were arrested every day and returned to China. Over 2,400 ethnic Vietnamese living in China fled to Hong Kong during 1992. Called Ex-China Vietnamese Illegal Immigrants (EVCIIS) by the Government, they were not recognized as refugees by UNHCR or local authorities and were returned to China. Following China's expulsion of Han Dongfang, a Chinese labor organizer, when he returned to China in August, the Hong K ng Government has repeatedly renewed Han's permission to remain in the colony while he has continued efforts to obtain Chinese permission to return to his homeland.

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

While Hong Kong is a free society, with most individual freedoms and rights protected by law and custom, citizens of the territory do not have the right to change their government. The Governor is appointed by and serves at the pleasure of the Crown. He is advised on policy by an executive council which he appoints.

Legislation is enacted and funds are provided by the Legislative Council which also debates policy and questions the administration. Although the legislature has virtually no power to initiate legislation, it has become more assertive since the September 1991 direct elections for some seats. The Governor has ultimate control of the administration of Hong Kong but, by convention, he rarely exercises his full powers. In practice, decisions reached through consensus. Political parties and independent candidates are free to contest seats in free and fair elections. Representative government employing universal franchise, however, does not exist. Only 18 of 60 legislators were elected by universal suffrage. Of the rest, 21 were either appointed by the Governor or are themselves government officials. Another 21 were elected by functional groupings, such as lawyers, industrialists, teachers, laborers, and accountants. Functional constituencies disproportionately represent the economic and professional elites and, moreover, violate the concept of one person-one vote, since voters in functional constituencies may vote both in a functional and a geographic constituency.

In his first policy address in October 1992, the Governor introduced several proposals intended to make the 1995 legislature more democratic. As originally proposed, the measures would give all eligible voters in the working population of 2.7 million a second vote in one of 30 functional constituencies. Furthermore, the election committee, which would elect 10 legislators, would draw all or most of its members from the local district boards, which the Governor proposed to be entirely directly elected, rather than one-third appointed, as is the case now. Even these measures, however, would not result in a fully representative, democratically elected government. The Chinese Government, claiming it had not been consulted on these proposals, denounced them and warned that any changes which did not "converge" with the Basic Law, Hong Kong's post–1997 constitution, would be revoked when China resumes its exercise of sovereignty in 1997. Since April 1993, Chinese and British negotiators have been discussing the procedures for the 1995 Legislative Council elections, although progress has been negligible. However, both the British and Chinese Governments earlier agreed that the number of legislators to be elected by universal suffrage in 1995 will increase to 20.

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

Although the Government to date has interposed no official barriers to the formation of local human rights groups, some human rights monitors believe that provisions of the Societies Ordinance provide the legal means whereby a future government could do so. The Government has consistently cooperated with international and nongovernmental organizations on human rights issues. The UNHCR and nongovernmental human rights organizations have full access to Hong Kong's camps for Vietnamese boat people.

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

The Chinese language has equal status with English in many government operations. The Government is continuing efforts to place Hong Kong Chinese in senior positions. In September the Government announced the appointment of several lo-

cally born Hong Kong civil servants (mostly Chinese, but one locally born Indian) to key positions. For the first time a Hong Kong Chinese was appointed to the top civil service position. Overall, however, progress remains slow in replacing expatriates serving in other policy-related positions. Expatriates remain in key positions in the legal and police departments as well as the judiciary.

Complicating the Government's localization efforts have been expatriate government workers on local contracts who threaten legal action against the Government if they are not allowed to convert to regular civil service status. The Government's decision to allow long-resident expatriates with appropriate job qualifications to convert has drawn charges from local civil servant organizations that the Government has reneged on its localization policy. As of September, the Government's decision to allow expatriates to convert remained in effect although some members of the Legislative Council threatened to overturn it in the 1993–94 legislative session.

Women.—Violence and discrimination against women remain significant problems. The only legislation to protect the rights of battered women is the 1987 Domestic Violence Ordinance, which enables a woman to seek a 3-month injunction against her husband. This may be extended to 6 months. In addition, domestic violence may be prosecuted as common assault under existing criminal statutes. The Government enforces these laws and prosecutes violators. Nevertheless, women's action groups continue to press for better legal and government provisions for battered wives. They call for public housing to house women as soon as they leave their violent husbands. Harmony House, a private voluntary agency, and the Social Welfare Department operate two homes which offer refuge to a small number of women. Harmony House also has conducted training programs for police personnel on how to deal with domestic violence. Many instances of domestic violence, however, are not reported, owing partly to cultural factors which frown on exposing family crises to the public eye but also to a lack of well-publicized information about the assistance and resources available.

Women face discrimination in areas of employment, salary, welfare, and promotion. While a number of women hold senior appointive government positions, only two were elected to the legislature.

Children.—The Government supports child welfare programs including custody, protection, day care, foster care, shelters, and small group homes. Assistance is also provided to families. Child abuse and exploitation are not widespread problems in Hong Kong. The Government remains committed to the human rights and welfare of children.

People with Disabilities.—Organizations and individuals representing the interests of the disabled claim that discrimination against the physically and mentally disabled exists in employment, education, and the provision of some state services. Access to public buildings and transportation remain problems for the physically impaired. Advocate groups have urged the Government to do more to encourage greater public tolerance of the mentally disabled. Harassment of and discrimination against families with mentally disabled children, for example, have occurred in some housing projects. There also has been criticism that mentally disabled children are not allowed opportunities to "mainstream" into public school programs. The Government is generally receptive and sympathetic to these concerns; it encourages greater employment for the disabled and seeks improved access to public facilities for those physically impaired. However, there is as yet no law mandating accessibility provisions for disabled persons.

Section 6. Worker Rights

a. *The Right of Association.*—The right of association and the right of workers to establish and join organizations of their own choosing are guaranteed under local law. Trade unions must be registered under the Trade Unions Ordinance. The basic precondition for registration is a minimum of seven persons who serve in the same occupation. The Government does not discourage or impede the formation of unions. During 1992, 11 new unions were registered. However, only about 525,000 workers (or 18.5 percent) out of a total labor force of 2.84 million belong to one of the 522 registered unions, most of which belong to one of three major trade union federations.

Work stoppages and strikes are permitted. However, there are some restrictions on this right for civil servants. Even though the Employment Ordinance recognizes the right to strike, in practice most workers must sign employment contracts which typically state that walking off the job is a breach of contract and can lead to summary dismissal. The Employment Ordinance also permits firms to discharge or deduct wages from staff who are absent on account of a labor dispute.

Hong Kong labor unions may form federations, confederations, and affiliate with international bodies. Any affiliation with foreign labor unions requires the consent

of the Government. All such requests have been granted. As a dependent territory of the U. K., Hong Kong is not a member in its own right of the International Labor Organization (ILO). The U.K. makes declarations on behalf of Hong Kong concerning the latter's obligations regarding the various ILO conventions. To date, Hong Kong has implemented provisions applying 29 conventions in full and 18 other with modifications. In the Basic Law, China undertook to continue to adhere to these conventions after 1997.

b. *The Right to Organize and Bargain Collectively.*—The right to organize and bargain collectively is guaranteed by law. Hong Kong laws pertaining to collective bargaining cover mainly the shipping, textile, public transport, public utility, and carpentry trades, and the catering, construction, public service, and teaching professions. Wages are determined by market factors. While collective bargaining does take place, it is not widely practiced, and in general there are no mechanisms specifically to encourage it. Unions generally are not powerful enough to force management to engage in collective bargaining. The Government does not encourage it, since the Government itself does not engage in collective bargaining with civil servants' unions but merely "consults" with them. Free conciliation services are afforded by the Labor Relations Division of the Department of Labor (DOL) to employers and employees involved in disputes dealing with arrears of wages, wages in lieu of notice, severance pay, and breaches of contractual employment terms. The DOL is charged with finding a mutually acceptable settlement, although it does not have the authority to impose a solution. The DOL is not required by law to allow unions to represent employees in these proceedings. Instead, union representation depends upon the mutual consent of both the employee and the employer.

Workers are protected against antiunion discrimination under Hong Kong legislation. Employees who allege such discrimination have the right to have their cases heard by the DOL's Labor Relations Division. Employers who attempt to prevent or deter an employee from joining a labor union, or who terminate an employee for joining a labor union, are liable to a fine of approximately $650. However, the employers are not required to reinstate the employee or to compensate him.

The International Confederation of Free Trade Unions (ICFTU) is highly critical of the inadequacy of Hong Kong's labor legislation, with its failure to protect the right to strike, and provisions allowing dismissals and disciplinary action against trade unionists going on strike. The ICFTU cites as an example the 17-day strike by the Flight Attendant's Union at Cathay Pacific at the beginning of 1993, in which striking workers were threatened with disciplinary action and dismissal. Individual labor claims are also adjudicated by the Labor Tribunal, a part of the judicial branch, which is supposed to provide quick and inexpensive machinery for resolving certain types of disputes. The Tribunal complements the conciliation service provided by the Labor Relations Division. Union leaders complain, however, that the Tribunal takes too long—an average of 133 days—to hear workers' cases.

There are no export processing zones in Hong Kong.

c. *Prohibition of Forced or Compulsory Labor.*—Existing labor legislation prohibits forced labor, and it is not practiced.

d. *Minimum Age for Employment of Children.*—The Employment of Children Regulations prohibit the employment of children under age 15 in any industrial establishment. Children aged 13 and 14 may be employed in certain nonindustrial establishments, subject to conditions aimed at ensuring a minimum of 9 years' education and protecting their safety, health, and welfare. During 1992, 9 campaigns against the employment of children covered about 26,100 establishments and found 18 children working in violation of the law, according to the annual report of the Commissioner for Labor. A number of these cases were successfully prosecuted and fines of around $200 were levied.

e. *Acceptable Conditions of Work.*—There is no minimum wage except for foreign domestic workers.

Aside from a small number of trades and industries where a uniform wage structure exists, wage levels are customarily fixed by individual agreement between employer and employee and are determined by supply and demand. In view of continued tightness in Hong Kong's labor market (unemployment averaged about 2.1 percent for 1993), wage increases were given to most workers, particularly those in the construction industry and service sectors. Many employees also receive a year-end bonus of a month's pay or more. Some employers in the manufacturing sector provide workers with various kinds of allowances, free medical treatment, and free or subsidized transport.

There are no legal restrictions on hours of work for men. The Women and Young Persons (Industry) Regulations under the Employment Ordinance control hours and conditions of work for women and young people aged between 15 and 17. Work hours are limited to 8 per day and 48 per week between 6 a.m. and 11 p.m. (be-

tween 7 a.m. and 7 p.m. only for women, however, this provision is very loosely enforced) for persons age 16 or over. Overtime is restricted to 2 hours per day and 200 days per year for women and is prohibited for all persons under 18 in industrial establishments. The regulations also prohibit women and young persons from working underground or, with the exception of males aged 16 and 17, in dangerous trades. The Labor Inspectorate conducts workplace inspections to ensure compliance with these regulations. During 1992 it carried out 198,748 inspections of approximately 190,000 establishments in industrial and nonindustrial sectors, which resulted in 3,624 prosecutions of employers and a wide range of fines depending on the seriousness of the violation. The employment of underaged workers is generally not a serious problem.

The DOL Factory Inspectorate sets basic occupational safety and health standards, provides education and publicity, and follows up with enforcement and inspection in accordance with the Factories and Industrial Undertakings Ordinance and subsidiary regulations. The Inspectorate pays particular attention to safety in high-risk areas of factories and construction sites, with routine visits to factories and construction sites. During 1992 inspectors visited 63,135 factories and 15,229 construction sites and issued 2,811 summons. As part of a complementary effort, the DOL Occupational Health Division investigates claims of occupational diseases and injuries at work, conducts environmental testing in the workplace, and provides medical examinations to employees in occupations that involve the handling of hazardous materials. The small number of inspectors—about 200—and the inability of workers to elect their own safety representatives weaken the enforcement of safety and health standards at the workplace. There is no specific legal provision allowing workers to remove themselves from dangerous work situations without jeopardy to continued employment.

UZBEKISTAN

The Republic of Uzbekistan became independent in September 1991 after the breakup of the Soviet Union. Little progress has been made in the transition from Uzbekistan's authoritarian Soviet legacy toward a more pluralistic democracy. Political life is dominated by President Islam Karimov and the highly centralized executive branch which serves him.

The National Democratic Party of Uzbekistan (NDPU) is the dominant party, in many respects the successor to the former Communist party, and it is controlled by the President. Only one other party, the Fatherland Progress Party, is legally registered. It was created by a presidential advisor, apparently to give the semblance of a multiparty system. The Government continued severely to repress genuine opposition parties and movements, despite its frequently stated commitment to multiparty democracy. It justifies its repressive policy by invoking the specter of Islamic fundamentalism and the civil strife that has plagued neighboring Tajikistan.

The National Security Service (formerly the Committee for State Security, or KGB) deals with a broad range of national security questions and is no longer the dominant instrument of domestic control that it was during the years of Soviet domination. The Ministry of the Interior prosecutes domestic crimes and plays the lead role in pursuing political cases against opposition figures. It has primary responsibility for maintaining the Government's control over society and, in this role, was responsible for various human rights abuses.

The economy is based primarily on agriculture and agricultural processing; Uzbekistan is the world's fourth largest producer of cotton. It also has large deposits of gold, strategic minerals, gas, and oil. The Government has proclaimed its commitment to a gradual transition to a free market economy. By the end of 1993, most state-owned apartments and a number of small enterprises had been privatized, but the majority of enterprises remained in state hands. Government subsidies on most basic consumer goods were ended in 1993, except for those on bread, flour, and some energy products. Most other prices were freed. Spiraling inflation throughout the ruble zone, including Uzbekistan, contributed to a serious decline in the population's ability to make ends meet. Unwilling to agree to Russian requirements on the future operations of the ruble zone, Uzbekistan left the zone in November, necessitating the introduction of a transition currency, the som-coupon.

Introduction of a new national currency, the som, is expected some time in 1994.

Government observance of human rights moved backward compared to 1992. Suppression of opposition political parties and movements increased. Beatings of several prominent opposition leaders, similar to beatings in 1992, occurred in ways that suggested government involvement. Security forces frequently detained or arrested

opposition activists on trumped-up charges. The Government tried two political dissidents on charges of insulting the President's honor. Both trials ended in guilty verdicts, although the defendants were released under presidential amnesty.

To control the political arena, the Government used a requirement that political parties, like all other social groups, be officially registered. It denied registration to some political groups and other associations. It required groups that were already registered to reregister in what appeared to be an effort to close down the most serious opposition groups. Unsanctioned public meetings and demonstrations were banned. Although expressly prohibited by the Constitution, press censorship was pervasive, and freedom of expression was also further reduced by an atmosphere of repression which made it increasingly difficult to criticize the Government.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Extrajudicial Killing.*—There were no known instances of politically motivated killings nor any reports of deaths in official custody from unnatural causes.

Former Vice President Shukrullo Mirsaidov, a political rival of President Karimov, survived an apparent assassination attempt when his car was exploded by a bomb on August 24. As was the case in most other attacks and beatings of opposition activists, no one was ever arrested or prosecuted for the bombing. The Government claimed that its investigation of the bombing revealed that the car did not belong to Mirsaidov. While this was technically true, the car was being used by Mirsaidov as his own personal vehicle had been confiscated by the Government.

b. *Disappearance.*—There were no confirmed abductions or politically motivated disappearances. However, the whereabouts of Abdulla Uttaev, Chairman of the banned Islamic Renaissance Party, are still unknown. Unidentified gunmen forced him into a car on December 15, 1992. Although it is widely believed that he is in official custody, the Government denies holding him.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There were credible reports that police often beat political detainees and criminal suspects while taking them into custody or in the period between arrest and trial.

Continuing a pattern from 1992, several opposition figures were beaten in the streets in 1993 by persons who were never caught or prosecuted. The circumstances suggested a calculated effort by government officials to intimidate the opposition. The most serious of these incidents occurred on September 18 when unknown assailants severely beat former Vice President Shukrullo Mirsaidov. He suffered a broken rib, internal injuries, and open head wounds. The May 5 beating of Shukrat Ismatullaev, Cochairman of the Birlik (Unity) movement, closely resembled the assault in June 1992 on Birlik's other Cochairman, Abdurahim Pulatov; Ismatullaev, too, was attacked in the street and beaten, sustaining skull fractures. On October 4, four unidentified men attacked Samat Murad, chief secretary of the Erk (Freedom) Party, near the train station in Karshi, beating him unconscious. When he regained consciousness after several hours, they again beat him unconscious. On December 7, in an apparent attempt to prevent Mamura Usmanova, head of the Birlik women's organization, Tumaris, from traveling to a human rights conference in Bishkek, assailants broke into her apartment. They held her and her daughter at knifepoint while they beat her husband seriously with brass knuckles.

Prison conditions are inadequate and worse for male than for female prisoners. Due to limited resources, prison overcrowding is a problem.

d. *Arbitrary Arrest, Detention, or Exile.*—Laws on detention have not changed since independence. According to the law, police may hold a person suspected of committing a crime for up to 3 days. At the end of this period, the suspect must be either officially charged or released. A procurator's order is required for arrests but not for detentions. A court case must be scheduled within 15 days of the arrest, and the defendant may be detained during this period. A defendant may not have access to counsel while in detention but only after formal arrest.

The legal provision permitting detention without the filing of charges led to dozens of cases in which opposition figures were detained for questioning and then released without prosecution. The Government used this provision to harass and restrict the actions of opposition figures. For example, government authorities on April 29 detained several opposition activists, putting them under house arrest to prevent them from attending an April 30 conference in Almaty, the capital of Kazakhstan. During the April 21–22 visit to Uzbekistan of Swedish Foreign Minister and Chairman-in-office of the Conference on Security and Cooperation in Europe (CSCE) Af Ugglas, several opposition activists were detained to prevent them from attending a meeting scheduled at her request. They were released following the delegation's

departure. Similarly, when American Ambassador at Large Strobe Talbott visited Tashkent on September 13–14, law enforcement officials prevented participation of two opposition activists, although several others were allowed to attend.

In addition to the beating of Mamura Usmanova's family to prevent her participation in the December 8–9 human rights conference in Bishkek, several other activists planning to attend the Bishkek conference were detained in Tashkent by the militia on December 7. Similarly, during a private visit of Zbigniew Brzezinski, several opposition activists were detained to prevent their participation in a scheduled December 13 roundtable discussion.

In some cases, opposition figures were charged with offenses unrelated to their criticism of government policy, such as drunkenness, drug possession, or disorderliness. Punishment for political activities was the likely motive behind the arrests of Inamjan Tursonov and Pulat Akhunov. Tursonov, regional chairman of the Erk Party in the Fergana district and a former deputy in the Uzbekistan Parliament, was sentenced in February to 2 years in prison on trumped-up charges of hooliganism. After what appears to have been a manipulated street fight, Akhunov, regional chairman of Birlik in the Andijan region, was found guilty of hooliganism in 1992 and sentenced to a year and a half in jail. In July 1993, while still in jail, he was accused of having narcotics in his prison cell and sentenced to an additional 3 years in prison.

e. *Denial of Fair Public Trial.*—Under the Constitution, the President appoints all judges for 10-year terms. They may be removed for crimes or failure to fulfill their obligations. Power to remove judges for failure to fulfill their obligations rests with the President, except for Supreme Court judges, whose removal must also be confirmed by Parliament. No judges are known to have been removed for political reasons. In political cases, government direction influences the judiciary.

Uzbekistan still uses the Soviet judiciary system which features trial by a panel of three judges: one professional judge and two "people's assessors" who are chosen by the workers' collectives for a period of 2½ years. The professional judge presides and directs the proceedings.

There is a three-tiered court system: the people's court on the district level, the regional courts, and the Supreme Court. District court decisions may be appealed to the next higher level within 10 days of the ruling. The new draft criminal code reduces the list of crimes punishable by death to murder, espionage, and treason, eliminating the economic crimes punishable by death in the former Soviet code.

Officially, most trials are open to the public but may be closed in exceptional cases, such as those involving state secrets, rape, or young defendants. During 1993, however, the militia frequently prevented interested persons, such as human rights monitors, journalists, and diplomats, from observing court proceedings in political cases. On January 19, a U.S. Embassy officer sent as an observer was ejected from the courtroom of the Supreme Court while proceedings examining the legality of the opposition movement Birlik were under way. This happened again on May 27 during the trial of former Vice President Mirsaidov, who was convicted of having misused his former office. Although granted amnesty, his conviction disqualified him from ever running for President.

Defendants have the right to attend the proceedings, confront witnesses, and present evidence. The State will provide a lawyer without charge, but by law the accused has the right to hire an attorney. In some political cases, lawyers were denied access to their clients. For example, Babur Shakirov, accused of treason in connection with the alleged plan to create an alternative Parliament, the Melli Majlis, rejected the lawyer appointed by the authorities and chose Sergei Kotov, a lawyer from Russia. However, the procurator refused to meet with Kotov, and thus he was never recognized as the defendant's lawyer. When Kotov tried to file a formal protest, police detained and expelled him.

In the trial of Abdumannob Pulatov, charged in January with insulting the honor of the President, the lawyer he chose, Yuri Schmidt, also from Russia, was initially refused permission to defend Pulatov. Because permission was finally granted only on the day the case opened, he did not have the opportunity to review the documents in the case.

Detainees deemed not to be violent may be released on their own recognizance pending trial. No money need be posted as bond, but in such cases the accused must usually sign a pledge not to leave the city.

The Government denies that there are any political prisoners in Uzbekistan. However, by all evidence, the Government does hold political prisoners. The defendants detained during 1993 for the Melli Majlis trial were political prisoners, although following the trial all were granted amnesty and released. In the cases of Pulat Akhunov and Inamjan Tursonov, circumstances suggest they are political prisoners

(see Section 1.d.). There is not enough information available to determine whether other prisoners are jailed for political offenses.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—By law, search warrants issued by a procurator are required. There does not appear to be a legal mechanism for authorizing telephone tapping or monitoring. There is no direct relationship between the procurator's office and the security services. However, it is very likely that they cooperate to the extent that the procurator would issue search warrants at the request of the security services. There is no provision for judicial review of search warrants. Security agencies nonetheless monitor telephone calls, and there is evidence that they employ surveillance and wiretap telephones in the cases of persons involved in opposition political activities. Certain high-profile opposition activists were the subject of very visible surveillance, including round-the-clock police monitoring of all movements. In several cases this intense surveillance was the prelude either to arrest or a street-beating incident.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech, already severely limited, was further restricted in 1993. The fear of expressing views critical of the President and Government increased as the Government widened its general crackdown on all forms of opposition. A February 15, 1991 law (before independence) against "offending the honor and dignity of the President" limits the ability to criticize the President. In 1993 the Government tried two cases under this law in the Supreme Court. A poetess, Vasilya Inayatova, was found guilty in February of insulting the President's honor through publication of a poem, "A last letter to the President," which expressed her anguish about political violence and her desire for democracy. She was sentenced to 2 years in prison but then granted amnesty under a presidential decree. Abdumannob Pulatov, chairman of the Human Rights Association, was tried in January on the same charge, based on his purported involvement in making a poster insulting to the President, which was used in a student demonstration in January 1992. In clearly manipulated proceedings, Pulatov was found guilty and sentenced to 3 years in prison but freed on amnesty.

Although the Constitution prohibits censorship, it is widely practiced, and the Government tolerates little, if any, criticism of its actions. Newspapers may not be printed without the censor's approval. Journalists and writers who want to ensure that their work is published report that they practice self-censorship.

The majority of Uzbekistan's newspapers are government owned and controlled; the key papers are organs of government ministries. State enterprises control the printing presses. Newspapers must be registered with the Government to receive permission to publish. The opposition movement Birlik was never granted permission to register its newspapers. During 1992, issues it published in Russia and "smuggled" into Uzbekistan were confiscated as contraband. By 1993 Birlik had ceased attempting to publish a newspaper.

The last opposition newspaper to be published was the paper of the Erk Party. Although censors often deleted entire articles, it continued to publish in 1992. In January 1993, however, the newspaper was banned altogether and has not been published since then. In November the editors and the key bookkeepers of the erk newspaper were put on trial for "misappropriating government funds" in connection with an investigation on charges that they had not properly paid honoraria to all contributors. Erk activists claim that the charges were totally trumped up as the Government had never provided economic assistance to the newspaper, and so only private party funds were involved.

The Government also censored material in locally printed editions of newspapers originating in the Russian Federation and forbade the distribution of foreign newspapers and publications critical of Uzbekistan. The publication of the local editions of Izvestia and Pravda and the sale of the Moscow edition remained suspended throughout 1993. In June all newspapers, magazines, and weeklies had to undergo reregistration, which includes providing information about the source of funding, means of distribution, founders, and sponsors. Simultaneously, by resolution of the Cabinet of Ministers, private persons and journalists' collectives were banned from founding newspapers or magazines.

Television broadcasting is state controlled. Although there are local stations in various regions, nationwide programming is on two state-run channels that fully support the Government and its policies. Through an agreement with Russia, two Moscow channels are broadcast as well. The Russian channels are Ostankino and Russian Television (Rossiskaya Televideniya). It appears that Ostankino's programs play uncensored. The more liberal Rossiskaya Televideniya sometimes abruptly and without advance notice has its programming replaced by Turkish television in what many interpret to be censorship of its programming. Radio Liberty and the Voice

of America are among the few sources of uncontrolled news, although there is evidence that these broadcasts are jammed by the Government.

There are no private publishing houses, and government approval is required for all publications. In an attempt to circumvent the requirements of state-controlled publishing, Erk party supporters had a booklet by party Chairman Mohammed Solikh published in Almaty. After border authorities discovered copies of the book, those involved were questioned, and 15,000 copies already in Tashkent were confiscated.

Political repression enveloped academia as well. During 1992 and 1993, various figures from Birlik and Erk were fired from their academic positions because of their political activities or beliefs. Leaders of the Erk Party estimate that some 100 party members were forced from their jobs for political reasons. Among Birlik activists, Shukhrat Ismatullaev and Marat Zakhidov were both dismissed from their jobs at Tashkent State University, Talib Yakubov was fired from the Tashkent State Pedagogical Institute, and Yadgar Obid and Gulchekhra Nurallaeva from the Writers' Union. While at one time it appeared that the Government might permit independent academic institutions, it refused to register the independent, private Tashkent International Business University, and in September attempted to shut it down on the grounds that it was functioning without a license. Students were notified that they should go to other universities.

b. *Freedom of Peaceful Assembly and Association.*—Freedom of assembly is not guaranteed. The Government must sanction demonstrations and does not routinely grant this permission. The 1992 Constitution states that the authorities have the right to suspend or ban rallies, meetings, and demonstrations on security grounds. After cordons of militia prevented attempts to hold unsanctioned demonstrations in 1992, the opposition made no attempt to hold public meetings during 1993.

The Government also limited the exercise of freedom of association by refusing to register opposition political parties and movements. The Constitution provides no general guarantees of freedom of association; it places broad limitations on the types of groups that may form and requires that all organizations be formally registered with the Government. The Government frequently and seemingly without legal basis denies such registration to groups in any way opposed to the established order. To be considered a public association, organizations must be registered in accordance with the procedure prescribed by law.

To register, a party must submit a list of at least 3,000 members and meet other requirements, such as providing an official address. Government control over buildings and office space limits the ability of unofficial groups to get an official address. The Government has repeatedly denied the Birlik movement permission to register as a party, first claiming irregularities on its membership list, then complaining about the group's name, and finally noting its lack of an official address. The Supreme Court on January 19 suspended all activities of Birlik for 3 months on charges that the movement's leaders failed to observe its charter, that they had intended to hold officially forbidden demonstrations, and that 166 members of the group had been detained and 20 had criminal charges lodged against them. Birlik was accused of holding 29 meetings and rallies during 1992, 14 without obtaining permission.

A Cabinet of Ministers decree of March 12, 1993, required all public organizations and political parties officially registered in Uzbekistan to reregister by October 1, 1993, or be suspended. This decree provided a quasi-legal mechanism for the elimination of various organizations that were already registered. The mainstream NDPU and Fatherland Progress Party applied for and quickly received their reregistration. The Erk Party did not submit papers, holding that the decree was unconstitutional as only the Supreme Court has the right to withdraw registration. Although the Birlik movement attempted to submit reregistration papers, the Ministry of Justice did not accept their papers. The Government considers both the Erk Party and the Birlik movement to have officially lost their registration.

Nonpolitical associations and social organizations usually do not encounter comparable difficulties in registering, although an independent ecological organization and several foreign humanitarian assistance groups found it difficult to obtain registration.

c. *Freedom of Religion.*—Freedom of religion is provided for in the Constitution, as is the principle of separation of religion and state. After the enforced atheism of the Soviet period, religious communities are experiencing a significant revival. Mosques long closed during Soviet rule are reopening, and many new ones are being built. While before independence there were less than 100 working mosques in Uzbekistan, by the close of 1993 there were approximately 5,000. Religious education is becoming more widespread, although it is not included in state schools.

While Islam is the religion of the majority, ethnic minorities may also practice their religion in relative freedom. Synagogues for the Jewish community are openly functioning; Hebrew education, long banned under the Soviets, Jewish cultural events, and the publication of a community newspaper take place undisturbed. In 1993 the German Lutheran Church, built in 1899 and closed by Stalin in 1937, was returned to the German community. Permission was granted to the Roman Catholic Church for the reconstruction of the Polish cathedral built during World War I and subsequently destroyed, and a reconsecration ceremony took place in 1993.

A December 1991 amendment to the law on political parties bans those of a religious nature. This principle is cited for denying registration to religious parties, including the Islamic Renaissance Party (IRP).

Fearing the destabilizing influence of extremist Islamic forces, the Government has tried to temper the extent of this spiritual renaissance by controlling the Islamic hierarchy, the content of the Imam's sermons, and the extent and substance of Islamic materials published in Uzbekistan. In March Mufti Mohammad-Sadiq Mohammad-Yusuf was ousted from his position as leader of Uzbekistan's Islamic community in a government effort to place a more compliant and less political leader in the position of Mufti. Mufti Mohammad-Yusuf, fearing that he would be tried on trumped-up criminal charges, fled the country to Saudi Arabia in July. The new Mufti, Mukhtar Abdullaev, was the leader of the Naqshibandi Sufi sect's shrine outside of Bukhara.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for free movement within the country and across its borders. However, foreign travel is still restricted by difficulties in obtaining an overseas passport and by a law that requires all citizens to have an exit visa. Local authorities frequently withhold passports for political and administrative reasons to prevent persons from making short trips abroad, including some individuals selected to participate in official exchange programs. Others allegedly received their passports or exit visas only after paying bribes. Government authorities frequently withhold exit visas when they do not approve of the travel purposes. Those who leave without an exit visa may be subject to severe penalties upon return.

Most barriers to emigration were lifted before the Soviet breakup. Although in some instances emigrants are delayed by long waits for passports and exit visas, potential emigrants who can find a host country willing to accept them are able to leave the country. Since independence, a significant number of non-Uzbeks, including Russians, Jews, Ukrainians, and others have emigrated, although no exact figures are available. These people have not left because of any systematic human rights abuses but rather because of what they fear will be limited future economic and social prospects for non-Uzbeks. This emigration appears to have slowed considerably in 1993, compared to 1992.

The travel of local citizens within Uzbekistan is not controlled, unlike travel by foreigners, including journalists. Visitors must have each city they wish to visit noted in their visa. Travel to some sensitive areas of the country, particularly the environmentally degraded Aral Sea region and the Fergana valley, is controlled even more carefully; requests for travel to these areas are turned down in some cases. Even travel to nonsensitive tourist areas is unnecessarily complicated by internal visa requirements, and tourists seeking to check into hotels without the appropriate internal visa often find themselves having to pay fines or bribes to the visa police first.

The law on citizenship adopted in 1992 stipulates that citizens do not lose their citizenship if they reside overseas. However, as Uzbekistan does not provide for dual citizenship, those acquiring other citizenships will lose their citizenship in Uzbekistan. If they return to Uzbekistan as foreign citizens, they are subject to foreign visa regulations. There is no evidence that anyone was denied permission to return.

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

Citizens cannot exercise their right to change their government through peaceful and democratic means. Government measures severely repress opposition groups and individuals and apply harsh limits on freedom of expression.

The Government's professed desire to create a multiparty democracy is belied by its actions against other parties since independence. The year 1993 was marked by an across-the-board crackdown by the Government on actual and potential opposition groups and individuals. By the end of the year, there remained few individuals willing to challenge the Government's grip on power or even criticize it. The Government has sought to control the political process through widespread repression as well as legal requirements that all political parties and movements reregister. Re-

strictions on public meetings and government control of information reinforced this central political control. Parliamentary elections have been announced for 1994, but the Government shows no intention of allowing truly free and fair multiparty elections.

Uzbekistan is ruled by a highly centralized presidency, comprising the President and a small inner circle of advisers and senior government officials. President Karimov, formerly the First Secretary of the Communist Party in Uzbekistan under Soviet rule, was elected in a limited multicandidate election in 1991. The election was marred by government control of the media and the Government's successful efforts to eliminate the candidacies of Karimov's rivals.

The President is the Chairman of the National Democratic Party of Uzbekistan (NDPU), the country's largest party. Most government officials are also members of the NDPU, although it does not play the leading role in governance or cadre selection that was played by the Communist party during the Soviet period. There are two other legally registered parties, the Fatherland Progress Party and the Erk Party. Other political groups such as Birlik, the People's Movement of Turkestan, and the Islamic Renaissance Party have been denied permission to register as parties. The Fatherland Progress Party was created as a loyal "constructive opposition" party in June 1992. Its existence provides the appearance of a multiparty system. It is headed by a presidential adviser, Usman Azimov, and supports the President politically. The party claims a platform that differs from that of the NDPU in that it seeks more rapid economic reform and development of conditions favorable to businessmen, but in fact it is of no real significance.

Although it was formally registered from September 1991, the Erk Party came under significant pressure from the Government, and lost its registration in October 1993. On April 13, law enforcement officials evicted the Erk Party from its headquarters, forcing it to move to much smaller quarters on the outskirts of the city. On November 4, those new headquarters were formally shut down. Its leader, Mohammed Solikh, was accused of treason for his alleged involvement with the alternative Parliament, the Melli Majlis. Solikh fled the country before his case could be brought to trial.

Pressure on the Erk Party has included removing a number of Erk deputies (elected to the Supreme Soviet in the February 1990 elections) from their parliamentary positions in 1993. While party chairman Solikh resigned in protest from the Supreme Soviet in July 1992, Erk deputies Jahangir Mamedov, Murat Djuraev, Inamjan Tursunov, and Atajan Palvanov were removed from Parliament in 1993 through means of questionable legality. Some were recalled by meetings of their constituents summoned for that purpose, and others gave in to threats that, if they did not resign, they would be expelled.

The Supreme Soviet on September 3 approved the draft election law on its first reading. The law will provide the mechanism for electing the new 150-member Parliament. The draft law in its present form is deficient in some respects, particularly in that it provides that, if a party wins less than 8 percent of the vote nationwide, all deputies elected from such a party will be excluded from Parliament, even if they are elected in their own single-member districts.

Although women participate much less than men in government and politics, there are several female parliamentary deputies.

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

The Government disapproves of independent nongovernmental local human rights organizations and has restricted their operations. The Uzbekistan Human Rights Society, a local group organized in 1992, was denied permission to register. The Government regards international criticism of its human rights record as interference in its internal affairs. Despite the fact that Uzbekistan is a signatory to the Helsinki Final Act and the Charter of Paris, it refused entry to or expelled several international human rights monitoring delegations during 1993.

On January 12, officials refused to permit a visit by a fact-finding team from the Office for Democratic Institutions and Human Rights (ODIHR) of the CSCE, which was to investigate allegations of human rights violations, claiming the visit would be "interference in Uzbekistan's internal affairs." Under the requirements of CSCE membership, the Government is obliged to receive such visits.

On several occasions, human rights activists or journalists who attempted to cover political trials were deported. Alexander Petrov, deputy head of Helsinki Watch's Moscow bureau, was deported from Uzbekistan in January when he attempted to monitor the political trial of Abdumannob Pulatov. Helsinki Watch executive director Jeri Laber planned a May 4–5 visit to Tashkent as part of the group's efforts

to monitor human rights in countries signatory to the Helsinki accords. Her request for a visa was turned down.

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

The 1992 law on citizenship and the Constitution prohibit discrimination on the basis of sex, religion, language, or social status, and officially sanctioned discrimination does not occur.

Women.—There is no de jure discrimination against women; women enjoy the same legal rights as men. Despite nominal equality under the law, however, women are severely underrepresented in high-level positions. Due to traditional roles, women usually marry young, bear many children, and confine their activities within the family. However, women are not formally impeded from seeking a role in the workplace. In rural areas, women often find themselves confined to backbreaking labor in the cotton fields. However, the barriers to equality for women are cultural, not legal, and women who open businesses or seek careers are not hindered. Spouse abuse certainly takes place in Uzbekistan, although it is less common among the more educated urban population. There is a perception that wife beating is considered a personal, family affair rather than a criminal act, and thus such cases rarely come to court. A female journalist who has written on women's problems estimates that some 50 percent of the self-immolation suicides (of which there are several hundred each year in Uzbekistan) are related to seeking an escape from chronic beatings.

Children.—Uzbekistan has one of the highest birth rates in the former Soviet Union. Over half the Republic's population is under the age of 15. Children's rights are explicitly protected by the Constitution (Article 64) which states that parents are obliged to support and care for their children until they are of age. The State and society will care for and educate orphaned children as well as children deprived of parental guardianship. According to the Constitution, able-bodied children are obliged to care for their parents once they come of age.

National/Racial/Ethnic Minorities.—In a population of about 22 million, official figures indicate that 71 percent are Uzbeks, 8 percent Russian, 5 percent Tajik, 4 percent Tatar, and 3 percent Kazakh. The real number of Tajiks is significantly higher, as many Tajiks have Uzbek written in their passports.

Uzbekistan's citizenship law, passed in July 1992, does not impose language requirements for citizenship. Nonetheless, the language issue remains very sensitive. Uzbek has been declared the state language, and the Constitution requires that the President must speak Uzbek. The Government decided in 1993 to introduce a Latin script to replace Cyrillic but has set no date for the change. Non-Uzbek speakers increasingly feel themselves threatened. Many report unpleasant experiences with their neighbors or in stores. When government organizations and academic institutions have been forced to cut back, it is frequently the Russian speakers who have lost their jobs. However, there is no clear evidence of a government effort to promote emigration by minority groups.

People with Disabilities.—One of Uzbekistan's first laws, adopted only 2 months after independence in November 1991, was one guaranteeing support for invalids. This law was aimed at insuring the disabled the same rights as other people. However, little effort is made to bring the disabled into the mainstream. Society does not accept them, and for the most part the disabled are kept out of sight, either at home or in institutions. The State cares for the mentally retarded in special homes. The Government has not mandated access for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—According to the Constitution, trade unions express and protect the socioeconomic rights and interests of the working people. The Constitution also promises citizens the right to work, the right to choose their occupation, fair conditions of labor, paid vacations, and protection against unemployment.

The 1992 law on unions specifically proclaims that all workers have the right voluntarily to form and join unions of their choice, that trade unions themselves may voluntarily associate territorially or sectorally, and that they may choose their own international affiliations. Membership in trade unions is optional. The law also declares all unions independent of the State's administrative and economic bodies (except where provided by law), and states that trade unions develop their own charters, structure, and executive bodies and organize their own work.

In practice, however, the overall structure of trade unions has not changed significantly since the Soviet period. Uzbekistan's independence has eliminated subordination to Moscow but has not altered the centralized trade union hierarchy which remains dependent on the Government. No "alternative" central union structures

exist. A few new professional associations and interest groups have been organized, such as a Union of Entrepreneurs, a Union of Renters, an Association of Private Physicians and Pharmacists, and one of lawyers. Their role and strength is as yet uncertain. Some of these groups hope to play a significant role in licensing and otherwise regulating the economic activity of their members.

According to the law, the Council of the Federation of Trade Unions (CFTU) has a consultative voice in the preparation of all legislation affecting workers and is entitled to draft laws on labor and social issues. Trade unions are legally described as organizations that defend the right to work and protect jobs. They have lost their previous role in state planning and in the management of enterprises. The emphasis now is on the unions' responsibility for "social protection" and social justice—especially unemployment compensation, pensions, and worker retraining.

The trade union law does not cite a right to strike. In fact, strikes are not mentioned in the law. However, the law does give the unions oversight over both individual and collective labor disputes, which are defined as those involving alleged violations of labor laws, worker rights, or collective agreements.

There were no reports of strikes in 1993. Union and government officials alike assert that this reflects general support for the Government's policies and common interest in social stability. More likely it reflects the absence of truly independent, representative trade unions as the standard of living fell, and growing unemployment raised social tensions.

b. *The Right to Organize and Bargain Collectively.*—Trade unions may conclude agreements with enterprises. Privatization is in its very early phases, so there is no experience yet with negotiations that could be described as adversarial between unions and private employers. With very few exceptions, the State is still the major employer, and the unions do not view themselves as having conflicts of interest with the State.

The wages of state employees in various categories are set by the Ministry of Labor and the Ministry of Finance, in consultation with the CFTU. In the small private sector, management establishes wages or negotiates them with those who contract for employment.

Discrimination against union members and their officers is forbidden by law, and no complaints are known to have been registered.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution specifically prohibits forced labor, except as legal punishment or as may be specified by law. Large-scale compulsory mobilization of youth and students (by the closing of schools) to help with the cotton harvest has officially ceased, although in some cases it continues. Young people in rural areas are expected to participate "voluntarily" in harvesting activities of all kinds, and at least in some cases universities still shut down temporarily to send both students and faculty into the fields.

d. *Minimum Age for Employment of Children.*—The minimum working age is 16; 15-year-olds may work with permission but have a shorter workday. In rural areas, younger children and the elderly often turn out to help harvest cotton and other crops. The Labor Ministry has an inspection service responsible for enforcing compliance with these and other regulations governing employment conditions.

e. *Acceptable Conditions of Work.*—The Ministry of Labor, in consultation with the CFTU, sets the minimum wage. The minimum wage was raised several times in 1993 as the value of the ruble fell. As of September, it was about $8 per month at the official exchange rate (or 13,500 rubles, almost five times the nominal level of January 1, 1993). Most agree that the minimum wage is not sufficient to feed a family.

The workweek is set at 41 hours per week and includes a 24-hour rest period. Some factories have apparently reduced work hours in order to avoid layoffs. Overtime pay exists in theory but is not always paid.

Occupational health and safety standards are established by the Labor Ministry in consultation with the unions. There is a health and safety inspectorate within the Ministry. Workers do leave jobs that are hazardous without apparent jeopardy to continued employment; but the local press occasionally published complaints about the failure of unions and government authorities to do enough to promote worker safety.

NEAR EAST AND NORTH AFRICA

ALGERIA

Algeria's 1989 Constitution was supposed to provide for its conversion from a single-party Socialist state to a multiparty parliamentary system. Power, however, continued to reside in a government composed of present and former ruling party officials. Moreover, after an Islamist party, the Islamic Salvation Front (FIS), won the first round in the first multiparty national legislative elections in December 1991, President Chadli Benjedid resigned in January 1992 under pressure from the army and others within the Government. The next day the regime cancelled the second round of elections. A five-member High State Committee (HSC) was created to act as Algeria's collective presidency. The HSC declared a state of emergency in February 1992 and had the FIS banned a month later. HSC president Mohamed Boudiaf was assassinated in June 1992; he was replaced by Ali Kafi, who remains in office. In August 1993, the HSC appointed Redha Malek as Prime Minister. The HSC has pledged to step down by January 31, 1994, to be replaced by another presidential body until the regime decides conditions merit a resumption of the political process.

The police, the gendarmerie, and the army maintain internal security. In efforts to restore stability, repress Islamic militancy, and combat terrorism, security forces have resorted to the use of excessive force, harsh treatment, and, in many cases, torture of prisoners and detainees.

Incidents of terrorism (which began in early 1992) continued throughout 1993. Such incidents included daily attacks against security forces; assassinations of numerous journalists, intellectuals, and a senior political personality; and attempts against the lives of three government ministers.

Algeria's industrialized hydrocarbon-based economy (agriculture accounts for less than 10 percent of the gross domestic product) remains largely under government control, with the State operating most major industries, much of the distribution and retail systems, and the banking and credit system. Under former Prime Minister Abdesselam, the Government pursued an economic program maintaining a predominant state role in managing the economy. Prime Minister Redha Malek's Cabinet, appointed in September, said it would pursue reforms that put more emphasis on the private sector. High population growth, an acute housing shortage, scarcity of foreign exchange, inflation and unemployment exceeding 20 percent, and the legacy of years of economic inefficiency continue to hamper government efforts to satisfy social needs.

The human rights situation, which deteriorated severely in 1992 following the cancellation of elections and the declaration of a state of emergency, further deteriorated in 1993. The Government extended the state of emergency and postponed new elections for 2 to 3 years; it continued to hold some 800 people in two administrative detention camps without benefit of due process, despite its pledge that it would close the camps; and it continued to restrict freedom of speech and press, suspending three new publications on security grounds while maintaining the earlier suspension of seven others. Within the upward spiraling cycle of violence, there were allegations that security forces engaged in extrajudicial killings, as well as credible reports of the security forces' frequent resort to torture, although the Government said it will not tolerate such actions. The Government claimed it investigated cases of security force members accused of committing such abuses but gave no details, creating at the very least the public impression of a climate of impunity for such actions. Other human rights problems included denial of the right to a fair trial, especially in the antiterrorist courts, and ongoing restrictions on freedoms of assembly, religion, and women's rights. Extremist opposition elements also committed human rights abuses on a large scale, waging a campaign of terrorism and armed attacks which claimed the lives of some 300 members of the security forces.

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

a. *Political and Other Extrajudicial Killings.*—Some opponents of the regime assert that the Government was responsible for politically motivated extrajudicial killings, arguing that at least some of the more than 500 alleged terrorists killed in 1993 in armed clashes with security forces were not offered the chance to surrender and were thus killed extrajudicially. One credible source cited the September 29 killing of 10 alleged terrorists in Benzerga as an example of extrajudicial killing. Furthermore, many Algerians believe that the Government was responsible for political assassinations, including the killing in August of senior political personality Kasdi Merbah; the Government blamed Islamists (a claim denied by the FIS) for his death. There were also claims by Islamist opponents of the regime, and at least one independent human rights league, that a number of people died in official custody as a result of harsh conditions and torture. The human rights league did not publicly cite any specific cases.

Government forces were subject to armed attacks throughout the year, resulting in the deaths of over 300 security force members, according to official figures for 1993. Three ministers were targets of assassination attempts: Defense Minister Khaled Nezzar in February, Labor Minister Tahar Hamdi in March, and Equipment Minister Mokdad Sifi in June.

Although armed attacks were aimed primarily against security forces and government officials, private citizens were also targets, including a number of civilians accused by the opposition of collaboration with the Government, as well as foreigners in Algeria. In February armed men attacked a schoolbus carrying gendarmes' children, and a bomb was placed in a university faculty office; in March intellectuals Laadi Flici, Hafid Senhadri, and Djilali Liabes were assassinated; in April armed men wounded the head of the former Communist Party; in May noted writer Tahar Djaout was assassinated, and gunmen attacked the director of Algeria's leading newspaper; in June Dr. Mahfoud Boucebci and professor Mohamed Boukhobza, prominent professionals, were assassinated, and several ambulances carrying civilians were attacked; in July journalist Merzak Begtache was attacked; in August Kasdi Merbah and journalists Rabah Zenati and Abdelhamid Benmenni were assassinated; in September writer Abderrahmane Chergou and two French citizens were assassinated; in October gunmen assassinated an Islamic studies professor, a former Marxist Party official, noted doctor and human rights advocate Djilali Belkhenchir, journalist Ismail Yefah, and former national television director Mustapha Abada. The same month, gunmen kidnaped three French consular officials (who were later freed), and assassinated an Islamic studies professor, an Algiers University lecturer and former Marxist Party official, noted doctor and human rights activist Djilali Belkhenchir, journalist Ismail Yehsah, former national television director Mustapha Abada, two Russian military advisors, and three foreigners working for a European construction company. In November gunmen attacked a photographer for the newspaper El Watan, and kidnaped a well-known Islamic director of a national charity organization. In December armed elements assassinated a high-ranking Foreign Ministry official, a Spanish businessman, a Frenchman resident in Algeria, a Russian woman resident in Algeria, a British computer technician working for an American company, and 12 Croatian hydroelectric company employees. The Armed Islamic Group, one of the most important armed groups in Algeria, claimed responsibility for some of the actions against the foreigners.

While difficult to confirm, there is also credible information about acts of vigilante vengeance against Islamists.

b. *Disappearance.*—With the Government no longer engaging in a policy of large-scale administrative internment in southern Algeria, charges of individual disappearance were far fewer in 1993 than in 1992. Nevertheless, some regime opponents charged that a number of people detained by security forces in 1993 were not heard from again. The Government denied the charge and called for the names of persons who allegedly had disappeared to be made public to permit an official investigation. No such names were made public by the regime's opponents.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Knowledgeable sources, including Amnesty International (AI) and an independent Algerian human rights league, continued to report the frequent use of torture and brutal treatment of prisoners by the security forces. The National Observatory of Human Rights (ONDH, a government-created organization) argued that a special legal apparatus exists in Algeria to try those accused of torture but that many alleged victims have refused to pursue their cases for fear of reprisal. Nevertheless, the ONDH said it had sent 10 to 12 allegations of security force mistreatment of detainees to the Justice Ministry for investigation. Torture techniques used by secu-

rity forces reportedly include electric shocks, beatings, burning with cigarettes, suffocating victims with cloths soaked in chemicals or filthy water, and insertion of objects into the anus.

The Government acknowledged that episodes of security force mistreatment of alleged terrorists occurred in 1993 but rejected claims that torture by security forces was practiced either systematically or with official approval. Government spokesmen argue that some prisoners use allegations of torture for political purposes. The Government has pledged to investigate allegations of torture for which evidence is presented. According to the Government, several security force members have been punished for committing such abuses, but it refused to make public any information regarding these cases, making it impossible to confirm this claim.

There were credible reports that extremist elements fighting the regime also committed acts of torture, although information on such incidents is difficult to confirm. The bodies of two police officers kidnaped by Islamist extremists in February were found with signs indicating they had been tortured to death.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention and stipulates that incommunicado detention for questioning in criminal cases prior to arraignment may not exceed 48 hours, after which the suspect must be charged or released. Under the Penal Code, this period may be extended to 4 days by written request of the Public Prosecutor. An antiterrorist decree issued in October 1992 increased the allowable length of prearraignment incommunicado detention of suspected terrorists to 12 days. However, there have been credible charges from local human rights observers that authorities have detained people for more than 12 days. Critics have noted that such lengthy periods of incommunicado detention create the conditions in which torture and other abuse flourish, as well as making it difficult or impossible for the Government to refute allegations thereof. Provisional liberty may be granted if the detainee can prove that he will be present at all stages of the inquiry. Under law, detainees must be informed immediately of charges against them. Once charged, a person may be held in pretrial detention indefinitely while the case is investigated.

Provisions established in Article 5 of the State of Emergency Declaration authorized the Interior Ministry to detain, in internment camps under the authority of the army, anyone thought to constitute a public danger. Of some 9,000 people detained in 8 camps in 1992, roughly 800 remained under detention in 2 camps by the end of 1993, despite the Government's pledges to close the camps and either release or try in a court of law the remaining detainees, who were detained without benefit of legal representation or due process. Security forces in 1993 made thousands of arrests for security-related incidents. (The Justice Minister told the Algerian press in November that 5,000 people currently in prison had been arrested on security-related charges.) Critics charge that many of those detained were arrested arbitrarily and without any legal basis.

There is no bail system. Lawyers are permitted regular access to their clients (except for periods of prearraignment detention described above). Special antiterrorist courts sometimes violated this right: lawyers for defendants accused of involvement in the August 1992 Algiers airport bombing, for example, were denied access to clients on several occasions before the May trial. Lawyer-client meetings are supervised visually by a guard. The exact number of political detainees is not known, but the 800 persons remaining in detention camps, who have never been charged, much less tried under law, would have to be included in the total.

Exile is not a legal form of punishment in Algeria and is not known to be practiced.

e. *Denial of Fair Public Trial.*—The judicial system consists of civil, military, and special antiterrorist courts. There are no Islamic courts, although Shari'a law forms much of the basis for civil court rulings on social matters. All three systems are reportedly seriously overloaded by an increase in the number of arrests in 1993.

The Constitution provides for the independence of the judiciary, and it is generally independent of the executive branch in deciding cases not involving security or public order. In cases involving public order, and particularly in military and antiterrorist courts, the Government is able to influence court decisions. Appointing judges is the prerogative of the executive branch; no legislative approval is necessary. Civilian judges are appointed by the President based on recommendations made by the Higher Magistrate's Council, composed of the President, the Minister of Justice, and various members of the judiciary. Because the council is led by officials of the executive branch, its institutional independence is open to question.

The October 1992 Antiterrorist Decree provided for three special courts, each made up of three civilian judges whose identities are secret, to try crimes specifically relating to terrorism. The decree defined terrorism broadly as "any act committed against individuals . . . or symbols of the Republic with the aim of jeopardizing

life, security, or property, or the obstruction of public authorities or institutions . . . or the encouragement of such acts, including through the reprinting or redistribution of documents or recordings." These courts began functioning on January 3, 1993.

The October 1992 Antiterrorist Decree does not specifically preclude the Algerian public or press or foreign observers from attending special court trials, but leaves it to the judges' discretion whether to open or close the proceedings. Although the local press has attended and reported on such trials, foreign observers, including correspondents and human rights groups, have not been allowed to attend. Key cases tried by these courts in 1993 included the May trial of 54 defendants accused of various crimes, including the 1992 airport bombing (the court convicted 51, handing down 38 death sentences, including 26 in absentia), and the August trial of the Said Mekhloufi group (35 death sentences, including 29 in absentia). The antiterrorist courts handed down more than 300 death sentences during 1993, more than half of which were handed down in absentia. Twenty-six defendants were executed. AI expressed concern that many of the death sentences were imposed following "grossly unfair trials."

The special antiterrorist courts restrict certain defense rights protected by the regular court system. The courts have allowed the use of confessions allegedly extracted under torture which were later repudiated by defendants in court. Under state of emergency provisions, the courts have restricted access to defense lawyers and rights of appeal. According to an April decree reinforcing the powers of these courts, the courts have the right to suspend lawyers from appearing before the court for up to 1 year for using "obstructive methods," special court prosecutors may arbitrarily transfer to the special court system cases already assigned to the regular criminal courts, and lawyers must receive court authorization in order to represent clients at special court trials. Overall, these courts fail to accord the protections necessary to meet internationally accepted standards for fair trial.

Antiterrorist courts offer the Government greater influence over the outcome of security-related trials, as is suggested by the high rate of convictions and death sentences. According to the Justice Minister, 85 percent of the defendants are convicted and 12 percent get the death penalty. The Independent Algerian League for the Defense of Human Rights (LADDH) issued a statement in September calling for the closure of these courts, which it deemed "arbitrary and illegal." AI notes that "executions after unfair trials are summary or arbitrary executions."

In civilian courts, defendants are usually permitted unrestricted access to lawyers, who operate without government interference. The Algerian Bar Association is legally required to provide free legal services to defendants unable to afford counsel. Defendants are advised of the charges against them at the time they are bound over for trial. Defendants have the right to confront witnesses and present evidence. Trials are public, although generally not publicized, and defendants have the right of appeal.

Military courts, which originally had jurisdiction only in cases involving military personnel, were given broad jurisdiction by Article 10 of the State of Emergency Declaration to try civilians for security-related crimes. Although the vast majority of such cases in 1993 were heard by antiterrorist courts, cases involving civilians heard by military courts included the trial of FIS lawyer Brahim Taouti, who was convicted in May of distributing a subversive document and sentenced to 3 years in prison. Prior to the trial, the military prosecutor had argued that a military tribunal did not have jurisdiction over this case, an argument rejected by the military court.

The Government denied that there were any political prisoners in Algeria in 1993. Nevertheless, the State of Emergency Declaration and the Antiterrorist Decree allow for the sentencing of people for nonviolent expression of certain political views; many of the people imprisoned since February 1992 for expressing such views thus could be considered political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Although the Constitution provides for the inviolability of the home, Article 6 of the State of Emergency Declaration authorizes the Interior Ministry and provincial governors to designate specific areas where visitors and nonresidents of particular areas must stay, refuse residence to anyone whose activity is perceived as threatening to public order, and issue "exceptional search warrants" at any time of day or night. Security forces frequently use these special provisions to enter residences and question suspects. During 1993 there were increasingly frequent reports that armed opposition elements entered private homes, either to kidnap residents or to steal weapons. Many Algerians believe the security services use telephone-monitoring systems, reportedly without the prior court authorization that is required by law.

g. *Use of Excessive Force and Violation of Humanitarian Law in Internal Conflicts.*—Charges of excessive force against demonstrators were far less common in 1993 than in 1992, in part because demonstrations did not occur as frequently as in 1992 due to the regime's ban on demonstrations. Security forces clashed on at least two occasions with small gatherings of demonstrators outside mosques in Algiers. Excessive force, including live fire, was reportedly used to disperse the gatherings; it is not known if there were any resulting deaths or injuries. These incidents were not reported by the Algerian press.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—These freedoms were restricted in 1993 by the Government's action in suspending several publications and detaining journalists for reports that the Government deemed harmful to public order. They were also impaired by the ongoing terrorist attacks against journalists and writers.

The State of Emergency Declaration gives the regime broad authority to reestablish public order. This authority, bolstered by the December 1992 Antiterrorist Decree, forced many journals to practice self-censorship in reporting on security issues. It also discouraged public expression of views supportive of the banned Islamic Salvation Front. While the Government said it did not object to criticism as long as such criticism did not weaken the institutions of the State or threaten security or public order, the Government decides what criteria to apply.

Under authority granted to it by Article 5 of the State of Emergency Declaration (and Presidential Decree No. 92–320 of August 1992), the Government suspended three publications in 1993: El Watan, a French language independent daily, was suspended for 9 days in January for "prematurely printing" an account of the killing of several security force members; Elmassa, an Arabic-language government-owned daily, was suspended for 2 days in January for printing a story deemed insulting to the head of state of a neighboring country; and El Djazair El Youm, an Arabic-language independent daily, was suspended in August, and remains suspended, for printing an advertisement from an Islamist group challenging several death sentences handed down by an antiterrorist court. Seven journals suspended in 1992, including two FIS journals, also remained suspended in 1993.

Following El Watan's suspension, a government spokesman told the press that security-related stories would henceforth require official approval before they could be printed. Although no official directive was ever issued, most journals thereafter reported more cautiously on security incidents.

Six El Watan employees, including the director, were detained by the authorities for 1 week in January; at the end of the year they were still considered to be on "provisional liberty" and could be called to trial at anytime. Three employees of El Djazair El Youm, including the director, were forbidden in September to leave the country or engage in journalistic activity and at year's end were awaiting trial by a special antiterrorist court. Authorities briefly detained a Reuter correspondent in March for erroneously reporting the assassination of a government minister. Authorities detained three employees of the independent French-language weekly L'Evenement, including the director, on December 15 following the publication of an article on Algerian Islamists that the authorities judged inflammatory. Two employees were kept in prison; the director was granted provisional liberty for health reasons. The three face trial in a criminal court. Despite these suspensions and arrests, the Algerian press continues to carry expressions of opinion contrary to those of the Government, often including sharp criticism of the Government's political, economic, and social policies and often stridently criticizing the Prime Minister and President by name. However, the press has been careful to avoid criticism of the state of emergency or the Government's handling of the security situation.

For financial reasons, most newspapers currently use state-owned companies to print and distribute their publications.

The numerous terrorist attacks on the press in 1993 included, as noted in Section 1.a., the assassinations of at least seven journalists and armed attacks against several others, including the director of Algeria's preeminent French-language daily.

Radio and television remained under government control, with coverage biased in favor of the Government's policies. Because of the widespread accessibility of satellite dish antennas, however, millions of Algerians have access to both MBC (an Arabic-language network broadcasting from London) and European (particularly French) television and watch them regularly.

Academic freedom is constrained to the extent that academicians must operate within similar limitations as the press with regard to criticizing the Government. Academic seminars and colloquia are rarely restricted, even when the topic includes political discussion (although, as with the press, criticism of the regime's security policies is discouraged). Some Algerian professors attend international conferences

regularly, and many Algerian professors are active in human rights circles without apparent prejudice to their careers, although they too must avoid outright challenges to the Government's security policies.

b. *Freedom of Peaceful Assembly and Association.*—Although the Constitution and legislation adopted in 1989 provide for the rights of assembly and association, freedom of peaceful assembly is sharply curtailed under the state of emergency. Article 7 of the State of Emergency Declaration allows the Government to close "all places of entertainment, halls, and assembly places, as well as ban all demonstrations likely to disturb peace and threaten public order."

In 1993 the authorities generally allowed meetings, assemblies, and marches to occur, provided they were consistent with the regime's security policies. Permits were granted for a national march against violence in March (in which antigovernment placards were carried), for public assemblies held in June by Algerian economic associations (which were critical of the Government's economic policies), for an assembly held by the Algerian Journalists' Association (which was critical of the Government's handling of the press), and for a gathering to mark the commemoration of President Boudiaf's 1992 assassination (at which the Government's handling of the investigation of the assassination was criticized). Permits were also granted to the Front for Socialist Forces (FFS), a political party stridently critical of the Government's policies, to hold public assemblies in June and October. In April Berber cultural groups demonstrated throughout Kabylie without having obtained a permit to do so; most of the demonstrations were allowed to take place, although at least one group of marchers was dispersed with tear gas.

According to the July 1989 Political Associations Law, membership in political organizations is permitted for all Algerians except judges, army and security service personnel, and members of the Constitutional Council. All nongovernmental associations must be approved by the Interior Ministry. Most political groups operate openly, although the FIS was banned in March 1992. These range from political parties--there were over 55 parties, including some centrist Islamic parties such as Hamas, active in 1993—to specialized groups such as human rights and womens' rights groups.

c. *Freedom of Religion.*—Almost all Algerians are Muslim. While the Constitution declares Islam to be the state religion (an Algerian interpretation of the Maliki school of Islamic law), it prohibits discrimination based on religious belief. The Government protects the rights of the small Christian and Jewish populations and often includes leaders of these communities at ceremonial state functions. The Jewish community numbers fewer than 200 and maintains a synagogue in central Algiers. Algerian Christians reportedly number fewer than 1,000 and often worship only in private. Both Roman Catholic and Protestant churches are found in Algiers, primarily serving the foreign Christian community.

Conversion from Islam to Christianity is extremely rare and is severely sanctioned by the community. Algerians who convert from Islam do so clandestinely. The Islamic clergy receives religious training administered by the Government, and the Ministry of Religious Affairs appoints imams to both state and privately funded mosques. On at least three occasions in 1993, progovernment imams were assassinated. Also during the year, several imams were reportedly removed from their positions for preaching antigovernment views, and Friday sermons at larger mosques were reportedly monitored by security forces, leading regime critics to argue that their freedom of religion had been compromised.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Freedom to travel within Algeria and abroad and to emigrate is provided for by law and is generally respected in practice, although minor children are not allowed to travel abroad without their father's permission. A curfew imposed in December 1992, and modified in May 1993, prohibits people from traveling within Algiers and surrounding provinces between 11:30 p.m. and 4 a.m. Gendarmerie checkpoints in the cities and countryside routinely stop vehicles to inspect identification papers and vehicle registrations and occasionally search for signs of terrorist activity or evidence of black marketeering. There are some administrative restrictions on foreign travel related to mandatory military service and the obligation to repay state education scholarships.

The Constitution provides for the right of political asylum. Based on data provided by the Government, the United Nations High Commissioner for Refugees (UNHCR) estimates that approximately 165,000 Sahrawi refugees live in camps in southwestern Algeria. Of these, some 80,000 are considered by the UNHCR to be in vulnerable groups and thus in need of aid. Sahrawi refugees in southwestern Algeria are supported by both the Government and the UNHCR. Another estimated 50,000 displaced Tuaregs from Mali and Niger live in settlements in southern Algeria.

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

The cancellation of National Assembly elections and assumption of power by the High State Committee (HSC) in 1992 effectively denied citizens the right to change their government. Constitutional provisions approved by the National Assembly in 1989 that afford Algerians the right to change their government have been effectively suspended.

National elections in December 1991 resulted in a decisive victory for the FIS—188 of the 430 assembly seats went to the FIS; 15 went to the governing National Liberation Front (FLN) and reflected strong popular discontent with the Government. In January 1992, President Bendjedid resigned under pressure from the army; election results were cancelled; and a 5-member presidency, the HSC, was named to serve until December 1993 when Bendjedid's term of office was to end. The HSC pledged to respect this mandate and said it will step down before January 31, 1994. However, the Government has postponed resumption of the electoral process until it considers conditions, including the security situation, to be stable enough to allow a resumption. Until such time, a transition government will be responsible for governing the country. The Government has not offered a definitive timetable for new elections but has said repeatedly that 2 to 3 years would be needed before elections could resume.

Two levels of local government exist: 1,541 local districts elect municipal councils to 4-year terms, and 48 provinces elect provincial councils to 5-year terms to work in consultation with provincial governors appointed by the Interior Ministry. In local and regional elections in June 1990, the FIS won control of 853 municipal and 32 provincial councils. But in 1992 and 1993, under Article 8 of the State of Emergency Declaration, the Government replaced most elected local councils—including all 895 FIS-controlled councils as well as some FLN, Hamas, and Rally for Culture and Democracy (RCD) councils—with government-appointed executive committees.

Very few women are active in government; there are presently no women among the 26 Cabinet ministers. Fewer than than 1 percent of the candidates for assembly seats in the 1991 election were women, a reflection of strong social pressures against women's participation in politics and government.

The Berbers, an important indigenous minority group, participate freely and actively in the political process. Two important Kabylie-based (see Section 5) political parties exist, including the FFS, which came in second to the FIS in the number of seats won in the December 1991 election, and the RCD. Furthermore, Berbers hold a number of influential positions within the Government and the army. Algerian Tuaregs (a people of Berber origin) do not play as important a role in the national-level political process, due in large part to their small numbers (estimated in the tens of thousands) and their nomadic nature. Systemic or government-sanctioned barriers to political participation, however, do not exist against any minority groups.

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

A number of human rights organizations are active in Algeria, including the Committee Against Torture, the Algerian League of Human Rights (which is affiliated with the Maghreb Human Rights Association), the Algerian League for the Defense of Human Rights, and the National Observatory of Human Rights (a government-created organization charged with monitoring and reporting developments to the HSC). Human rights monitors receive wide coverage in the independent press and hold press conferences to express their views, including criticism of government security policies and allegations of security force use of torture. No human rights groups have publicly aired charges of extrajudicial killings by the security forces. Human rights groups tend to be ignored by the government-controlled media.

The Government permitted a visit by the secretary general of AI in April, a month after AI released a highly critical report on the Government's human rights record. He met with the then Foreign Minister Redha Malek and delivered widely reported public remarks critical of the Government's human rights record.

The New York-based Middle East Watch (MEW) did not receive permission to visit Algeria in 1993, despite numerous requests by MEW to the Government. The International Committee of the Red Cross (ICRC) was permitted to visit Algeria in April 1992, but has been denied permission to visit since then.

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

The 1989 Constitution specifically prohibits discrimination based on birth, race, sex, belief, or any other personal or social conditions or circumstance. The State of

Emergency Declaration did not affect these prohibitions. The 1989 Constitution omits, however, the specific guarantees for women's political, economic, social, and cultural rights that had been included in the 1976 constitution.

Women.—Women's rights are restricted by Islamic law and custom. Women's rights to work, live independently, and generally function outside the traditional Muslim social norm have come under attack from Islamist leaders and conservative elements of society. Revisions in 1984 to Algeria's Family Code effectively restricted women's rights.

Under the Family Code, much of which is based on Shari'a law, women, regardless of their age, employment, or civil status, remain like minors under the legal guardianship of a husband or father. Although the Family Code allows husbands to have four wives (a rare occurrence in Algeria), it requires the husband to disclose his marital status and intent to both his present and future spouses. If he fails to tell the truth, any of his wives may file a suit in court against him for fraud or divorce. The Code awards 4 months of alimony to the woman regardless of the husband's means and the circumstances of the divorce, although under the Code the wife may receive a significant settlement in cash or property after divorce if so stipulated in the marriage contract. Because the Code forbids Algerian women from marrying non-Muslims, women engaged to non-Muslim men can be subjected to harassment, reportedly including confiscation of their passports by authorities. In March women's rights advocates commemorated International Womens' Day by calling on the Government to protect women's rights and to change the Family Code.

With the growing influence of highly traditional Islamist views and norms, secularist women regard themselves as increasingly under pressure from proponents of the implementation of Islamic law. Conservative societal and family pressures, as well as support or fear of political Islam, have compelled many Algerian women to wear Islamic dress, including the hijab headcovering with ankle-length overdress. Many other women, however, continue to wear Western dress despite what they feel is continuous harassment and pressure to dress more traditionally.

Roughly 10 to 15 percent of the work force are women, most of whom work in urban areas. Many of these women are trained and employed in the fields of medicine, education, and the media; some women serve in the armed forces. Some orthodox Islamists have blamed high national unemployment (21 percent according to official figures) on female participation in the workplace and argue that women should not work outside the home. However, some moderate Islamist leaders have publicly defended the right of women to work. Girls represent just under 50 percent of students enrolled in primary and secondary schools and 35 percent of students enrolled in universities.

The extent of violence against women is unclear. National studies on this problem do not exist, but the Central Hospital in Algiers alone reported more than 4,600 cases of abuse against women requiring medical treatment in 1991 and 1992. Women's rights advocates assert that such violence is not rare, particularly in the context of family conflicts (i.e., wife and sister beating) in more conservative, male-dominated families. Such abuse, however, is increasingly unacceptable to middle-class Algerians. Violence against women is seldom discussed publicly, although several independent journals published articles on the subject during 1993. Wives who are beaten by their husbands may file criminal charges or sue for divorce, but such legal actions are rare, and civil courts are far more likely to rule in favor of men, according to women's rights advocates. Cases of rape and incest continue to be underreported to police and to doctors, due to the social stigma attached in Algeria to victims of such crimes. The Government is committed in principle to combating violence against women, but, given the higher priority it places on other political and security problems, it devoted few resources and little attention to this issue in 1993.

Children.—The Government is committed in principle to protecting children's human rights and welfare. Several children's advocacy groups exist, including the Association for Childrens' Rights and the National Association for the Defense of Children's Rights. Governments at the regional level offer social and sanitary services for children, but financial resources for such services are severely limited. Furthermore, according to local observers, neither the Penal Code nor the Family Code offers sufficient legal protection to children. Although most larger hospitals treat at least several dozen cases of child abuse every year, many more such cases go unreported. Some schools, according to news accounts, still use corporal punishment, and disciplinary beatings of children by parents are said to be common.

National/Racial/Ethnic Minorities.—Algeria's population is ethnically mixed, and ethnic minorities seem to fare no better and no worse than other Algerians. Berbers were the original inhabitants of the region, and their ethnic consciousness, fueled by a desire to preserve their distinctive cultural identity and language in the face

of the Government's emphasis on the development of an Arab identity, remains strong. Many Algerians are both Arab and Berber, and many Berbers hold positions of influence within Algerian society. Nevertheless, some Berber spokesmen assert that the Government implicitly seeks to repress the Berber culture, including the teaching and propagation of Amazight, the language of the Kabylie Berbers. Amazight is not taught in primary and secondary schools but is taught at Tizi Ouzou University. A clear expression of Berber ethnic consciousness was evident in April when Berber groups organized marches and demonstrations in commemoration of Berber demonstrations in 1981.

The situation of the nomadic Tuareg of Algeria's southern desert continues to be of domestic and international concern. The drought in the central Sahara continues to disrupt traditional Tuareg patterns of life. Notwithstanding agreements negotiated between the Governments of Algeria, Mali, Niger, and Libya and Tuareg representatives, Tuareg-related grievances and conflicts outside Algeria remain unresolved. As a consequence, large numbers of Tuareg refugees (from Niger and Mali) remain in Algeria. Government authorities encourage Algerian Tuareg to settle and generally treat them fairly.

People with Disabilities.—The Government is committed in principle to protecting the rights and welfare of the disabled. The Ministry of Labor and Social Affairs sponsored in January the creation of the Consultative Council for the Protection of Handicapped People (CNCIPH). It is charged with identifying and resolving professional discrimination against the handicapped, organizing cultural and sporting activities for the handicapped, providing the handicapped with professional training and placement assistance, and working to assure the accessibility of public places to the handicapped. Several private associations for the disabled also exist, including the Federation of Associations for the Physically Handicapped. The lack of available government resources, however, greatly limits the services and assistance that both the public and private associations are able to provide to the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—Algerian workers have the right to form and be represented by trade unions of their choice. Government approval for the creation of a labor union is not necessary, although considerable limits are imposed on union activities, and one Islamist union, SIT, has been banned. Unions are not legally allowed to be associated with political parties, although in practice some, including the General Union of Algerian Workers (UGTA), still are. Unions are forbidden to receive funds from abroad, and the Government may suspend a union's operations if it violates the law. Unions are also subject to dissolution by judicial means if a court finds the union has engaged in illegal activities.

The State of Emergency Declaration authorized the Government to require workers to continue their usual jobs in both public and private enterprises in the event of an unauthorized or illegal strike. The 1990 Law on Industrial Relations permits strikes only after 14 days of mandatory conciliation, mediation, or arbitration efforts. This law states that arbitration decisions in worker-management disputes are binding on both parties. If no agreement is reached, and provided a majority of the workers vote by secret ballot to strike, the workers may legally strike. A minimum level of public services must be maintained during public service sector strikes.

Approximately 10 major strikes and numerous minor ones were held in all sectors in 1993. Although many of these strikes did not satisfy the terms set by the 1990 law (in many cases there were no attempts at arbitration or mediation), the Government did not prosecute the striking workers. Strikes included those by dock workers, airport maintenance workers, and workers in the construction sector. Most of the strikes were resolved by wage or other concessions from management. The Government did not invoke the State of Emergency provisions to force striking workers back to work. The 1990 law on work relations prohibits retribution against striking workers.

Unions may form and join federations or confederations and affiliate with international bodies. Several Algerian unions, including the UGTA, have sought international contacts beyond the quasi-official Arab and African trade union organizations in which they participate. The UGTA, for example, established direct contact in 1993 with the AFL-CIO.

b. *The Right to Organize and Bargain Collectively.*—The 1990 law permits collective bargaining for all unions, and this right has been freely practiced. The law also prohibits discrimination by employers against union members and organizers and provides mechanisms for resolving trade union complaints of antiunion practices by employers. It further permits all unions, whether longstanding or newly created, to recruit members at the workplace. In the context of a new Investment Code ap-

proved in September, the Government announced its intention to establish an undetermined number of free trade zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is incompatible with the Constitution's provisions on individual rights. The Penal Code was amended in 1990 to ban compulsory labor explicitly (prior to this, compulsory labor by convicted prisoners was allowed). This ban is effectively enforced by labor inspections and penal sanctions.

d. *Minimum Age for Employment of Children.*—The minimum employment age is 16 years. Work inspectors, who report to the Ministry of Labor, are responsible for enforcing the minimum employment age by periodic or unannounced inspection visits to the workplace. The minimum age is enforced in the state sector, the country's largest employment sector. It is not effectively enforced in the agricultural or small private sectors, but violations are not widespread. However, many children under 16 are driven by economic necessity into informal employment, such as street vending. Legislation on acceptable working hours does not make a distinction between young workers and the regular work force.

e. *Acceptable Conditions of Work.*—The 1990 Law on Work Relations defines the overall framework for acceptable conditions of work but leaves specific policies with regard to hours, salaries, and other work conditions to the discretion of employers in consultation with employees. A guaranteed monthly minimum wage rate for all sectors is fixed by government decree. The most recent minimum wage agreement, reached in 1992, set the minimum monthly wage at roughly $75 (1,800 dinars) per month, which is not adequate to provide a worker with a family a decent standard of living. Ministry of Labor work inspectors are responsible for ensuring compliance with the minimum wage regulations, although enforcement reportedly has been inconsistent.

Algeria has a 44-hour workweek with a 24-hour rest period and well developed occupational and health regulations codified in a January 1991 decree, but enforcement by government inspectors is generally lax. Laws on working conditions do not specify whether workers have the right to remove themselves from dangerous work situations without jeopardy to continued employment.

BAHRAIN

Bahrain is a monarchy with no democratically elected institutions or political parties. The Al Khalifa extended family has ruled Bahrain since the late 18th century and dominates its society and government. The Constitution confirms the Amir as hereditary ruler. The current Amir, Shaikh Isa Bin Sulman Al Khalifa, governs Bahrain with the assistance of his brother, the Prime Minister; his son, the Crown Prince; and an appointed Cabinet of Ministers. In 1975 the Government suspended some provisions of Bahrain's 1973 Constitution, including those articles relating to the National Assembly, which the Government disbanded in the same year. There are few judicial checks on the Amir and the actions of his Government. Social ties and interpersonal associations are important and are formed in a complex web of family, tribal, economic, and religious affiliations. Bahrainis belong to the Shi'a and Sunni sects of Islam, with the Shi'a comprising over two-thirds of the indigenous population. There are important sectarian and ethnic divisions among the Shi'a. Despite their minority status, the Sunnis predominate because the ruling family is Sunni and is supported by the armed forces, the security service, and powerful merchant families.

The Ministry of Interior is responsible for public security. Under its auspices, the Public Security Force (police) and the extensive and efficient Security Service are responsible for maintaining internal order. The Bahrain Defense Force (BDF) defends against external military threats. It does not play any role in internal security.

Bahrain has a mixed economy, with government ownership of many basic industries, including the important oil and aluminum industries. Possessing limited oil and natural gas reserves, Bahrain is intensifying efforts to diversify its economic base and has attracted companies doing business in banking, financial services, petrochemicals, and light manufacturing. The Government has used its modest oil revenues to build an advanced infrastructure in transportation and telecommunications and has become a leading regional financial and business center.

Although there was little formal change in the human rights situation in 1993, Amiri decrees in March and May authorized the release of 75 prisoners, including political detainees, and granted amnesty to a number of Bahraini exiles living abroad. The appointive Consultative Council (Majlis Al-Shura, established by Amiri

decree in 1992), held its first session from January to June and reconvened for a second 6-month period in October.

Civil liberties, however, remain circumscribed in Bahrain. The main human rights concerns continue to include the denial of the right of citizens to change their government; the occasional practice of arbitrary and incommunicado detention; the absence of impartial inspection of detention and prison facilities; restrictions on the right to a fair public trial, especially in the Security Court; and restrictions on freedom of speech and press, freedom of assembly and association. women's rights, and worker rights.

RESPECT FOR HUMAN RIGHTS

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

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

b. *Disappearance.*—There were no known disappearances.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture is prohibited by law, and there were very few credible reports of torture in 1993. Little is known about what happens inside Bahrain's prisons, however, since nonofficial visits are generally prohibited. There is anecdotal evidence that Bahraini police occasionally have used primitive forms of torture, such as beating the soles of prisoners' feet, when questioning criminal suspects. Bahrain's small size and social structure would make it extremely difficult for the Government to conceal serious abuses if they were frequent or systematic.

The Government continues to deny that torture takes place, but it has not implemented minimal procedural safeguards that would help deter such practices, nor has it allowed inspection of detention facilities by impartial international organizations, despite its announced willingness to do so. Allegations of torture are all the more difficult for the Government to rebut because of governmental regulations permitting the practice of incommunicado detention and detention without trial. There were no known instances in 1993 of authorities being punished for human rights abuses committed in previous years.

d. *Arbitrary Arrest, Detention, or Exile.*—Under provisions of the Security Law of 1974, most often applied to those suspected of antiregime activity, persons may be detained and arrested for attempting to exercise the rights of free speech, association, or other rights. In recent years, there has been some loosening of control on activities previously considered "subversive." There were several credible reports that the security forces held persons suspected of engaging in antiregime activity for questioning in 1993. In all cases, the suspects were released with a warning within 2 or 3 days, after the authorities determined that there was not enough evidence to make a formal arrest. The Embassy confirmed one case in 1993 of detention without trial for 80 days, as allowed under the 1974 Security Law. The individual in question was released by Amiri decree on Bahrain's National Day before formal charges could be brought against him.

Activities that could lead to detention, questioning, warning, or arrest include: membership in illegal organizations or those deemed subversive; painting antiregime slogans on walls; joining antigovernment demonstrations; possessing or circulating antiregime writings; preaching sermons with a distinct antiregime political tone; or harboring or associating with persons committing such acts.

Under the State Security Act of 1974, persons accused of subversive or antiregime acts may be detained without trial for a period not to exceed 3 years. Detainees have the right to appeal such detentions after a period of 3 months and, if the appeal is denied, every 6 months thereafter from the date of the original detention. There were no credible reports of persons being detained for more than a few days in 1993 under the provisions of the 1974 Act, and the Government is not believed currently to be holding any prisoners without charge.

In addition to overseeing the Security Service and police, the Ministry of Interior also controls the office of the Public Prosecutor, whose officers initially determine whether sufficient evidence exists to continue to hold a prisoner in "investigatory detention." The Ministry is responsible for all aspects of prison administration. In the early stages of detention, prisoners and their attorneys have no recourse to any authority outside the Ministry of Interior.

Exile has been utilized by Bahraini authorities in dealing with individuals suspected of antiregime activity. In the early 1980's, following the Iranian revolution, there were confirmed reports that young Bahraini men suspected of antigovernment activity were forced to reside outside Bahrain without benefit of trial. Bahraini authorities maintain that, in many cases, individuals were presented with the evidence against them and given a choice of standing trial or living outside Bahrain

for a specified period of time. In April the authorities briefly detained three Bahrainis, residing in Lebanon, at the airport and refused them entry. Bahraini officials contend that all three could have been charged with belonging to a subversive organization if they had entered Bahrain. In the same month, Amnesty International reported that the Government was preparing to exile Hashim Al-Musawi, a Bahraini convicted in 1988 of antiregime activity, after he had completed his 5-year sentence without any new charges having been brought against him.

e. *Denial of Fair Public Trial.*—A person arrested may be tried in an ordinary criminal court or, if required by the prosecution, in the Security Court. Ordinary civil or criminal trials provide procedural guarantees for an open trial, the right to counsel (with legal aid available when necessary), and the right to appeal. Security cases are tried directly by the Supreme Court of Appeal, sitting as the Security Court. Procedures in Bahrain's Security Court do not provide appropriate safeguards. For example, the Security Court is exempted from adhering to the procedural guarantees of the Penal Code, proceedings are held in secret, and there is no right to judicial review of the legality of arrests. Although there were no such reports in 1993, in the past there have been credible allegations that convictions in the Security Court have been based solely on confessions obtained while in official custody and possibly elicited under duress. There were no reports of security court trials in 1993.

Bahraini attorneys are appointed by the Ministry of Justice and Islamic Affairs to act as counsel. Sentences imposed by the Security Court may, at the discretion of the Court or the request of the defendant's family, be referred to the Amir for clemency.

The Bahrain Defense Force (BDF) maintains a separate court system for military personnel accused of offenses under the military code of justice. Military courts do not review cases involving civilian criminal or security offenses.

The number of prisoners decreased in 1993. Between 270 and 300 persons were believed to be held in Bahraini prisons, some of whom may be political prisoners. The number of political prisoners in Bahrain cannot be determined precisely because the Government does not release data on security cases, such cases are not tried in open court, and prisoners convicted of security offenses are not always allowed visits.

In accordance with tradition, the Government continued to release and grant amnesty to a small number of prisoners, including self-declared political prisoners, on major Islamic holidays. In 1993 the Government released 15 such prisoners in March during the Eid Al-Fitr holiday and another 8 in May following the Eid Al-Adha celebrations, as well as another 52 released by Amiri decree on December 16. Despite the amnesties, a small number of persons convicted in trials in the early to mid-1980's for antiregime activity remain in Bahraini jails, although most are nearing the end of their 12- to 15-year sentences. Government sources have indicated that the small number of prisoners convicted for nonviolent antiregime activity in the 1980's and still remaining in custody will shortly be released either through governmental amnesty or upon completion of their sentences. It is not expected, however, that the small number—approximately 10—of persons sentenced to life imprisonment for actively taking up arms against the Government will be granted amnesty.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Under the law, the Ministry of Interior is empowered to authorize entry into private premises without specific judicial intervention, although the Ministry is thought to use such power rarely. Domestic and international telephone calls and correspondence are subject to monitoring. Police informer networks are extensive and sophisticated.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—While the Constitution provides for the right "to express and propagate opinions," Bahrainis are not, in practice, free publicly to challenge the legitimacy of, or even express opposition to, the regime in speech or writing. Political meetings are not permitted. Gatherings that might take on a political tone frequently are monitored; however, the informal relaxation of some governmental restrictions on freedom of speech and assembly begun in 1991 continued in 1993. Although some subjects—particularly the Hawar Islands dispute and anything directly critical of the ruling family—remain strictly taboo, the local press's coverage and commentary on economic, commercial, and labor issues is increasingly open, and private discussion of political issues was more widespread than in the past.

The Information Ministry exercises broad authority over local media. All newspapers are privately owned but routinely exercise self-censorship of stories on sensitive topics. In 1993 the Government shut down the Arabic daily Akhbar Al-Khaleej for 5 days after the newspaper, apparently inadvertently, published a news wire

story accompanied by a map showing the Hawar Islands, which are claimed by both Bahrain and Qatar, as part of the territory of Qatar. The Government does not condone unfavorable coverage of its domestic policies by the international media and has occasionally revoked the press credentials of offending journalists. Since the Ministry also sponsors foreign journalists' residence permits, this action can lead to deportation. There were no reports of such actions in 1993.

The State owns and operates all radio and television stations. Radio and television broadcasts in Arabic and Farsi from neighboring countries and Egypt can be received without interference. Since 1991 Cable News Network (CNN) has been broadcast 3 hours a day on a local television channel without censorship and is available on a 24-hour basis by subscription. The British Broadcasting Corporation's World News Service is carried on a local channel 24 hours a day free of charge and uncensored. U.S. Armed Forces Radio is also available. Many senior government officials, ruling family members, and major hotels use satellite dishes to receive international broadcasts, and well-to-do private citizens are using dishes to receive television programs from outside Bahrain. The Ministry of Information closely controls access to satellite dishes, and the importation or installment of dishes without prior government approval is illegal.

Although there are no formal regulations limiting academic freedom, as a practical matter academics try to avoid contentious political issues. In general, there is greater latitude to discuss politics in an academic setting. Nevertheless, strict limits are observed, and research, publications, and discussions critical of the Government are at best highly infrequent.

b. *Freedom of Peaceful Assembly and Association.*—Despite the Bahrain Constitution's affirmation of the right of free assembly, all public political demonstrations or meetings are prohibited. Religious gatherings that may take on political overtones are also strictly controlled. In March the Bahraini security services reportedly prevented a joint Sunni-Shia political seminar from taking place at a local mosque and briefly detained the scheduled speakers for questioning. Political organizations are prohibited, but many social and sports clubs have traditionally served as forums for discreet political discussion, although these are also closely monitored by the Government. Since the Gulf war, the Government has been more tolerant of informal discussion of political issues than in the past, but organized discussions and meetings are still discouraged.

c. *Freedom of Religion.*—Bahrain's population is overwhelmingly Muslim, and Islam is the state religion. However, Christians and other non-Muslims, including Jews, Hindus, and Baha'is, enjoy considerable freedom to practice their religion and maintain their own places of worship. Bibles and other Christian publications are displayed and sold openly in local bookshops, which also sell Islamic and other religious literature. Adherents of faiths other than Islam maintain places of worship and may display the symbols of their religion. Some small groups worship in their homes. Religious tracts of all Islamic sects, cassettes of sermons delivered by Muslim preachers from other countries, and publications of other religions are readily available.

Proselytizing by non-Muslims is not encouraged, and anti-Islamic writings are prohibited, but conversions from Islam to other religions are tolerated. Both Sunni and Shi'a sects are subject to governmental control and monitoring, but there is no interference with routine worship, preaching, or religious activities. Public religious events, most notably annual commemorative marches by the Shi'a, are permitted but are closely watched by the police. There are no restrictions on the number of Bahrainis permitted to make pilgrimages to Shi'a shrines and holy sites in Iran and Iraq; however, owing to conditions in Iraq, very few Bahrainis make pilgrimages there. Religious study in, and pilgrimages to, Iran were strongly discouraged in the past. Although the Government continues to monitor travel to Iran and scrutinizes carefully those who choose to pursue religious study there, Bahraini travel to Iran for pilgrimages, business trips, tourism, and family visits is increasingly common.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Bahrainis are free to move within the country and change their place of residence or work. Passports, however, may be denied on political grounds. At least 3 to 5 percent of the indigenous Bahraini population, mostly Persian-origin Shi'a, do not have passports and cannot readily obtain them (see Section 5). Bahrainis living abroad who are suspected of political or criminal offenses may face arrest and trial upon return to Bahrain. The Government is reported to have issued limited "1-year validity" passports to persons whose travel it wishes to restrict. In 1993 the Government continued an amnesty program initiated in 1992 to allow the return of certain persons who, because of their known opposition to the Government, have resided outside of Bahrain since 1980. Permission was given to 128 exiles and their family members to return to Bahrain. The Government waived charges against

them for disrupting the security of the State and violating passport and immigration laws. A few amnestied returnees were picked up for resuming their dissident activities, but all were released into the custody of their families after being warned by the authorities.

Bahrain does not generally accept refugees; however, in practice refugees are not repatriated to countries from which they have fled. Some Iranian emigres who fled Iran since 1979 have been granted permission to remain in Bahrain, but they have not been granted citizenship.

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

Citizens do not have the right or ability peacefully to change their government or their political system, and political activity in general is strictly controlled by the Government. Since the dissolution of the National Assembly in 1975, there have been no formal democratic institutions, and neither political parties nor opposition organizations are permitted. The Government makes all appointments to government positions. About one-third of the Cabinet ministers are Shi'a, although they do not hold security-related offices. The ordinary Bahraini may attempt to influence government decisions through submission of written petitions and informal contact with senior officials, including appeals to the Amir and other officials at their regularly scheduled public audiences, called majlises.

On December 16, 1992, the Government announced the formation of an all-appointive 30-member Consultative Council, known as the Majlis Al-Shura. The Majlis held its first session from January 16 to May 25 and opened its second, 6-month session on October 2. The members of the Majlis are evenly divided between Sunni and Shia and were deliberately chosen to represent the major constituent groups of Bahrain, including representatives from the business, labor, professional, and religious communities. There are no members of the ruling Al-Khalifa family in the Majlis, and religious "extremists" are conspicuously absent. The Chairman of the Majlis is a Shi'a who formerly was Minister of Transport and Communications. Although the Majlis has no formal legislative power, it may draft proposed legislation for the Government to approve and is empowered to summon Cabinet ministers to answer questions at its closed deliberations. During its first session, the Majlis undertook to debate a number of contentious social and economic issues, particularly in the areas of unemployment, labor policy, and education. A number of proposals were drafted and are now under consideration by the Government. The Government has accepted and implemented some of the recommendations. The Government has also acted on a number of Majlis Al-Shura proposals designed to combat Bahrain's rising unemployment rate, including a proposal to institute training programs for Bahrainis, toughen entry requirements for foreign workers, and deport a number of illegal expatriate workers.

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

There are no local human rights organizations. Because of the restrictions on freedom of association and expression, any independent, domestically based investigation and public criticism of the Government's human rights policies would face major obstacles. The Government has consistently characterized as baseless charges of torture and denial of access to detainees. The Government maintains that it is "not opposed" to visits in good faith by "bona fide human rights organizations," but, in practice, international human rights organizations have found it difficult to operate in Bahrain. The Government extended a formal invitation to Amnesty International in 1992 but no arrangements for a visit had been made by the end of 1993.

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

Women.—Islamic law (Shari'a) governs the legal rights of Bahraini women. Specific rights vary according to Shi'a or Sunni interpretations of Islamic law, as determined by the individual's faith or the court in which various contracts, including marriage, have been made. Bahraini labor law does not discriminate against women; however, some women's groups complain about informal discrimination in the workplace, including inequality of wages and denial of opportunity for advancement.

While both Shi'a and Sunni women have the right to initiate a divorce, religious courts may refuse the request. Although local religious courts may grant a divorce to Shi'a women in "routine" cases, occasionally Shi'a women seeking divorce under unusual circumstances must travel outside of Bahrain, as the Ja'afari sect courts in Bahrain are said to lack a religious scholar of sufficient rank to issue rulings in controversial cases. Women of either sect may own and inherit property and may

represent themselves in all public and legal matters. In the absence of a direct male heir, Shi'a women may inherit all property; in contrast, Sunni women—in the absence of a direct male heir—inherit only a portion, with the balance being divided among uncles and male cousins of the deceased.

In the event of divorce, the courts routinely grant Shi'a and Sunni women custody of daughters under the age of 9 and sons under age 7. In all circumstances except mental incapacitation, the father, regardless of custody, retains the right to make certain legal decisions for his children, such as guardianship of any property belonging to the child until the child reaches legal age. A non-Bahraini woman automatically loses custody of her children if she divorces their Bahraini father. Women may obtain passports and leave the country without the permission of a male head of the household. Bahraini women are free to wear the clothing of their choice (a large percentage wear Western dress outside the home), to work outside the home, and to drive a car without an escort. As the Bahraini economy has developed, women have increasingly taken jobs previously reserved for men.

Women constitute over 20 percent of the Bahraini work force. The Government has encouraged the hiring of women, enacted special laws to promote female entry into the work force, and is a leading employer of women. Bahrain's Labor Law does not recognize the concept of equal pay for equal work, and women are generally paid less than men. Except for a few exempted professions, women are prohibited from working at night. Generally, women work outside the home during the years between secondary school or university and marriage. Women make up the majority of students at Bahrain's universities. There are women's organizations which seek to improve the status of women under both civil and Islamic law.

Increasingly women have expressed the view that, despite growing female participation in the work force, women in Bahrain are not significantly advancing their rights and that much of their lack of progress is due to the influence of Islamic religious traditionalists, especially in the government-run school system and in the Shari'a courts. Other women, however, desire a return to more traditional religious values and support calls for a return to Islamic patterns of social behavior.

Violence against women is known to occur, but knowledge of incidents is usually kept within the family in this traditional society. In general, there is virtually no public attention to, or discussion of, violence against women and no government policies that address it. Women's groups and health care professionals state that spouse abuse is relatively common, particularly in poorer communities. There are very few known instances of Bahraini women seeking legal redress for violence, and anecdotal evidence suggests that the courts are not receptive to such cases.

Cases of foreign women working as domestic servants being beaten and sexually abused have been reported to local embassies and the police. Most victims are too intimidated to sue their employers. Those who do, however, appear to be received sympathetically in the courts. In December a Bahraini court sentenced a Bahraini couple to prison terms after their extreme neglect led to the death of an expatriate domestic worker. Anecdotal evidence from other embassies and local contacts indicate that other serious abuses occur but are infrequently reported.

Children.—The Government of Bahrain has often stated its commitment to the protection of children's human rights and welfare within the social and religious framework of this traditional society. The Government honors this commitment through enforcement of its civil and criminal laws and an extensive social welfare network.

The status of children in Bahraini society is dictated by tradition and religion to a greater extent than by civil law. Public discussion of child abuse is rare, and the preference of the authorities has always been to leave such matters within the purview of the family or religious groups. In 1993, however, the government-controlled press featured commentaries decrying "growing" trends of child prostitution, abuse, and begging. Bahraini authorities actively enforce the laws against prostitution, including child prostitution, procuring, and pimping. Violators are dealt with harshly and can be imprisoned or deported if non-Bahraini. In some cases, authorities reportedly will return Bahraini children arrested for prostitution and other crimes to their families rather than actively prosecute them, especially for first offenses. In January a local women's society held a seminar on the legal rights of children in which some participants called for greater governmental protection of children, including the establishment of a separate juvenile court. Juvenile cases currently are heard in the regular courts 1 day a week. Other Bahrainis, however, insist that the protection of children is a religious, not a secular, function and would oppose greater governmental interference in this traditional sphere. Independent and quasi-governmental organizations such as the Bahraini Society for the Protection of Children and the Mother and Child Welfare Society play an active part in the protection of

children by providing counseling, legal assistance and advice, and, in some cases, shelter and financial support to distressed children and families.

National/Racial/Ethnic Minorities.—A group of 3,000 to 5,000 mostly Persian-origin Shi'a Bahrainis, commonly known as "bidoon" (those without), enjoy less than full citizenship under the Bahraini Citizenship Act of 1963. Without citizenship these individuals reportedly are unable to buy land, start a business, or obtain government loans. The law does not address the citizenship rights of persons who were not registered with Bahraini authorities prior to 1959, creating a legal lacuna for such persons and their descendants and resulting in economic and other hardships. The Government maintains that the figure 3,000 to 5,000 is too high and that many of these persons in fact own property and businesses.

Religious Minorities.—Although there are notable exceptions, Sunni Muslims enjoy a favored status in Bahrain in comparison with the Shi'a. Sunnis generally receive preference for employment in sensitive government positions and in the managerial ranks of the civil service. Shi'a Bahrainis are not allowed to hold significant posts in the Bahrain defense and internal security forces. On the other hand, Shi'a Muslims occupy most of the senior positions in the major government-owned industries and are disproportionately represented in the educational sphere as secondary school teachers, professors, and university administrators. In general, however, employment opportunities for Shi'a are more restricted than for Sunnis, and Shi'a tend to be employed in lower paid, less skilled jobs. Social and municipal services in most Shi'a neighborhoods, particularly in rural villages, are inferior to those found in Sunni urban communities. In an effort to remedy social discrimination, improve living conditions for the Shi'a, and encourage integration, the Government has built numerous subsidized housing complexes open to all Bahrainis on the basis of financial need.

People with Disabilities.—Bahraini law protects the rights of people with disabilities, and a variety of governmental, quasi-governmental, and religious institutions are mandated with the support and protection of disabled persons. The Regional (Arabian Gulf) Center for the Treatment of the Blind is headquartered in Bahrain. Bahraini society tends to view people with disabilities as special cases in need of protection rather than as fully functioning members of society. Nonetheless, the Government is required by law to provide vocational training for disabled persons wishing to work and maintains a list of certified, trained disabled persons. The Labor Law of 1976 also requires that any employer employing over 100 employees engage at least 2 percent of its employees from the Government's list of disabled workers. The Ministry of Labor and Social Affairs works actively to place people with disabilities in public sector jobs, such as in the public telephone exchanges. The Government's housing regulations require access be provided to disabled persons. Most large public buildings (including the Ministries of Foreign Affairs and Defense, the University, and schools) are equipped with ramps and other aids which make them accessible to disabled persons.

Section 6. Worker Rights

a. *The Right of Association.*—The partially suspended 1973 Constitution recognizes the right of workers to organize, but trade unions do not exist in Bahrain, and the Government does not encourage their formation. Article 27 of Bahrain's Constitution states: "Freedom to form associations and trade unions on national bases and for lawful objectives and by peaceful means shall be guaranteed in accordance with the conditions and in the manner prescribed by the law. No person shall be compelled to join or remain in any association or union." In response to labor unrest in the mid-1950's and in 1965 and 1974, however, the Government passed a series of labor regulations which, among other things, allow the formation of elected workers' committees in the larger Bahraini companies.

Worker representation in Bahrain today is based on a system of Joint Labor-Management Consultative Councils (JCC's) established by Amiri decree. Since 1982, 12 JCC's have been established in the major state-owned industries. The JCC's are composed of equal numbers of appointed management representatives and worker representatives elected from and by company employees. The selection of worker representatives appears to be a fair process, and worker representatives appear generally to genuinely represent worker interests. Under Bahraini law, the Ministry of Interior may exclude worker candidates with criminal records or those deemed a threat to national security. The elected labor representatives of the JCC's select the 11 members of the General Committee of Bahraini Workers (GCBW) established in 1983 by law, which oversees and coordinates the work of the JCC's. The Committee also hears complaints from Bahraini and foreign workers and assists them in bringing their complaints to the attention of the Ministry of Labor or the courts. Although the Government and company management are not represented on the

GCBW, the Ministry of Labor closely monitors its activities and must approve the distribution of GCBW funds (raised by government taxes on employers) and the rules and procedures of the GCBW.

The JCC-GCBW system now represents close to 70 percent of the island's indigenous industrial workers, although both government and labor representatives readily admit that nonindustrial workers are underrepresented by the system. In 1993 the GCBW announced the extension of the JCC system into the private sector and the planned formation of at least five new JCC's in private companies. The Ministry of Labor supported these moves and has urged the formation of JCC's in all public and private sector companies employing more than 200 workers. Although 67 percent of the Bahraini work force is expatriate, expatriates are underrepresented in the work of the GCBW, and none currently participate on its board. It is a longterm goal of the Government to replace expatriate workers with Bahrainis and to create new jobs for Bahrainis seeking employment.

Bahraini labor law is silent on the right to strike, and there were no strikes in 1993, but strikes with a political connotation were repressed in the 1960's and early 1970's. Actions perceived to be detrimental to the "existing relationship" between employers and employees or to the economic health of the State are forbidden by the 1974 Security Law. There are no recent examples of major strikes, but walkouts and other job actions have been known to occur without governmental intervention and with positive results for the workers.

The GCBW represents Bahraini workers at the International Labor Organization (ILO) and in the Arab Labor Organization, but does not belong to any international trade union organizations.

b. *The Right to Organize and Bargain Collectively.*—As in the case of strikes, Bahraini labor law neither grants nor denies workers the right to organize and bargain collectively outside the JCC system. While the JCC's described above are empowered to discuss labor disputes, organize workers' services, and discuss wages, working conditions, and productivity, the workers have no independent, recognized vehicle for representing their interests on these or other labor-related issues. JCC's do in fact make suggestions to management on some working conditions and limited aspects of wage issues, but management must agree before a proposal can be put in force.

Minimum wage rates are established by Council of Ministers' decree. Increases in wages above the minimum, which are subject to discussion in the JCC's, are set by management, with government salaries for comparable work often serving as an informal guide. Private businesses generally follow the Government-JCC lead in establishing their wage rates.

There are two export processing zones, but labor law and practice are the same in these zones as in the rest of the country.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is legally prohibited, and the Labor Ministry is charged with enforcing the law. The Ministry enforces the labor laws with periodic inspections and routinely fines violators. New provisions to the Labor Law passed in November stiffened the maximum fines imposed and mandated imprisonment for certain violations. The press often performs an ombudsman function on labor problems, reporting instances in which private sector employers occasionally compelled foreign workers from developing nations to perform work not specified in their contracts, as well as Ministry of Labor responses.

Once a complaint has been lodged by a worker, the Labor Ministry opens an investigation and often takes remedial action. A number of abuses undoubtedly go unreported, particularly involving domestic workers and others in Bahrain on "free visas." In the most common cases, these workers come to Bahrain under the sponsorship of one indvidual or company (often fronting for an unlicensed employment agency), then switch jobs, while continuing to pay a fee to their original sponsor. The Government has announced its intention to abolish this illegal practice, which makes it difficult to monitor and control the employment conditions of domestic and other workers. The Labor Law amendments passed in November stiffened the penalties for engaging in visa switching to include a jail sentence of up to 6 months for each illegally sponsored worker. However, the Government's efforts to find and deport illegally sponsored workers make these domestic workers even more reluctant to bring cases of abuse to the courts. Even if the courts rule in their favor in a particular case of abuse, the workers concerned are very likely to be deported as illegal immigrants after the case is concluded. The intense fear of deportation almost certainly allows some "sponsors" to impose abusive conditions, which approach coerced or bonded labor, on their employees. The elimination of such abuses is one objective of the Government's vigorous campaign to crack down on "free visa peddlers."

d. *Minimum Age for Employment of Children.*—The minimum age for employment is 14. Juveniles between the age of 14 and 16 may not be employed in hazardous conditions or at night and may not work over 6 hours per day or on a piecework basis. Child labor laws are effectively enforced by Ministry of Labor inspectors in the industrial sector; child labor outside that sector is less well monitored but is not believed to be significant outside family-operated businesses.

e. *Acceptable Conditions of Work.*—Minimum wage scales, set by government decree, exist for public sector employees and generally afford a decent standard of living for workers and their families. The current minimum wage for the public sector in Bahrain is $236.60 (91 Bahraini dinars) a month. Wages in the private sector are determined on a contract basis. For foreign workers, employers consider benefits such as annual repatriation and housing and education bonuses part of the salary.

Bahrain's Labor Law, enforced by the Ministry of Labor and Social Affairs, mandates acceptable conditions of work for all adult workers, including adequate standards regarding hours of work (maximum 48 hours per week) and occupational safety and health. The Fourth High Court (labor) has jurisdiction over cases involving alleged violations of the Labor Law. Complaints brought before the Ministry of Labor and Social Affairs that cannot be settled through arbitration must, by law, be referred to the Court within 15 days. In practice, most employers prefer to settle such disputes through arbitration, particularly since the Court and Labor Law are generally considered to favor the worker/employee. Under Bahraini Labor Law, workers have the right to remove themselves from dangerous work situations without jeopardy to their continued employment.

In February the Government strengthened the Labor Law by Amiri decree, announcing that significant fines and jail sentences would be imposed upon private sector employers who fail to pay legal wages. This law applies equally to employers of Bahrainis and expatriates and is intended to reduce abuses against foreign workers who in the past have sometimes been denied legal salaries. In 1993, after consulting with the GCBW and the Majlis Al-Shura, the Ministry of Labor and Social Affairs submitted a further package of 29 amendments to the Labor Law to the Government for consideration. These changes were proposed, in part, to bring Bahrain's labor laws into greater conformity with international norms.

The law provides equal protection to Bahraini and foreign workers. However, all foreign workers are required to be sponsored by Bahrainis or Bahrain-based institutions and companies. Subject to sanctions for wrongful dismissal, sponsors are able to cancel the residence permit of any person under their sponsorship and thereby block them from obtaining entry or residence visas from another sponsor. Foreign workers, particularly those from developing countries, are often unwilling to report abuses for fear of losing residence rights and having to return to their native countries. Although instances of foreign workers being denied their guaranteed holidays, days off, and vacations without compensation are periodically reported in the local press, government attempts to address individual abuses in these and other cases are often hampered by the workers' unwillingness to make a formal complaint. In September a senior Ministry of Labor official publicly invited a group of expatriate contract employees to lodge official charges against their Bahraini company after their letter protesting 13-hour workdays, 6 days a week, with no break, no overtime, or compensatory time off was published in the press.

In addition, the Labor Law specifically favors Bahrainis, followed by Arab expatriates, over all other foreign workers in the areas of hiring and firing. Because employers include housing and other allowances in their salary scales, Asian workers are legally paid lower regular wages than their Bahraini counterparts, although they sometimes receive the same or greater total compensation package because of home leave and holiday pay allowances. Western expatriates and Bahraini workers are paid comparable wages, with total compensation packages often significantly greater for the former. Women are prohibited from performing night work, except in certain exempted fields. Women are entitled to 60 days of paid maternity leave, nursing periods during the day, and up to 1 year of unpaid maternity leave. However women are generally paid less than men.

EGYPT

According to its Constitution, Egypt is a social democracy in which Islam is the state religion. In July the People's Assembly reelected President Hosni Mubarak, who was unopposed, to a third 6-year term by a 439 to 7 margin. In accordance with the Constitution, Mubarak's election was put to a popular referendum in October in which he received more than 96 percent of the votes cast. The President appoints

the Cabinet, which is responsible to him. The National Democratic Party (NDP) has been in power since its establishment in 1978. It commands large majorities in the popularly elected People's Assembly and the Shura (consultative) Council. One opposition party is represented in the People's Assembly; others boycotted the previous People's Assembly election in 1990 and are not represented.

There are two security services under the Ministry of Interior: the General Directorate for State Security Investigations (GDSSI), which conducts investigations and interrogates detainees, and the Central Security Force (CSF), which enforces curfews and bans on public demonstrations and conducts paramilitary operations against alleged terrorists. Both the GDSSI and CSF have been implicated in many reports of torture and other abuses of prisoners and detainees.

Egypt has a mixed economy dominated by an inefficient public sector. Under an ongoing economic structural adjustment program, Egypt has reduced or eliminated subsidies on consumer goods, agricultural inputs, energy, and services and has liberalized the currency and capital markets. The Government is moving slowly to restructure or privatize many state-owned companies. Low economic growth rates and a growing population have contributed to a decline in real per capita income in each year since 1988.

The Constitution provides for various human rights, including a multiparty political system, regular elections, the rule of law, an independent judiciary, freedom of opinion, and the right to peaceable assembly; a number of them are limited in practice, and there are many other serious abuses. The human rights situation continued to deteriorate in 1993 as a result of actions by terrorist groups, the Government, and nonviolent Islamic activists. Egypt's security services and terrorist groups continued to be locked in a cycle of violence. Terrorist groups attacked government officials, security forces, Egyptian Christians, and foreign tourists. Many innocent bystanders died in terrorist attacks. The Government also perpetrated many abuses, including the arbitrary arrest and torture of hundreds of detainees, the use of military courts to try accused terrorists, the failure to punish officials responsible for torture, infractions committed under the Emergency Law, the harassment of journalists, and the Government's attempt to gain greater control over civil society. Although most of the arbitrary arrests, detentions without trial, and torture were perpetrated on suspected members of terrorist groups, the police also victimized nonviolent Islamic activists and ordinary citizens. In 1993 actions by nonviolent Islamic activists posed a danger to the freedom of expression. The NDP dominates the political scene to such an extent that, as a practical matter, Egyptians do not have a meaningful ability to change their government. Women and Egyptian Christians face discrimination based on tradition and some aspects of the law.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—In 1993 at least 12 persons died from injuries allegedly sustained while in police custody. It was also learned in 1993 that another person, Ahmed Hamido Al-Sawi, reportedly died under torture in December 1992. The Government has not adequately investigated or publicly explained these deaths. According to the Egyptian Organization for Human Rights (EOHR), medical reports released on deceased detainees in 1993 fail to note the origins, and even the existence, of scars in alleged torture cases. Seven of the deceased were reportedly suspected Islamists: Mohamed Gomaa and Abdul Satar Abdullah who died in August; Ahmed Farouk Ali, Bahaa Abdel Raouf, Eissa Taher El-Bishari, and Ahmed Abdel Rahman who died in September; and El-Mohammadi Mohamed Morsi who died in October. Delegations from the United States raised this and other human rights issues in a continuing dialog with top Egyptian officials.

According to the Islamist newspaper Al-Shaab, Mohamed Gomaa died under torture at Tora prison. According to Ministry of Interior officials, Ahmed Farouk Ali, 27, died of a heart attack at the State Security headquarters in Cairo on September 2 after 1 day in police custody. Ahmed was arrested for his alleged role in the failed assassination attempt on Interior Minister Al-Alfi in August. A preliminary report issued by the Ministry of Interior's Directorate of Health Affairs stated that Ali's body had "several bruises on the face and death occurred as a result of failure in heart and respiratory functions." However, the final report issued in November stated that death was not due to physical abuse, but "occurred due to normal reasons."

The five other persons who died are not believed to have any connections to Islamist groups. They are: Mahmoud Hussein Mohamed who died in May from injuries sustained during interrogation by security forces (see Section 1.c.); Abdel Gayed Sayed Abdel Gayed who also died in May; Emad Saad El-Hawashi who died in September; and Effat Mohamed and Hosni Salah Sayed who died in October.

In addition to the 12 persons cited above, at least 4 other persons died after allegedly jumping from windows or stairwells to escape arrest or avoid giving information to the police. These include Haithem Abdel Sabour Kahlaf; Ahmed Kahlaf; Eissa Taher Suleiman, who allegedly jumped from a window at the Aswan Security Directorate headquarters in April; and Ahmed Abdel Halim, who allegedly jumped from the top of an apartment building stairwell in October while under police escort.

At least 201 people were killed in civil unrest in 1993, the highest recorded level since 1981. Security forces killed at least 63 suspected terrorists and an undetermined number of bystanders. A number of the deaths caused by security forces appeared to result from an excessive use of lethal force. In March security forces surrounded a mosque in Aswan and opened fire with automatic weapons after the worshipers inside refused to depart. At least nine persons inside the mosque were killed in what was reportedly a one-sided exchange of fire. Also in March, security forces conducted several raids on the homes of alleged terrorists in the Cairo area, killing 9 persons, including the wife and child of an alleged terrorist, as well as a raid in Assiyut city in which they killed 10 alleged terrorists. The three assaults in March occurred only a few days after the murder of police officers by terrorists, suggesting a retaliatory motive behind at least part of the cycle of violence. After assuming office in April, Minister of Interior Hassan Al-Alfi deemphasized mass arrests and large-scale police raids on alleged terrorist strongholds.

A majority of the deaths resulting from civil unrest in 1993 were caused by terrorist groups. Terrorists killed at least 83 members of the security forces and 54 civilians. At least 26 of the civilians died in terrorist bombings. As they have in recent years, terrorists also continued to attack Egyptian Christians. They murdered at least nine Coptic residents of Assiyut Governorate, including physicians, students and Ibrahim Hana, a village official. They also burned churches and other properties owned by Copts.

Terrorist groups claimed responsibility for the attempted assassination of Prime Minister Atef Sedky in November; the attempted assassination in August of Interior Minister Hassan Al-Alfi; the assassination in August of Qena Governorate Deputy Director of Security Brigadier General Abdel Halim Ghobara, his driver, and bodyguard; the attempted assassination in July of Army General Othman Shahine in Cairo; the assassination in April of Assiyut Governorate Deputy Director of Security Brigadier General Mohamed Abdel Latif El-Shimi, his bodyguard, and driver; and the attempted assassination in April of the Information Minister Safwat Al-Sherif.

b. *Disappearance.*—There were no reports of new disappearances in 1993, but three cases dating from 1988, 1989, and 1990 remain unsolved.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the Penal Code prohibits the use of torture to obtain a confession, there is convincing evidence that police and security forces systematically practice torture. Such a determination was made in August when a state security court found that all 27 defendants tried for the October 1990 assassination of People's Assembly Speaker Rifaat Al-Mahgoub were tortured while in custody. The court acquitted 17 defendants of all charges but sentenced 10 to prison on related charges. The presiding judge found that security forces used "hideous methods to extract confessions." However, no action was taken to punish the officials responsible for the torture.

In September a military court ordered the release from detention of Sami Salamah Abdel Mumin, one of 35 defendants in a trial of alleged terrorists. The court decision was based on a complaint by Abdel Mumin that both his feet were crippled and his kidneys injured by physical abuse committed by security officers while he was in police custody.

Mahmoud Hussein, 45, died in May several days after his release from police custody, reportedly owing to injuries sustained during interrogation by security forces for his alleged connection with terrorist groups. The Government stated that it was investigating the case, but at year's end there had been no public statement.

The Government generally investigates torture complaints in cases involving persons arrested for common crimes and has punished offending officers. However, the Government does not adequately investigate torture complaints in cases involving detainees in political or religious cases. There is no public record that offending officers in such cases are punished, thus suggesting that the Government tacitly condones the mistreatment of those it considers to be opponents.

Officers of the Interior Ministry's GDSSI are known to practice torture on both alleged terrorists and nonviolent Islamists. Torture, which takes place in police stations, at GDSSI offices, and at CSF camps, is used to extract information, coerce the victims to end their antigovernment activities, and deter others from such activities.

Torture victims are usually taken to GDSSI offices where they are handcuffed, blindfolded, and questioned about their associations, religious beliefs, and political

views. Victims have reported the following torture methods: During interrogation, detainees are frequently stripped to their underwear; hung by their wrists with their feet touching the floor, hung upside down, or forced to stand for prolonged periods; doused with hot and cold water; beaten; forced to stand outdoors in cold weather; and subjected to electric shocks. Some victims in 1993, including female detainees, reported that they were threatened with rape.

As many as 10 days may elapse from the date of arrest until detainees enter the penal system. During that period, detainees are usually held at GDSSI offices where they are questioned and often tortured. The security forces do not acknowledge any detention during that period, pointing to the lack of any documentary proof of arrest. The lack of written records during the early days of arrest invites the abuse of detainees and frustrates investigations into torture complaints. The Government denies that such "temporary disappearances" occur and maintains that all arrests are conducted with warrants and that written records are always kept on the whereabouts of detainees.

Moreover, the security forces sometimes transfer detainees from prisons to other facilities where they are interrogated, tortured, and then returned to prison. No written records are kept on such transfers.

To pressure fugitives to surrender, security forces have taken their relatives, including minors and female family members, into custody. An undetermined number of such detainees have been physically abused while in custody.

Persons arrested for ordinary criminal offenses are commonly mistreated by the local police. Mohamed Ali Mohamed Ali, 38, arrested in January for car theft, was allegedly hung by his wrists for extended periods and beaten with a stick while in police custody. An investigating officer allegedly injected a mixture of water and human waste into his leg, causing gangrene. On October 17 Ali appeared in court on a stretcher and told the judge that the police had injected his leg with feces after he refused to confess to several car thefts. The court acquitted Ali on one charge of car theft but sentenced him to 6 months on other charges. At year's end, there had been no public record of any investigation into Ali's alleged mistreatment.

d. *Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention are widely practiced against alleged terrorists and others thought to threaten national security. However, in some mass arrest operations, security forces have subjected villages to collective punishments, so that many persons with no association with terrorist groups have been taken into custody. Such arrests and detentions are conducted under the State of Emergency, which has been in effect since President Anwar Sadat's assassination in 1981. The present Emergency Law is scheduled to expire on June 30, 1994.

Under the Emergency Law, the Interior Minister may detain a person without indictment for 90 days. Detention orders are issued by public prosecutors who have limited powers to commit individuals to confinement. Some detainees are not allowed to inform their relatives of their detention, and access to legal counsel has been delayed. In theory, those arrested under the Emergency Law should be indicted or released within 90 days. In practice, the Government often simply writes a new detention order for those whose release has been ordered by a court—in effect continuing to detain them without due process for prolonged periods. However, most detainees are released much sooner, after interrogation. Under the Emergency Law, there is a continuous flow of new arrests and releases from detention.

Under ordinary criminal procedure, arrested persons are charged with violations of specific laws, have the right to a judicial determination of the legality of arrest, and should be formally charged within 48 hours of arrest or be released. Arrests under this procedure occur openly and with warrants issued by a district prosecutor or a judge. There is a system of bail. However, the regular Penal Code also gives the State wide detention powers. State prosecutors may obtain court orders to detain persons for 45 days and to confine them for up to 6 months to complete investigations. Detainees are often released without explanation or acknowledgement that charges have been dropped.

The Penal Code contains several provisions to combat terrorist violence. These provisions broadly define terrorism to include the acts of "spreading panic" and "obstructing the work of authorities," allow the police to hold suspects for 24 hours before obtaining arrest warrants, and prescribe the death penalty for persons found guilty of terrorism and life imprisonment for membership in a terrorist group.

Egyptian human rights monitors estimate that about 140 Palestinians were in detention during the third quarter of 1993. Many entered Egypt illegally from the Israeli-occupied territories. Others are legally resident in Egypt and are under investigation for alleged political activities. Some Palestinian detainees reportedly have been tortured.

There are no reliable statistics on the number of persons in detention. Observers estimate that at the end of 1993, 3,000 persons were in detention under the Emergency Law, many for political reasons.

e. *Denial of Fair Public Trial.*—Although the judiciary in recent years has exercised considerable independence and has sometimes upheld defendants' constitutional rights against acts of abuse by executive branch officials, the Government has used its powers under the Emergency Law to use military courts to create "emergency" state security courts (civilian and military) to try suspected terrorists, thus circumventing the regular courts. Trials in such state security courts do not meet international standards for fair trial (see below).

There are three levels of regular civilian criminal courts: primary courts, appeals courts, and the Court of Cassation, the final stage of criminal appeal. There is also a Supreme Constitutional Court, but its jurisdiction is limited to constitutional challenges. It does not hear criminal appeals. There are no juries. Criminal cases are heard by panels of three judges. Most trials are public.

There are three sets of special courts for criminal cases: civilian and military state security courts and the courts of ethics. The state security courts have jurisdiction over serious offenses such as armed insurrection. They are divided into upper and lower divisions.

Trials in a civilian state security court are heard by three judges, but two military officers may be added by presidential decree to the upper division. Defendants before a civilian state security court may be indicted under the Penal Code or the Emergency Law. When an indictment is handed down under the Emergency Law, the court is designated an emergency state security court.

A defendant has no judicial appeal from an emergency state security court. However, he may file an appeal for clemency from the President—or the Prime Minister, acting on powers delegated by the President—who is empowered to amend, commute, or cancel decisions or order a retrial. These powers mean that acquittals, as well as convictions and sentences, may be canceled and the defendant retried for the same offense.

In 1993 the Government subpoenaed Omar Abdel Rahman and 48 of his alleged followers for retrial on charges related to their alleged roles in a 1989 antigovernment riot. An emergency state security court had acquitted the defendants of all charges in 1990, but the acquittals were never ratified by the Prime Minister, who subsequently ordered the defendants retried on grounds that the Court had committed several procedural errors.

In 1993 the Government used military state security courts to try civilian defendants accused of terrorist acts or of belonging to terrorist organizations, claiming that civilian trials were too lengthy and civilian judges too susceptible to intimidation under the current "exceptional circumstances." These courts are comprised of three military officers. The presiding judge usually has general officer rank. In January the Supreme Constitutional Court upheld the use of military courts to try civilian cases. It ruled that the President of the Republic, acting under powers in the Emergency Law, is authorized to refer any crime to a military court.

According to Egyptian military sources, at least 446 civilian defendants accused of committing terrorist acts, or belonging to terrorist organizations, have been tried in military courts since late 1992. Most defendants were tried in groups ranging in size from as few as 8 to as many as 65 persons, but many suspected terrorists were tried individually. The military courts reportedly acquitted 205 defendants, sentenced 177 to less than 5-year terms, 26 to more than 5-year terms, and 38 to death.

The Government maintains that the civilian defendants receive fair trials in the military courts. It argues that all military judges have the same legal training as judges in the civilian courts; defense attorneys are accorded sufficient time to review the prosecution's files and inspect the State's evidence; trials are conducted under the same procedures used in civilian courts; defense attorneys have the right to cross-examine and to call any witness; military judges apply only the Penal Code in trying cases involving civilian defendants—no civilian defendant is subject to military law or military punishments; there are adequate safeguards against the admission of confessions obtained under duress; defense attorneys are appointed by the Bar Association at state expense for indigent defendants; verdicts are reviewed by two panels of military judges, who examine the trial procedures before the verdicts are forwarded to the President for ratification; and all defendants have a constitutional right to appeal for clemency from the President.

However, the military courts do not afford the defendants due process before an independent tribunal. The military courts are less independent than the civilian judiciary, as the judges and prosecutors are both part of the State's executive authority. The military judges do not appear to grant defense attorneys adequate access to case files or time to meet with defendants; they tend to rush complex cases with

many defendants so that most cases are tried within 6 weeks. Moreover, as with the civilian emergency state security courts, defendants in military court trials do not have the right of judicial appeal Sentences and trial procedures are reexamined by military review panels, although the defendants may appeal to the President of the Republic. Finally, there is no information that the large numbers of defendants acquitted in recent military trials have been released from prison.

The court of ethics hears cases falling under Law 95 of 1980 which makes illegal such activities as "endangering the public safety," inciting youth "to depart from religious values and loyalty to the fatherland," and denying the three "heavenly religions." It has an upper and lower division. The ethics courts allow nonjurists to try cases. In recent years, the ethics courts have been used relatively infrequently to try "economic crimes" such as corruption and drug trafficking. An ethics court conviction denies the defendant the right to engage in certain occupations or activities.

A person may be tried in a state security court and an ethics court on similar indictments: in the former for criminal offenses and in the latter for the financial gains associated with those offenses.

In the regular civilian court system, the President appoints all judges based on nominations from the Higher Judicial Council, a constitutional body designed to ensure the independence of the judiciary. The Council is composed of senior judges, lawyers, and law professors, and is chaired by the President of the Court of Cassation. It regulates judicial promotions, salaries, transfers, and disciplinary actions. In practice, however, the Minister of Justice, an executive branch officer, has considerable influence over judicial appointments and transfers. Judges may be appointed as prosecutors and vice versa.

In recent years, the judiciary has exercised considerable independence from the executive branch. Judges on occasion have ordered inquests into torture cases; acquitted defendants in cases where confessions were extracted by torture; challenged the ban on workers' strikes; defended the right to nonviolent ideological opinion; overturned bans on prohibited political parties; and overturned an election law that discriminated against independent candidates and dissolved the People's Assembly elected under that law.

There are no reliable statistics on the number of convicted political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—There continued to be substantial abridgment, under the Emergency Law, of constitutional provisions regarding the right to privacy. In theory, police must obtain warrants before undertaking searches and wiretaps, and courts have dismissed cases in which warrants were issued without sufficient cause. Police officials who conduct searches without proper warrants are subject to criminal penalties, although these are seldom imposed. The Emergency Law, however, empowers the state to search persons or places without warrants.

Intelligence agencies and security services frequently place political activists, suspected subversives, journalists, and writers under surveillance, screen their correspondence (especially international mail), search them and their homes, and confiscate personal property.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and the press, and to a large extent the Government refrains from curtailing political expression. Egyptians openly express their views on a wide range of political and social issues, including vigorous criticism of the Government, without fear of retribution. Nevertheless, there are some limitations on the freedom of speech and press. The Prime Minister and the Cabinet are often targets of criticism, but the press law stipulates fines or imprisonment for criticism of the President or a foreign head of state. In recent years, however, journalists have, within limits, criticized the President without harassment, although he may not be satirized in cartoons.

Most major dailies are government owned, their editors in chief appointed by the President, and generally follow the government line. Nevertheless, criticism of government policies is frequently found in the government-owned press.

The opposition newspapers are associated with political parties. Most are weeklies with small circulations, except the centrist daily Al-Wafd and the smaller Islamist semiweekly Al-Shaab. They give greater prominence to human rights abuses in Egypt than do state-run newspapers. The opposition press is independent but is printed and distributed by a government-owned publishing house.

The Government influences the press in several ways. It controls the right to publish through its power to license newspapers. The Higher Press Council, chaired by the Speaker of the Shura Council, has the power to approve applications for new publications. Most members of the Higher Press Council are close to the ruling National Democratic Party and are inclined to follow the Government's lead.

In 1993 there was a pattern of government interference with freedom of expression, including the arrest or harassment of Egyptian journalists, the increased harassment of foreign journalists, and the confiscation of printed material from the market. In June a prominent journalist, Mohamed Sid Ahmed, was called in for questioning for several hours regarding statements attributed to him in a U.S. newspaper on the morale in the Egyptian armed forces. At the same time, a retired army general, employed as a military affairs analyst at a government-affiliated institution, was detained for 6 days for statements about the Egyptian armed forces attributed to him in the same article. Neither was charged with any crime, however.

In October security forces arrested and detained overnight the Chairman and Vice Chairman of the Socialist Labor Party (SLP), Adel Hussein and Mohamed Helmy Murad, and two journalists for Al-Shaab, the SLP's newspaper, Salah Bedeiwy and Ali Al-Qammash. The four were reportedly questioned by state prosecutors about publishing articles in Al-Shaab that allegedly harmed Egypt's national interests, spread extremist views, insulted President Mubarak, and accused the Government of rigging the October 4 national presidential referendum. The Government did not file any charges. In October the Government also proposed amending the Press Law in a way that would give the Government greater control over membership in the journalists' syndicate, thus impairing the independence of Egypt's journalists, who must be licensed by the syndicate. Many journalists objected to the proposal, and in November the Government quietly shelved the proposal in exchange for a "review of the profession" to be undertaken by the journalists' syndicate.

Foreign journalists in Egypt reported a pattern of increased harassment from government security forces. Several journalists were summoned for questioning, reportedly because of government concern that their reporting on internal events has damaged Egypt's reputation.

State-owned television and radio are more limited in the news they cover than are newspapers. Criticisms of government policies and reporting on human rights abuses are almost never broadcast on radio and television. Political parties do not have access to broadcast facilities even during election campaigns.

Books and works of art may be confiscated or banned by decree of various ministries without a court order. The Ministry of Interior regularly confiscates leaflets and other works by Islamic fundamentalists. In 1993 it prevented the public sale of audio cassette tapes by some Islamic preachers whose preachings were considered to foment sectarian strife. Activists are frequently arrested and detained for distributing antigovernment pamphlets. In 1993 military courts convicted a number of activists for possessing antigovernment printed material and sentenced them to prison terms. In August the Minister of Interior barred the public sale of "Omar Abdel Rahman, the Earthquake That Shook the World," a book printed in Egypt.

The Ministry of Defense may ban works about sensitive security issues. Plays and films must pass Ministry of Culture censorship tests as scripts and as final productions. In April the Ministry of Culture censored several scenes containing amorous embraces in Albert Farag's "Divorce Wedding," a play produced at the American University in Cairo. The Ministry of Culture also censors foreign films. Censors ensure that foreign films made in Egypt portray Egypt in a favorable light. Censors review scripts before filming, are present during filming, and have the right to review the film before it is sent out of Egypt.

The Ministry of Information censors television productions and foreign news publications. In 1993 the Ministry impounded, or otherwise prevented the sale of, some issues of a number of foreign publications. The Ministry does not usually inform the management of foreign publications of the reasons for impoundment. In October state prosecutors ordered the confiscation of "No to Mubarak's Reelection," a book published by the Socialist Labor Party.

The Islamic research association at Al-Azhar University has legal authority to censor the publication of the Koran and Islamic scriptural texts. In recent years, however, Al-Azhar has passed judgments on the suitability of nonreligious books and artistic productions. Although these pronouncements do not have the force of law, the Egyptian publishing industry usually complies with Al-Azhar pronouncements and does not publish or distribute works deemed offensive by Al-Azhar authorities. For years, Al-Azhar has banned the sale of "The Children of Gebelawi," a 1959 novel by Egypt's Nobel laureate, Nagib Mahfouz. In 1993 al-Azhar banned at least three works: the complete works of antifundamentalist writer Farag Foda, who was assassinated in 1992; "Creations of Flying Passions," a novel by Christian author Edward Kharrat; and a collection of poems by Muslim author Hasan Talab. In January President Mubarak signaled his public approval of Al-Azhar's censorship role, stating "when Al-Azhar renders an opinion (on censorship) it is expressing our adherence to our faith. Thus we cannot dictate to Al-Azhar what it should do."

The Government does not impinge on academic freedoms at universities. However, the growth of Islamist influence in the education system poses a threat to civil liberties. In April an Arabic language professor at Cairo University, Nasr Abu Zeid, was denied promotion to full professorship because a promotion panel found that his writings on the origin of the Koran were heretical. In June a group of Islamist lawyers acting as private individuals petitioned a court to dissolve Abu Zeid's marriage to his wife Ebtehal Younes. The petitioners claimed that Abu Zeid's writings are heretical and thus, as an apostate, he legally could not be permitted to remain married to a Muslim woman. The case was still in progress at the end of 1993.

In June an Islamic preacher, Shaykh Mohamed Al-Ghazali, testified in court that any Muslim who objects to the imposition of Islamic law effectively rejects his faith and is an "apostate." The Shaykh added that any Muslim who kills an apostate has carried out the legitimate punishment prescribed by Islamic law and should be treated with leniency. Al-Ghazali was called to testify as a friendly witness for suspected terrorists on trial for the 1992 murder of antifundamentalist writer Farag Foda. His remarks were interpreted by many Egyptian intellectuals to condone the murder of secularists who are deemed apostates.

b. *Freedom of Peaceful Assembly and Association.*—There continue to be substantial restrictions on this freedom. Under the Emergency Law, Interior Ministry approval is required for public meetings, rallies, and protest marches. Permits are generally granted for indoor rallies and those restricted to university campuses.

The Ministry of Social Affairs has the authority to license and dissolve "private organizations." Licenses may be revoked if such organizations engage in political or religious activities.

Since 1985 the Government has refused to license as private organizations the Egyptian Organization for Human Rights (EOHR) and the Arab Organization for Human Rights (AOHR) on grounds that they are political organizations. Both continue to operate openly (see Section 4). However, in August the Interior Ministry prevented EOHR officials from convening meetings with their local chapter members in several towns in southern Egypt.

In 1993 the People's Assembly approved a new law governing the activities of professional associations. The law stipulates that no association may elect a governing board without a quorum of 50 percent of its general membership. If the quorum is not met, another election is scheduled in which 33 percent of the membership are required to elect the board. Failing that quorum, the judiciary is authorized to appoint a caretaker governing board until new elections can be organized. The law was adopted to prevent further gains in the professional associations by Islamist candidates who had done well in elections with low voter turnouts.

c. *Freedom of Religion.*—Although the Constitution provides for this freedom, there are important limitations. Islam is the state religion. Most Egyptians are Muslim, but approximately 10 per cent of the population, 5 million people, belong to the Coptic Orthodox Church, the largest Christian minority in the Middle East.

There are other small Christian denominations. The small Jewish community practices its religion without harassment. Members of recognized religions maintain links with coreligionists abroad. The foreign clergy pursue their ministries without harassment, but all non-Muslims are barred from proselytizing. In 1993 four Westerners were detained for more than 2 months and then expelled for proselytizing Muslims.

Islam accepts Christian and other converts, but Muslims face legal problems if they convert to another faith. There is no clear legal prohibition against conversion or proselytizing, but the Penal Code prohibits any person from "degrading or disdaining any of the holy religions or any of its religious sects" with "the intention of harming national unity and social peace." This is interpreted as forbidding the conversion of Muslims. Conviction is punishable by imprisonment.

In the past, state security forces have harassed, detained for prolonged periods, and sometimes tortured Egyptian Christians for proselytizing Muslims. In August the state security police arrested Kamel Soliman Badr, 33, a lay member of a Cairo church for printing or photocopying booklets containing the testimonies of Egyptian Muslims who have converted to Christianity. Badr was officially charged with the abovementioned Penal Code offense.

Egyptian courts have upheld the principle that Muslims may not change their identity papers to reflect their conversion to a new religion. As a consequence, married male converts from Islam must register their children as Muslims, as the law considers them Muslims.

An 1856 Ottoman decree still in force requires non-Muslims to obtain what is now a presidential decree to build or repair a place of worship. Coptic Christians maintain they are frequently unable to obtain such authorization. As a result, some communities use private buildings and apartments for religious services. However, in

1992 and 1993 the Government increased the number of building permits issued to Christian communities to an average of more than 20 a year, compared to the average of 5 permits a year issued in the 1980's. Most permits appear to be for the repair of existing structures and not for construction of new churches. Christian and Muslim reformers urge the abolition of the Ottoman decree, but Islamic fundamentalists defend the building restrictions.

In theory, mosques must also be licensed by the Government. The Penal Code prohibits using a place of worship for antigovernment speeches, and the Ministry of Religious Affairs proposes themes and monitors sermons. In practice, the Government cannot control all sermons, especially at "unauthorized" mosques where sermons sometimes invoke antigovernment, anti-Christian, and anti-Western themes. The Government continued its efforts to bring private mosques under its administrative control as a means to counter extremism. In recent years, the police have closed several unlicensed churches and mosques, although others continue in operation.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There is freedom to travel within Egypt except in certain military areas. Egyptian males who have not completed compulsory military service may not travel abroad or emigrate, although this restriction can be circumvented. Unmarried women under 21 must have permission from their fathers to obtain passports; married women require permission from their husbands. Citizens who leave the country have the right to return. In October the Government discontinued the practice of requiring a special travel permit, issued by the Ministry of Interior, for Egyptian citizens to visit Israel.

In recent years, the Government has denied permission to Christian converts from Islam to travel abroad. In a recent case, police arrested a convert to Christianity at Cairo airport and prevented her from boarding a flight to Europe. The Government also sometimes prevents travel for political reasons. In March security forces prevented Faten, the second wife of Omar Abdel Rahman, from departing Egypt for a pilgrimage to Mecca.

The deportation of Egyptian citizens and aliens granted political asylum is prohibited and not practiced. Egypt is host to thousands of refugees, but only a few are granted the right to resettle in Egypt. In the past, some Ethiopians and other Africans, who seek documentation as refugees by the United Nations High Commissioner for Refugees, have been detained by the police and transported to areas near the Libyan or Sudanese borders where they are released. Some have returned to their countries; others have found their way back to Egyptian cities.

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

The ruling National Democratic Party (NDP) dominates the 454-seat People's Assembly, the Shura Council, local governments, the mass media, labor, the large public sector, and the licensing of new political parties, newspapers, and private organizations to such an extent that, as a practical matter, Egyptians do not have a meaningful ability to change the national government.

In 1993 President Hosni Mubarak was elected unopposed to a third 6-year term by the People's Assembly. In October Mubarak's reelection was submitted to the public in a national referendum in which 96 percent of the voters approved it. The Government claimed that 86 percent of the electorate went to the polls, although the actual figure was believed to be much lower. Under Egypt's electoral system, the electorate was not presented with a choice among competing presidential candidates; it was offered the opportunity only to vote for or against Mubarak's reelection. Two opposition parties, the Wafd and the Islamist-affiliated Socialist Labor Party, urged the public to boycott the referendum, and two other parties, the leftist Tagammu and the Nasserist, urged the public to vote against Mubarak. The other opposition parties endorsed Mubarak's candidacy.

In the 1990 People's Assembly election, NDP candidates won 383 seats of 444 elected, independents won 55, and a leftist party won 6. Seven opposition parties boycotted the election.

Women and Copts generally do not hold positions of senior leadership in the Government or political parties. The Constitution reserves 10 Assembly seats for presidential appointees, which assures some representation for Copts and women. Ten women hold Assembly seats: seven elected and three appointed. Five Copts sit in the Assembly: one elected and four appointed.

The Assembly debates government proposals, and members exercise their authority to call Cabinet ministers to explain policy, but the legislature does not have sufficient authority to challenge or restrain the executive. Many executive branch initiatives and policies are carried out by ministerial decree without significant legislative oversight.

Presidential appointments do not require legislative approval; the executive initiates almost all legislation; the Assembly may not modify the budget except with the Government's approval; and there is little oversight of the Interior Ministry's use of Emergency Law powers. The military budget is prepared by the executive and not debated publicly. Roll-call votes in the Assembly are rare. Votes are generally reported in aggregate terms of yea's and nay's, and thus constituents have no independent method of checking a member's voting record.

There are 12 recognized opposition parties. New parties must be approved by the Parties Committee, a semiofficial body dominated by the ruling National Democratic Party. To form a party without a license is a felony. In 1993 the Committee did not grant registration to any new political party. However, in June an administrative court ordered the Committee to issue a license to the Social Justice Party. A court also reinstated the former leadership of the Young Egypt Party. In January a court upheld the ban on the Awakening Party, claiming the party's program includes soliciting funds outside Egypt, an activity prohibited by law.

The law prohibits political parties based on religion. Nevertheless, Muslim Brotherhood partisans are active. Some have served in the Assembly as independents or members of other recognized parties.

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

There are no officially recognized local human rights organizations. The Government refuses to license them as "private organizations" (see Section 2.b.) on the grounds that they are political organizations. Nevertheless, the Egyptian Organization for Human Rights (EOHR) and the associated Arab Organization for Human Rights (AOHR) operate openly. EOHR's field workers visit prisons and call on government offices. Both the EOHR and AOHR have challenged the ruling on their legal status in the courts. In 1993 the Government did not interfere with EOHR's relocation to larger offices in Cairo and did not interfere with its receiving money from abroad.

In February an EOHR official was stopped and questioned by security forces while accompanying a representative from the U.S.-based Middle East Watch (MEW) on a fact-finding mission in southern Egypt. In August the Ministry of Interior prevented EOHR officials from holding meetings in several southern Egyptian towns.

In May Amnesty International released a report on human rights abuses related to the Government's antiterrorist campaign. The Government issued an official response asserting that terrorism requires the imposition of emergency laws; that cases of abuse occur in Egypt, but they are few and should not obscure Egypt's record of respect for human rights; and that the human rights record of any country should not be based on exceptional cases but on a comprehensive study of the country's social, cultural, political realities.

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

Women.—Egyptian law provides for equality of the sexes, but aspects of the law and many traditional practices discriminate against women. Under Egyptian law, only males can transmit Egyptian citizenship. In rare cases, this means that children born to Egyptian mothers and stateless fathers are themselves stateless.

Laws affecting marriage and personal status generally correspond to an individual's religion, which for most Egyptians is Islam. A 1979 liberalization of the family status law strengthened a Muslim woman's rights to divorce and to child custody, but in 1985 the changes were found unconstitutional on grounds they conflicted with Islamic law and were repealed. Under Islamic law, non-Muslim males must convert to Islam to marry Muslim women, but non-Muslim women need not convert to marry Muslim men. Muslim female heirs receive half the amount of a male heir's inheritance, while Christian widows of Muslims have no inheritance rights. A sole female heir receives half her parents' estate; the balance goes to designated male relatives. A sole male heir inherits all his parents' property. Male Muslim heirs have the duty to provide for all family members who need assistance.

Egyptian women have employment opportunities in government, medicine, law, academia, the arts, and, to a lesser degree, in business. About 100 officers in the Egyptian diplomatic service are women, including 3 ambassadors. Social pressure against women pursuing a career remains strong, however, and some Egyptian feminists say that a resurgent Islamic fundamentalist trend limits further gains. Women's rights advocates also point to other discriminatory attitudes and practices such as female circumcision and the male relative's role in enforcing women's compliance with religiously prescribed codes of sexual conduct. In 1993 Fatma Abdul Raouf was denied employment as a magistrate in a public prosecutor's office, the

first step in Egypt to becoming a judge, because she is a woman. She is currently suing the Ministry of Justice for sex discrimination. There are no women judges in Egypt.

Family violence against women does occur, but its extent is unknown. Abuse within the family is seldom discussed publicly, owing to the value attached to personal privacy in this traditional society.

There are at least two active women's rights groups, one affiliated with EOHR. The other is the Communications Group for the Enhancement of the Status of Women, which has published a booklet on the legal rights of Egyptian women.

Children.—The Government is committed to the protection of children's welfare. According to law, public education is compulsory until age 12, and the employment, or job training, of children under age 12 is prohibited. For many years, the Government has operated a "reading for all program" which seeks to bring literacy to older children and adults. The Government has also employed the media to promote children's education and welfare. Examples include Egypt's annual international children's film festival and television programming aimed at children's education. However, despite the Government's commitment to children's welfare, child labor is a widespread problem. Moreover, much of the resources for children's welfare are provided by international aid donors, especially in the fields of education and child immunization programs.

Female genital mutilation (excision), which international health experts have condemned as damaging to both physical and mental health, occurs—predominantly in rural areas—but there are few reliable statistics on its extent. Excision and the more drastic infibulation are practiced in some parts of upper Egypt. Female excision is not illegal, but doctors are prohibited from performing it in government hospitals.

Religious Minorities.—The approximately 5 million Coptic Christians are broadly discriminated against by the Government and are also the objects of violent assaults by terrorists.

Government discriminatory practices include delays in issuing church building and repair permits; the detention and mistreatment of some Muslim converts to Christianity; laws that prevent Muslims from changing their identity papers to reflect their conversion to Christianity (see Section 2.c.); anti-Christian discrimination in education embodied in a requirement that all public school students memorize Koranic verses as part of their Arabic studies; a ban on the hiring of Christian Arabic teachers in public schools since the curriculum involves study of the Koran; the production of Islamic television programs, some with anti-Christian themes; job discrimination in the police, the armed forces, and government agencies; reported anti-Christian discrimination in admission to state medical schools; and underrepresentation in government. There are no Coptic governors and few Copts in the upper ranks of the military, police, and diplomatic service.

In addition to the murders of Copts by terrorists described in Section 1.a., terrorists attempted to murder a Coptic novelist, Shehata Guirgis, in Assiyut in April. The area of Dairut, Assiyut Governorate, the scene of a massacre of 13 Coptic residents in May 1992, is reportedly still tense as Coptic residents fear for their safety outside their homes. Islamists have obstructed church repairs and construction and harassed Copt-owned businesses. Christians have complained that the Government has been lax in protecting Coptic lives and property. Security forces arrest terrorists who perpetrate violence against Copts, but the Government does not always prevent attacks and does little to correct nonviolent forms of discrimination, including its own.

Several times in 1993 Minister of Education Hassan Kamel Behei Eddine stated publicly that religious intolerance has become more pronounced in the public school system. In March the Minister expelled four female secondary school students for playing an audio cassette tape in their classroom which reportedly contained anti-Christian remarks. Although the students were reinstated 2 weeks later, their expulsions sparked antigovernment and anti-Christian demonstrations in their home town. In the disturbances, at least 52 persons were hurt, and petroleum bombs were thrown at a local church.

People with Disabilities.—The Government makes serious efforts to address the rights of the disabled. It works closely with United Nations agencies and other international aid donors to design job training programs for the disabled. The Government also seeks to increase the public's awareness of the capabilities of the disabled in television programming, the print media, and in educational material in the public schools. Although there is no known legislation for access to public accommodations, the disabled are provided with preferred seating on government-owned mass transit buses.

Section 6. Worker Rights

a. *The Right of Association.*—Egyptian workers may, but are not required to, join trade unions. A union local, or worker's committee, may be formed if 50 employees express a desire to organize. Most union members, about 25 percent of the labor force, are employed by state-owned enterprises. The law stipulates that "high administrative" officials in government and the public sector may not join unions.

There are 23 industrial unions, all required to belong to the Egyptian Trade Union Federation (ETUF), the sole legally recognized labor federation. A 1993 critique by the Egyptian Organization for Human Rights (EOHR) noted that the labor union law of 1976 impinges on worker rights in the following ways: The law defines which trade unions may be established, the manner in which they are to be organized, and their aims; it also prohibits the establishment of more than one trade union federation; the Government may disapprove or revoke the charter of any trade union, thus rendering it an illegal organization; with court approval, the Minister of Labor has authority to dissolve the national governing board of a trade union; the law does not define under what circumstances the national governing board of a trade union may dissolve the board of an affiliated union local. Moreover, only one union is allowed per workplace.

The International Labor Organization's Committee of Experts (COE), which has long noted these same defects, urged the Government in 1993 to guarantee to all workers the right to establish trade union organizations outside the existing trade union structure, to recognize the right of workers' organizations to elect their representatives in full freedom and to administer the finances of their activities without interference by the public authorities, and to remove restrictions on the right to strike.

The Government has shown no sign that it intends to accept the establishment of more than one federation. The ETUF leadership asserts that it actively promotes worker interests and that there is no need for another federation. The ETUF is nominally independent of the Government, but ETUF officials have close relations with the ruling NDP, and some are members of the People's Assembly and the Shura Council. They speak vigorously on behalf of worker concerns, but public confrontations between ETUF and the Government are rare. Disputes are more often resolved by consensus behind closed doors.

Even though the right to strike is not guaranteed, strikes do occur. The Government considers strikes a form of public disturbance and hence illegal. Strikes occurring in 1993 were brief and isolated.

Some unions within the ETUF have affiliated with international trade union organizations, and others are in the process of doing so.

b. *The Right to Organize and Bargain Collectively.*—Under the current law, unions may negotiate work contracts with public sector enterprises if the latter agree to such negotiations, but unions otherwise lack collective bargaining power in the state sector. Under current circumstances, collective bargaining does not exist in any meaningful sense because the Government sets wages, benefits, and job classifications by law. Larger firms in the private sector generally adhere to such government-mandated standards.

Labor law and practice are the same in the export processing zones as in the rest of the country.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is illegal and not practiced. There are no known instances of domestic or foreign workers forced to remain in situations amounting to coerced or forced labor.

d. *Minimum Age for Employment of Children.*—The minimum age for employment is 12. Education is compulsory until age 15. An employee must be at least 15 to join a labor union. The Labor Law of 1981 states that children 12 to 15 may work 6 hours a day but not after 7 p.m. and not in dangerous or heavy activities. Child workers must obtain medical certificates and work permits before they are employed. A 1989 study estimated that two-thirds of working children, perhaps 720,000 children, work on farms.

However, children also work as apprentices in repair and craft shops and as workers in heavier industries such as brickmaking and textiles. It is difficult to verify how closely the Ministry of Labor enforces child labor laws, especially in family-owned enterprises.

e. *Acceptable Conditions of Work.*—For government and public sector employees, the statutory monthly minimum wage is $11.40 (38 Egyptian pounds) for vocational school graduates and $14.40 (48 pounds) for university graduates (for a legally maximum workweek of 6 days, 48 hours). The minimum wage has not been adjusted since the early 1980's. Like the base pay rates in the public sector, the minimum wage is supplemented by a complex system of fringe benefits and yearly bonuses. These additions may triple the worker's take-home pay. The minimum wage is also

legally binding on the private sector, and larger private companies generally observe the requirement and pay bonuses as well. Smaller firms do not always pay the minimum wage or bonuses.

The Ministry of Labor sets worker health and safety standards, which also apply in the export processing zones, but enforcement and inspection are uneven. Under the current labor law, workers may decline dangerous work assignments without jeopardy to their employment. The law also requires employers to provide regular medical examinations to employees in hazardous occupations.

IRAN*

Iran is an Islamic republic under the leadership of Ayatollah Ali Khamenei. The formal system of government, based on a Constitution approved in 1980 by popular referendum and revised in July 1989, features a Parliament and a President elected from among multiple candidates by universal suffrage. However, all candidates must meet highly restrictive religious and political criteria imposed by the Council of Guardians, and as a result the choice offered to voters is narrow. The Government, dominated by a political elite composed of Shi'a Muslim clerics and of laymen allied with these clerics, attempts to impose its views of political and socioreligious orthodoxy. However, there remain significant factional differences on important economic and political issues.

The Government continues to reinforce its hold on power through arrests, summary trials and executions, and other forms of intimidation carried out by an extensive internal security system. The Revolutionary Guards and security forces operating under the Ministry of Intelligence and Security and the Interior Ministry are known to make political arrests and commit other human rights abuses.

Iran has a mixed economy. Although Islam guarantees the right to private ownership, the Government has nationalized the banks and owns several basic industries, including the petroleum and utilities sectors. Oil exports are the primary source of foreign exchange. The disruptions of the revolution, the destruction from the Iran-Iraq war, and government mismanagement have caused serious economic deterioration. However, inflation has apparently been reduced from previous years, although it is thought to be still over 20 percent; about 30 percent of the work force is unemployed, and widespread corruption and black-market activities continue.

There was no evidence of significant improvement in Iran's record as a major abuser of human rights. As in the past, the Government went to considerable lengths to conceal its abuses and continued to obstruct the activities of international human rights monitors. It is thus difficult to know precisely the details and numbers of such abuses. Similarly, domestic elements that might monitor and report on the Government's practices are ruthlessly suppressed. Abuses continued to include denial of citizens' right to change their government; summary executions; widespread torture; arbitrary detentions; lack of fair trials; repression of the freedoms of speech, press, assembly, and association; systematic repression of the Baha'i religious community; and severe restrictions on women's and worker rights. The Government has not allowed Reynaldo Galindo-Pohl, the U.N. Special Representative on Human Rights, to revisit Iran since 1991 and did not implement the measures he recommended in his 1993 report.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Given the lack of basic procedural safeguards in political trials, most of the executions ordered each year in such cases amount to summary executions. Furthermore, the Government has repeatedly indicated in public statements that it equates active political opposition to Iran's Islamic revolution with terrorism.

The Iranian press stopped reporting most executions in 1992, making it difficult to determine the number of people killed for political reasons in 1993, but it appears executions continue at their previous rate of several hundred a year. In September the U.N. Special Representative reported obtaining a copy of an Iranian government document showing that Iranian media had eliminated most coverage of executions in order to preempt the Special Representative's criticism. Reports from exiles and

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*Because of the absence of a United States Mission in Iran, this report draws heavily on unofficial sources.

human rights monitoring groups indicate many of those executed for alleged criminal offenses are in fact political dissidents.

For example, Amnesty International (AI) reported the execution during 1993 of Mohsen Mohammadi Sabet, who had been held incommunicado in Rasht prison since September or October 1992. The Government has refused to reply to AI's requests for information regarding the precise charges brought against Sabet. According to AI, the legal proceedings in Sabet's case failed to meet minimum international standards of fairness and impartiality.

In addition, the Government continued to carry out political assassinations of its opponents residing abroad. On January 24, Turkish journalist Ugur Mumcu was killed in Ankara by a car bomb; an Iranian-backed Turkish group was believed responsible. On March 16, Naghdi Mohammed Hussein, a leader of the opposition Mojahedin-e-Khalq, was assassinated in Rome. (Naghdi's name was among those on a list of 32 Iranian oppositionists found in the possession of one of the suspects in the 1992 assassinations of Kurds in Berlin.) On March 18, three Iranian Baluchi insurgency leaders were murdered in Karachi. In June another Mojahedin-e-Khalq activist, Mohammed Hassan Arbab, was killed in Karachi along with a bystander; another bystander, a child, was seriously injured. In October an assailant wounded William Nygaard, the Norwegian translator of Salman Rushdie's book "The Satanic Verses." Investigators have not yet determined the motive for the assault.

The French Government's investigation into the assassination in August 1991 of former Prime Minister Shahpour Bakhtiar and his assistant continued; two suspects, Iranian government officials, were under arrest awaiting trial. In the case of the murder in Berlin of four Iranian Kurdish dissidents in 1992, a German prosecutor announced in May that Kazem Darabi, who is in a German prison awaiting trial for the killings, is an agent of the Iranian intelligence service.

b. *Disappearance.*—No reliable information is available on the number of disappearances in 1993. Many families of executed political prisoners reportedly have not been informed officially of their relatives' deaths. In 1993 the Government again responded to many of the U.N. Special Representative's requests for information on specific prisoners by denying that it had any judicial record of them.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There continued to be credible reports of the torture and ill- treatment of detainees. Common methods of torture are said to include suspension for long periods in contorted positions, burning with cigarettes, and, most frequently, severe and repeated beatings with cables or other instruments on the back and on the soles of the feet. Prisoners are frequently held in solitary confinement or denied adequate rations or medical care as a way of forcing them to confess.

The U.N. Special Representative reported in 1993 that the Government has taken no measures to establish legal or procedural safeguards against the torture of prisoners. There were no reports of law enforcement personnel being held accountable for torture or other abuses. In 1992 the Government expelled workers of the International Committee of the Red Cross (ICRC) who had been visiting detainees. The Government has still not permitted the ICRC to resume this activity in Iran. Information on prison conditions in 1993 was not available. However, prisoner protests against poor prison conditions in the past reportedly prompted beatings, denial of medical care, and, in some cases, execution.

d. *Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention has been common in the past, but it is not known how many cases there were in 1993. It is known that some persons were arrested on trumped-up criminal charges when their actual "offenses" were political. The lack of fair trials and other procedural safeguards encourage such practices.

Baha'is continued to face arbitrary arrest and detention. The Government continued its practice of detaining a small but relatively steady number of Baha'is at any one time.

No judicial determination of the legality of detention exists in Iranian law, and there is reportedly no legal time limit on incommunicado detention. Suspects are held for questioning at local Revolutionary Guard offices or in jails.

e. *Denial of Fair Public Trial.*—There are essentially two different court systems. The civil courts deal with criminal offenses, and the revolutionary courts, established in 1979, try "political" offenses as well as cases involving narcotics trafficking and "crimes against God."

In January the Special Representative reported that trials in Iran continue to fall far short of internationally accepted standards. Trials by revolutionary courts, especially, cannot be considered fair or public. Some trials are conducted in secret. If the trial is staged publicly, it is generally because the prisoner has already been forced to confess to a crime. Persons tried by the revolutionary courts (including in drug trafficking cases) enjoy virtually no procedural or substantive safeguards. The

accused are often indicted under broad and all-encompassing charges such as "moral corruption," "antirevolutionary behavior," and "siding with global arrogance." Trials lasting 5 minutes and less are common.

The right to a defense counsel is theoretically provided for in Iranian law and in the Constitution, but in the revolutionary courts defendants are not known to have access to a lawyer; moreover, they are not able to call witnesses on their behalf or to appeal. Courts have failed to investigate allegations by defendants that they were subjected to torture during pretrial detention. Some persons have been imprisoned beyond the limit of their sentence and even executed after the formal expiration of their prison term.

There was again no evidence in 1993 of any judicial reform that would bring Iranian courts into compliance with international standards; the Special Representative noted in his January 1993 report that a new law on legal representation—which provides that any Muslim is eligible to represent the accused in court—does not in fact provide for qualified legal counsel.

The judicial system is further weakened by the fact that revolutionary courts may consider cases formally under the jurisdiction of the civil and criminal courts. Assignment of cases to regular rather than revolutionary courts is haphazard and apparently occurs mainly when arrests are made by regular police. Revolutionary courts may also overturn the decisions of the civilian courts. The review authority of the Supreme Court is limited.

For common criminal offenses, many elements of the prerevolutionary judicial system survive, and the accused often have the right to a public trial with benefit of lawyers of their own choosing. Even this judiciary is not fully independent, however. Many of the former judges were retired after the revolution, and new judges were selected. One criterion for new judges is grounding in Islamic law; political acceptability is a requirement for any government position. According to the New York-based Lawyers Committee for Human Rights, the 1982 Law on the Qualifications for the Appointment of Judges discriminates on the grounds of religion, sex, and political opinion, while at the same time permitting the appointment of judges and prosecutors who have no legal training or experience. Some judges reportedly prefer to base their judgments on the guidance of religious scholars rather than on the law.

Because the Government continues to block the activities of international human rights observers, no reliable estimate is available on the number of political prisoners, but knowledgeable sources estimate them in the thousands.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Government rejects the Western distinction between a public sphere which the State may control and a sphere of private life (religion, culture, thought, and private behavior) which the State may not properly control. Before 1982, authorities entered homes and offices, wiretapped telephones, and opened mail. These activities are reportedly less common now.

Special Revolutionary Guard units and security forces check on social activities. Women whose clothing does not completely cover the hair and all of the body except hands and face, or who wear makeup, are subject to arrest (see also Section 5). Crackdowns often result in widespread harassment of women in the streets. Men have also periodically been required to dress "modestly." During the spring and summer of 1993, both official and self-appointed enforcers campaigned against insufficiently modest dress and even sunglasses. For example, the commander of the law enforcement forces in Tehran stated that 802 men and women were detained from June 16 through 23 for various dress code violations in Tehran.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—According to the Constitution, "publications and the press may express ideas freely, except when they are contrary to Islamic principles, or are detrimental to public rights." In practice, most publications are controlled by the Government; independent publishers run the risk not only of press shutdowns, pressure from the Government newsprint monopoly, and confiscation of publications and equipment, but of arrest and summary punishment if they are overly critical of the Government. The editor and two employees of the magazine Farad were jailed in 1992 for publishing a cartoon which the authorities deemed insulting to the late Ayatollah Khomeini. In October after the cartoonist, Manoucher Karimzadeh, completed his sentence, the Supreme Court ruled that his punishment had been insufficient and sentenced him to an additional 10 years' imprisonment.

In August Revolutionary Guards detained the publisher of the radical daily Salam, Musavi Kho'iniha, as well as the newspaper's chief editor, 'Abbas 'Abdi. The detentions were apparently in retaliation for criticism of the judicial authorities. Both men were freed on bail after the newspaper printed a retraction of its criticism. In September authorities detained Mehdi Nasiri, editor of the Tehran daily

Keyhan, after the newspaper printed criticism of Ayatollah Mohammad Ali Yazdi, chief of the judiciary. Nasiri was released on bail after several days in detention but still faces a trial before a special "press jury" on charges of slander. In October Colonel Nasrullah Tavakoli, a retired army officer, was arrested and placed in incommunicado detention, apparently for writing a series of open letters critical of the current Government.

All books must be submitted to the Ministry of Islamic Culture and Guidance for review before they may be published. Publishers, authors, and printers also engage in substantial self-censorship before submitting books to the Ministry in an effort to avoid the substantial penalties, including economic losses, incurred when books are rejected. Iranian authorities have interpreted broadly their authority to censor on religious grounds, including official acceptance of the February 1989 religious decree condemning British author Salman Rushdie to death for his book "The Satanic Verses." On each anniversary of the decree since 1992, a group of exiled Iranian writers has signed a public condemnation of the decree; the Iranian Government has responded by banning the writings of the authors signing the condemnation. By mid-1993, the Government had banned the works of 162 such signatories.

Newspapers, which are usually associated with various government factions, reflect a variety of viewpoints. Generally, newspapers can and do criticize government policies and officials both in their reporting and editorials. They are forbidden, however, to criticize the concept of the Islamic republic or to promote ethnic minority rights. Nevertheless, some independent publishers out of favor with the Government continue to survive, and some books and pamphlets critical of the Government are published without reprisal. Foreign books, newspapers, and magazines may be imported only after they have been reviewed by the Ministry of Islamic Culture and Guidance.

All broadcasting facilities are government owned, and the content of their broadcasting reflects the political and socioreligious ideology of the Government.

Although restrictions on academic freedom have been eased somewhat, course content is still monitored and there is little genuine critical discussion of issues. Informers are said to be common on campus and in the classroom. Admission to universities is politicized; all applicants must pass "character tests" in which officials review applicants' background and ideology with the students' hometown religious authorities and neighborhood groups. This process serves to exclude from universities and the professions those who are critical of the Government's revolutionary ideology. To achieve tenure, professors reportedly must cooperate with government security agencies over a period of years.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution permits unarmed assemblies and marches "provided they do not violate the principles of Islam." In practice, the only ones permitted are those sponsored by the Government, such as Friday prayers and parades and demonstrations on official occasions. According to opposition sources, a student protest in March at Beheshti high school in west Tehran was crushed by antiriot police units who arrested approximately 80 students.

The Constitution also allows the formation of political parties, groups, and professional associations, as well as Islamic and some minority religious associations, provided they do not violate the principles of "freedom, sovereignty, (and) national unity" or question Islam or the Islamic Republic. In practice, most independent organizations have either been banned, co-opted by the Government, or are moribund.

The authorities continued to harass the Freedom Movement, founded in 1961 and declared illegal in 1991, tapping its telephones, opening its mail, and subjecting its members to intimidation. While the Freedom Movement participated in the first parliamentary election after the revolution, it has been prevented from doing so in all subsequent elections.

c. *Freedom of Religion.*—The state religion is Islam, and religion is almost inseparable from government in Iran. The President and many other top officials are mullahs (Islamic clergymen), as are the Speaker of the Parliament and many of the parliamentary deputies.

Approximately 90 percent of Iranians are Shi'a Muslims. Aside from slightly over 1 percent who are non-Muslims (Baha'is, Christians, Zoroastrians, and Jews), the rest are Sunni Muslims. The Sunnis are mostly Kurds, Arabs, Turkomans, Baluch, and other ethnic minorities whose political influence is very limited. The Constitution declares that "the official religion of Iran is Islam and the sect followed is Ja'fari Shi'ism," but it also states that "other Islamic denominations shall enjoy complete respect."

The small Christian, Jewish, and Zoroastrian (the pre-Islamic religion of Iran) populations are concentrated mainly in urban areas. The Constitution recognizes their religions, and they elect representatives to seats reserved for them in the Par-

liament. They are permitted to practice their religions, to instruct their children, and—although with a great deal of disruptive interference—to maintain schools.

Nevertheless, official harassment is commonplace. In June the U.N. Committee on Economic, Social, and Cultural Rights observed that the U.N. Special Representative's report "confirm(ed) the broad consensus that there has been practically no progress in ensuring greater respect and protection for the rights of the non-Muslim religious communities" in Iran.

Mehdi Debadj, a Christian convert from Islam arrested in 1983, was held in prison until December 1993, when Christian missionary groups reported that a court in Sari sentenced him to death for apostasy. Following international appeals on his behalf, Debadj was released in January 1994. According to the Government, his case is still "under investigation."

The Government continues to discriminate against the Baha'i community, Iran's largest non-Muslim minority (300,000 to 350,000 members). The Baha'i religion is considered a "misguided sect" by the authorities. It is not officially recognized, and Baha'is may not teach their faith.

In 1993 Tehran municipal authorities built a cultural center on the site of a Baha'i cemetery. Immediately after the 1978–1979 revolution, the cemetery's markers were removed (some reportedly were auctioned off), and the site was turned into a park. The new construction in 1993 involved excavations that reportedly desecrated Baha'i graves. The U.S. and other governments condemned the desecration and called on Iran to halt the project. There is no indication, however, that the Iranian authorities stopped the construction.

The treatment of Baha'is varies somewhat, depending on the jurisdiction; in other places, Baha'is were still able to bury their dead in Baha'i cemeteries.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Iranians may travel to any part of Iran, although there have been restrictions on travel to Kurdish areas at times of heavy fighting. Persons may change their place of residence without obtaining permission. According to the Government, approximately 3 million refugees, primarily Afghans but also Kurdish and Shi'a refugees displaced from Iraq in the aftermath of the Gulf war, remained in Iran in mid-1993.

Males of draft age are not issued exit permits except for approved courses of study, and Iranians who are suspect politically, such as some retired military officers and high-level public officials under the former regime, are not able to leave the country. Some Iranians, particularly those whose skills are in short supply and who were educated at government expense, have had to post bonds to obtain exit permits. There was no evidence that this situation improved in 1993.

Iranian Jews are permitted to obtain passports and to travel (including to Israel), but they are normally denied the multiple-exit permits given to most Iranians and must make a new application (with another fee) for each planned trip. Permission is not normally granted for all members of a Jewish family to travel outside Iran at the same time.

The Government actively encourages the many thousands of skilled Iranians living abroad to return to help rebuild the country. Of those who have returned in recent years, a number have been able to pursue, through the Iranian judicial system, the restoration of their properties. However, many exiles complain that formal legal guarantees of their safety have not yet been provided, and, as a result, many remain reluctant to return.

There are some categories of persons who may be in danger if they return to Iran. Some of those with close ties to the former regime, draft evaders, and those who departed the country illegally face possible arrest upon their return. Members of or sympathizers with the People's Mojahedin Organization of Iran or the Communist Tudeh Party, both opposition groups banned by the Government, are subject to imprisonment and torture or even execution should they return. In his 1993 report, the Special Representative recounted several cases of exiles and Baha'is who were harassed after returning to Iran. Nevertheless, immediate relatives of persons wanted by the Government are often able to live in Iran, travel abroad, and return without undue difficulty.

Iranian passports have always been stamped "not valid for emigration," but the Government does not make a clear distinction between legal residence in another country and emigration. According to the regulations, Iranians with a legal residence outside Iran may be issued passports and advance exit permits by the Iranian embassy, consulate, or interests section in their country of residence. The Government does not recognize dual nationality and considers Iranian-born U.S. citizens to be Iranians unless they formally renounce their Iranian citizenship in accordance with Iranian law. There have been many instances in which Iranian authorities have confiscated the passports of dual nationals.

The Government of Iran and the United Nations High Commissioner for Refugees (UNHCR) estimate there were approximately 2.1 million Afghan refugees in Iran in mid-1993. The majority of these refugees have been integrated into Iranian life. The remainder live either seminomadic lives or reside in government settlements in central and eastern Iran. The Government provided assistance to those refugees. The UNHCR is supervising the repatriation of Afghan refugees to Afghanistan.

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

Iranian citizens do not enjoy the right to change their government peacefully. Iran is ruled by a group of religious leaders (mullahs) and their lay associates who share a belief in the legitimacy of a theocratic state based on Ayatollah Khomeini's interpretation of Shi'a Islam.

The revolutionary Government has held elections at fairly regular intervals for president, Parliament deputies, members of the Assembly of Experts (responsible for choosing the Revolutionary Leader's successor), and members of local government councils. Presidential elections were held in June, resulting in the reelection of Hojjat ol-Eslam Ali Akbar Hashemi-Rafsanjani. Voting is by universal suffrage of everyone age 15 and older and is by secret ballot. All candidates must be approved by the Council of Guardians, however, and only those meeting the Council's vaguely described political and religious criteria may run. In practice, only supporters of the theocratic state are accepted, and even clerics are often disqualified if their positions vary from the official line.

A few political parties have been licensed following the Ministry of Interior's announcement in December 1988 that political parties would be allowed to form, provided they met the Government's religious and political criteria.

The Constitution provides for an independent Parliament, which exists to a large degree in practice. While Parliament deputies are typically allied with various powerful political and religious officials, they may speak and vote independently and may shift from one faction to another. Vigorous parliamentary debates—normally covered extensively in the press—cover a wide variety of issues. Harsh criticism of government officials is often heard in these debates, and, in some cases, laws proposed by the executive branch have been voted down.

The Constitution provides for a Council of Guardians composed of 12 members: 6 clerics unilaterally appointed by the Leader, and 6 lay members well grounded in Islamic law who are nominated by the head of the judiciary, subject to the Parliament's approval. The Council of Guardians must certify all bills passed by the Parliament as being in accordance with Islamic law and the Constitution. If bills fail to be certified, they are sent back to the Parliament for revision. The Council of Guardians can and does reject important bills and portions of bills passed by the Parliament. The Council for the Discernment of Expediency, a body created in 1988, resolves those legislative issues on which the Parliament and Council of Guardians disagree. Approximately 4 percent of Parliament members are women.

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

Iranian organizations that attempt to speak out on human rights, such as the Freedom Movement and the Association for the Protection of Liberties and Human Rights, face severe harassment by the Government. In the past, the Government generally has been uncooperative with foreign human rights groups, whether government sponsored or independent, regarding their activities as interference in the country's internal affairs.

The U.N. Special Representative has not been able to visit Iran since his third visit in 1991; by the end of 1993, the Iranian Government had not replied to his repeated requests to return to Iran. At the United Nations, Iran continued its efforts to restrict the Special Representative's mandate.

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

Women.—The discrimination that women have traditionally faced in Iranian society has increased since the revolution. Ultraconservative dress, entirely hiding the hair and all of the body except the face and hands, is a requirement for all women, regardless of their religion, national origin, or citizenship. Women have been harassed, detained, or physically attacked if they appeared in public in clothing that official or self-appointed guardians of public morality deemed insufficiently modest. Enforcement of these rules has varied considerably since Ayatollah Khomeini's death in 1989; there was a widespread surge in enforcement during 1993 (see Section 1.f). According to press reports, a teenaged girl was accidentally shot in Tehran in late August after being stopped on the street by a police conscript for breaking the Islamic dress code.

Although violence against women is known to occur, little is known about its extent. Abuse within the family is considered a private matter in this conservative society and is seldom discussed publicly. There are no official statistics on the subject. In the past, there have been credible reports of the torture and execution of women detainees.

Under legislation passed in 1983, women have the right to divorce their husbands, and regulations promulgated in 1984 substantially broadened the number of grounds for which a woman may seek divorce. A husband may obtain a divorce without stating a reason or going to court. In December 1992 the Council for the Discernment of Expediency reversed itself and ratified a bill already passed by the Parliament which added somewhat to a divorced woman's right to financial support from her ex-husband. It is not clear yet whether this adjustment has had any impact in practice.

Children.—Iranian law includes provisions that prohibit the use of child labor in industry (see section 6.d.) No information was available on the enforcement of these statutes.

Religious Minorities.—The Christian, Jewish, Zoroastrian, and Baha'i minorities suffer varying degrees of officially sanctioned discrimination in a number of areas, particularly with respect to employment, education, public accommodations, and property ownership. In 1993 non-Muslim owners of restaurants were required to post a distinctive notice in the windows of their establishments.

Muslims who have converted to Christianity are similarly discriminated against. University applicants are required to pass an examination in Islamic theology. This has the effect of limiting most religious minorities' access to higher education, although all students must receive instruction on Islam regardless of their religion. Applicants for public sector employment are similarly screened for adherence to standards of Islamic orthodoxy, with much the same effect. Religious minorities have also suffered discrimination in the legal system, receiving lower awards in injury and death lawsuits and suffering heavier punishments than those imposed on Muslims. Although Sunnis have encountered religious discrimination on the local level, the Government has tried to reduce Shi'a-Sunni antagonism.

The Government has stated that it will protect the "social and legal rights" of Baha'is as "normal citizens," but in practice there is widespread persecution and discrimination in many areas of public life. Baha'i marriages are not recognized, and Baha'is are forbidden to participate in social welfare organizations.

In 1993 the Special Representative reported obtaining reliable information on an internal Iranian government directive setting out policy on the Baha'is. In the directive, dated February 1992, the Supreme Revolutionary Council instructed government agencies to block the progress and development of the Baha'i community; expel from the universities students identified as Baha'is; seek to cut the Baha'is' links outside Iran; restrict employment for those who identify themselves as Baha'is; and deny Baha'is "positions of influence," including in the education sector. The Government claims the policy directive is a forgery; it appears, however, to reflect accurately current government practice.

The Government continued to return some of the property of individual Baha'is that it had previously confiscated, although the amount represents a small fraction of the total seized. Property of the community, such as places of worship, remains confiscated. Most Baha'is are now able to obtain food ration booklets. Baha'i children are now permitted to attend grade school and high school but are generally not permitted to attend college or be employed on college faculties. A small number of Baha'is were permitted to leave the country. While some Baha'i's have been issued passports, the majority of such applications are denied.

Some Baha'is continue to be denied public sector (and often private sector) employment on account of their religion; in a number of cases, ration cards have been denied on the same grounds. Thousands of Baha'is dismissed from government jobs in the early 1980's receive no unemployment benefits and have been required to repay the Government for salaries or pensions received from the first day of employment. Those unable to do so face prison sentences.

d. *People with Disabilities.*—There is no information available on government policy with respect to people with disabilities.

Section 6. Worker Rights

a. *The Right of Association.*—Article 131 of the Labor Code grants workers and employers alike the right to form and join their own organizations. In practice, however, there are no real labor unions in Iran. A national organization known as the Worker's House, founded in 1982 as the labor wing of the now defunct Islamic Republican Party, is the only authorized national labor organization with nominal claims to represent all Iranian workers. It works closely with the workplace Islamic

councils that exist in many Iranian enterprises. The Workers' House is largely a conduit of government influence and control, not a trade union founded by workers to represent their interests.

The officially sanctioned Islamic labor councils also function as instruments of government influence and not as bodies created and controlled by workers to advance their own interests, although the councils have frequently been able to block layoffs or the firing of workers.

A network of guild unions operates on a regional basis. These guild unions issue vocational licenses, fund financial cooperatives to assist members, and help workers to find jobs. The guild unions operate with the backing of the Government.

According to opposition sources, there were several protests and strikes during the spring, including a strike involving thousands of workers at a tractor factory in Tabriz, a walkout to protest nonpayment of salaries at a government sugar factory in western Iran, and strikes in textile factories in northern Iran and near Tehran. In the past the Government has not tolerated any strike deemed to be at odds with its economic and labor policies.

b. *The Right to Organize and Bargain Collectively.*—The right of workers to organize independently and bargain collectively cannot be documented. It is not known whether labor legislation and practice in the export processing zones differ in any significant respect from the law and practice in the rest of the country. No information is available on mechanisms used to set wages.

c. *Prohibition of Forced or Compulsory Labor.*—Section 273 of the Iranian Penal Code provides that any person who does not have definite means of subsistence and who, through laziness or negligence, does not look for work may be obliged by the Government to take suitable employment. This provision has been frequently criticized by the International Labor Organization (ILO) as contravening ILO Convention 29 on forced labor.

d. *Minimum Age for Employment of Children.*—Iranian labor law, which exempts agriculture, domestic service, family businesses, and, to some extent, other small businesses, forbids employment of minors under 15 years of age (compulsory education extends through age 11) and places special restrictions on the employment of minors under 18. In addition, women and minors may not be used for hard labor or, in general, for night work. Information on the extent to which these regulations are enforced by the Labor Inspection Department of the Ministry of Labor and Social Affairs and the local authorities is not available.

e. *Acceptable Conditions of Work.*—The Labor Code empowers the Supreme Labor Council to set minimum wage levels each year determined by industrial sector and region. It is not known if minimum wage levels are in fact issued annually or if the Labor Ministry's inspectors enforce their application. The Labor Code stipulates that the minimum wage should be sufficient to meet the living expenses of a family and should take into account the announced rate of inflation. Information on the share of the working population covered by the minimum wage legislation or the share of the work force receiving a decent wage is not available.

Labor law establishes a 6-day workweek of 48 hours maximum (except for overtime at premium rates), with 1 day of rest (normally Friday) per week as well as at least 12 days per year of leave with pay and a number of paid public holidays.

According to the Labor Code, a Supreme Safety Council, chaired by the Labor Minister or his representative, is responsible for promoting workplace safety and health and issuing occupational safety and health regulations and codes of practice. The Council has reportedly issued 28 safety directives. The Supreme Safety Council is also supposed to oversee the activities of the safety committees that have reportedly been established in about 3,000 enterprises employing more than 10 persons. It is not known how well the Labor Ministry's inspectors enforce the safety and health legislation and regulations nor whether industrial accident rates are compiled and show positive trends (Iran does not furnish this data to the ILO for publication in its Year Book of Labor Statistics).

Given the large segments of the economy exempted from the labor law, the State's still unresolved administrative disorganization resulting from the revolution, the effects of the war with Iraq, and the general lack of effective labor unions, it is unclear to what extent the provisions of Iran's labor law affect most of the labor force.

The ILO has long been concerned with official discrimination in employment against adherents of the Baha'i religion.

IRAQ*

Political power in Iraq is concentrated in a repressive one-party apparatus under the domination of Saddam Hussein. The provisional Constitution of 1968 stipulates that the Arab Ba'ath Socialist Party (ABSP) governs Iraq through the Revolutionary Command Council (RCC), which exercises both executive and legislative authority. Saddam Hussein wields decisive power as Chairman of the RCC, Secretary General of the Regional Command of the ABSP, and President of the Republic.

Ethnically and linguistically, the Iraqi population includes Arabs, Kurds, Turcomans, Yazidis, and Armenians. The religious mix is likewise varied: Shi'a and Sunni (both Arab and Kurdish) Muslims, Christians (including Chaldeans and Assyrians), and Jews. Ethnic divisions have resulted in civil uprisings in recent years, especially in the north and south. The Government has reacted against the people in those areas with severely repressive measures.

The Government's security apparatus, which includes militias attached to the President, the ABSP, and the Interior Ministry, has been responsible for widespread and systematic human rights abuses; security forces play a central role in maintaining the intimidation and fear on which government power rests.

The Government controls Iraq's oil-based economy and owns all the major industries. Damaged by the Gulf war and subjected to a series of U.N. sanctions as a result of Iraq's 1990 invasion of Kuwait, the economy remains in poor condition. U.N. sanctions ban all Iraqi exports and all imports except food, medicine, and materials and supplies for essential civilian needs. Iraq's failure to comply with United Nations Security Council resolutions has led to repeated Security Council extensions of the sanctions.

Iraq's abysmal record on human rights did not improve in 1993. Systematic violations of human rights continued in virtually all categories in 1993; these included mass executions of political opponents, widespread use of torture, extreme repression of ethnic groups, disappearances, denial of due process, and arbitrary detention. Furthermore, tens of thousands of political killings and disappearances remained unresolved from previous years. Owing to the efforts that the Government takes to conceal its human rights abuses, however, it is difficult to know precisely the details and numbers of such practices. Citizens do not have the right to change their government, and the freedoms of expression and association do not exist, except in Kurdish-controlled areas in the north.

Indiscriminate military operations in the south—which included burning and razing of villages, emplacement of bombs in civilian areas, and the forced relocation of noncombatant inhabitants—were directed primarily against Shi'a Arabs living in the southern wetlands. In the north, the regime maintained an internal embargo on the importation of food, medicine, and fuel. Elsewhere, it diverted humanitarian supplies to its own supporters and the military. In violation of U.N. Security Council resolutions, the Government also continued its flagrant interference with the international community's provision of humanitarian assistance. Relief workers were harrassed, intimidated, and, in some cases, killed.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—The Iraqi regime has a long record of executing perceived opponents. In 1993, as in past years, the U.N. Special Rapporteur expressed dismay at Iraq's liberal use of the death penalty for a full range of political offenses such as insulting the President or the Ba'ath Party. Throughout the fall of 1993, there were numerous credible reports that the regime had executed a number of persons (including some members of Saddam Hussein's family and tribe) who were allegedly involved in a coup plot against him. High-ranking civilian, military, and tribal leaders were reported among those killed.

The Free Iraqi Council (FIC), an Iraqi opposition organization based in London, reported a mass execution of prisoners at the Al-Radwaniyah prison near Baghdad in August (see also Section 1.c.). At the end of the year this incident remained unconfirmed.

As in 1992, numerous Shi'a civilians from southern Iraq reportedly were arrested and removed to detention centers in the central part of the country. Shi'a witnesses who survived arrest and detention later reported that some of their comrades had been executed (see also Section 1.g.).

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*Because the United States has no embassy in Iraq, this report draws to a large extent on non-U.S. Government sources.

Political killings and terrorist actions also were frequent in the north and often were directed against civilians and third-country nationals involved in the relief effort. Seven relief workers (one Australian, one Belgian, and five local employees of international nongovernmental organizations) were killed, and several others were injured.

In January an Assyrian delegate to the local legislature in the north was killed under suspicious circumstances. That same month, a car bomb in Irbil killed 11 civilians and injured 128; regional authorities alleged that Iraqi authorities were responsible. In January a man carrying explosives was arrested in Dohuk; while in the custody of the local authorities, he claimed he had been recruited by Iraqi forces to place the explosives in a U.N. vehicle in exchange for 200,000 Iraqi dinars. In many of these incidents, however, it was not possible to determine who was responsible—Iraqi agents; local Kurds who had been coerced or recruited for pay; agents of the Kurdistan Workers' Party (PKK), the Turkish-based Kurdish resistance movement; or lone perpetrators.

In 1993 new information was developed concerning the so-called Anfal campaign ("Spoils" in Arabic) of 1988, in which tens of thousands of Kurds reportedly lost their lives. The Anfal remains the most prominent example of political killing in Iraq. Most of the Kurds who were initially arrested during the Anfal have never been seen again and are presumed to have been killed in official custody (see Sections 1.b. and 1.g.).

b. *Disappearance.*—As in previous years, Iraqis continued to disappear without explanation, reportedly while in the custody of government authorities. In February the U.N. Special Rapporteur reported that he was continuing to receive "regular and consistent reports on disappearances." He stated that he was in possession of the names of 5,000 persons whose cases had not yet been addressed by the U.N. Working Group on Enforcement on Involuntary Disappearances. These were in addition to the 9,447 names that the Working Group already had transmitted to the Iraqi Government in prior years and another 2,000 cases that the working group is presently investigating.

Of the total number of disappeared persons for whom the U.N. has documentation (more than 16,000 cases), the Special Rapporteur noted that most date from the Anfal period but that 500 are as recent as 1992. Amnesty International (AI) reported that it has the names of more than 17,000 Kurds who disappeared during the Anfal and are presumed dead. It is not clear to what extent the Amnesty International and U.N. records duplicate each other or represent different lists of disappeared Kurds.

As a result of his investigations, the Special Rapporteur stated, he had arrived at the conclusion that the total figure for disappeared Kurds during Anfal could number in the "tens of thousands." Middle East Watch places the figure at between 50,000 and 100,000.

In addition to the Anfal disappearances, two other examples of outstanding large-scale disappearances are the Barzani arrests of 1983, in which thousands of relatives and tribesmen of the late Kurdish nationalist hero Mustapha Barzani were rounded up and taken into custody, and the al-Khoei case of 1991, in which the late Grand Ayatollah Abdul Qasim al-Khoei and 108 of his associates—including Iraqis, Iranians, Indians, Pakistanis, Lebanese, and Bahrainis—were arrested. None of the Barzani detainees were ever seen again. In the al-Khoei case, the Ayatollah died while under house arrest in al-Najaf, and only two of the persons arrested with him were ever seen again.

In 1993 AI, having received no satisfactory response to its repeated inquiries to the Government in regard to the al-Khoei disappearances, published a report on these unresolved cases, calling Iraq's response "inadequate, vague, or contradictory."

Iraq has failed to return or account for a large number of Kuwaiti citizens and third-country nationals taken to Iraq during the Iraqi occupation of Kuwait and has denied any knowledge of missing persons. U.N. Security Council resolution (UNSCR) 687 requires Iraq to "facilitate" the search for and the repatriation of those still missing. In March the Government of Kuwait transmitted to the Government of Iraq, through the International Committee of the Red Cross (ICRC), the case files of more than 600 persons still believed to be missing in Iraq. For the first time, Iraq publicized the names of the missing. However, it stated that it had no information indicating that the missing persons ever had been in Iraqi custody.

Except for 15 who were reportedly executed in 1992, there has been no accounting for a group of 146 Iraqi Turcomans from the Kirkuk area, reported to have been detained since May and June 1992. A group of 19 Iraqi Army officers reportedly arrested in the summer of 1992 also have disappeared.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although Iraq is a party to international human rights conventions which abjure

the use of torture and the Constitution forbids the practice, torture is routinely conducted by the Iraqi security services. The Special Rapporteur reported in February, as he has in previous years, that the Government of Iraq continues to engage in "systematic" torture, both physical and psychological. According to persons who have left Iraq after release from prison, techniques employed by the security services include electric shocks administered to the genitals and other sensitive areas, beatings, burnings with hot irons, suspension from ceiling fans, dripping acid on the skin, rape, breaking of limbs, denial of food and water, and threats to rape or otherwise harm relatives.

Certain prisons in Iraq have long been notorious for routine mistreatment of prisoners. Al-Rashidiya prison, on the Tigris River north of Tajji, reportedly contains torture chambers in its basement. Another prison, Al-Shamma'iya, located in east Baghdad, is reportedly the site of both torture and disappearances.

Al-Radwaniyah prison (see Section 1.a.), a former prisoner-of-war facility near Baghdad, is reportedly the site of torture and arbitrary killings, including mass execution by firing squad. According to Middle East Watch, Al-Radwaniyah was the principal detention center for persons arrested following the civil uprisings of 1991. Many persons taken into custody in connection with the uprisings have not been seen since. Two executions by firing squad reportedly took place at Al-Radwaniyah in 1992 and another in August 1993.

The Special Rapporteur and AI named both Al-Radwaniyah and another Baghdad prison, Abu Ghraib, as sites where torture and disappearances have recently occurred. Multiple executions also reportedly took place at Abu Ghraib in the fall of 1993, in retaliation for alleged coup plots against the Government (see Section 1.a.).

Iraqi security forces are alleged to have engaged in the rape of captured civilians during the Anfal campaign of 1988 and the occupation of Kuwait and subsequent Gulf war of 1990–91. However, the Iraqi Government has never acknowledged or taken any action to investigate these reported crimes.

d. *Arbitrary Arrest, Detention, or Exile.*—Although the Constitution and Legal Code explicitly prohibit arbitrary arrest and detention, these practices are widely used. In his February 1993 report, the U.N. Special Rapporteur cited more than 100 detention and interrogation sites, including military and security bases and such unconventional locales as mosques, public buildings, and supermarket basements.

In his November report, the U.N. Special Rapporteur reported that approximately 100 persons were arrested in Basrah on August 26, ostensibly because they were not carrying identification papers. The Special Rapporteur also reported that the regime continued in 1993 to target Shi'a clergy for arbitrary arrest and other human rights abuses.

Several foreign nationals were arrested arbitrarily and held in Iraq in 1993, and others who were arrested in previous years remained in detention. On April 25 an American citizen and oil worker living in Kuwait disappeared near the Iraqi-Kuwaiti border and in May was charged by Iraqi authorities with illegal entry and espionage. He was tried, found guilty of illegal entry, and sentenced to 8 years in prison. Subsequently, he was released on November 15. (See also Section 1.e. for details of similar cases illustrating the lack of fair trial.)

While there is currently no known policy of exiling Iraqi citizens abroad, the refusal of Iraqi authorities to allow tens of thousands of Kurds and Turcomans to return to their homes in Kirkuk and Mosul amounts to a policy of internal exile (see Section 2.d.).

e. *Denial of Fair Public Trial.*—Although the Revolutionary Court system was abolished in 1991, the change was cosmetic. Iraq retains a bifurcated judicial system, encompassing distinct treatment for all cases deemed to have a security component and a more conventional court system to handle other charges. The President may override any court decision, and there are no checks on his power.

The procedural rules applicable in the regular (i.e., nonsecurity) court system theoretically provide many basic protections. However, the regime often assigns to the security courts cases which, on their merits, would appear to fall under the jurisdiction of the regular courts.

The regular courts provide for investigation by police and then by an inquiry judge, who may refer a case to the courts or dismiss it. Trials are open to public view, and defendants are entitled to counsel—at government expense if the defendant is indigent. Charges and evidence are available for review by counsel. Judges try criminal cases; there are no juries. Convictions may be appealed to the Court of Appeal and then to the Court of Cassation, Iraq's high court.

There are no Shari'a (Islamic) courts as such in Iraq; however, family courts administer Shari'a law according to Iraqi custom.

Special security courts have jurisdiction in all cases involving espionage and treason, peaceful political dissent, smuggling, currency exchange violations, and drug

trafficking. Defendants are often held incommunicado, and confessions extracted by torture are admissible and often serve as the basis for conviction. In theory, verdicts may be appealed to the Chairman of the RCC. In practice, many cases appear to end in summary execution shortly after trial.

An array of ABSP and presidential decrees defines political dissent as encompassing a wide range of activities. Persons suspected of engaging in dissent are routinely imprisoned without charge or trial or after trials that do not meet minimum standards of fairness.

Two British citizens, arrested in 1992 for illegal entry, continued to be held for most of 1993. They had been given prison sentences of 7 and 10 years, respectively. Referring to these two cases in his February report, the U.N. Special Rapporteur commented on the "disproportionately lengthy sentences for the crimes allegedly committed." In December the British prisoners were abruptly released after British officials interceded with President Saddam Hussein. (See also Section 1.d. for details of a similar case illustrating arbitrary arrest.)

Because the Government rarely makes public acknowledgement of arrests or imprisonments, it is difficult to estimate the number of political prisoners. Many of the tens of thousands of persons who have disappeared or been killed in recent years were originally held as political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Government frequently disregards constitutional protections of the right to privacy, particularly in situations in which national security is deemed to be involved. Iraq broadly defines security offenses, and security authorities in virtually all circumstances are exempt from the legal requirement to obtain a search warrant before entering a suspect's home. Among the targets of such abuse in 1993 were the Shi'a Arabs of the southern marshes (see Section 1.g.).

Despite constitutional safeguards for the confidentiality of mail and telegraphic and telephone correspondence, official telephone monitoring and censorship of private mail are common practice.

Pervasive networks of informers maintained by the security services and the ABSP serve to deter dissident activity and instill fear of the authorities. As the U.N. Special Rapporteur noted in his February report, "The networks incorporate multiple security and intelligence services which are themselves supported by webs of agents and informants watching one another and ultimately accountable to the President alone."

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Throughout 1993, Iraqi armed forces conducted indiscriminate land-based attacks against the civilian population in the southern marshes. These wetlands historically have been inhabited largely by Shi'a Muslims, who have been joined in recent years by significant numbers of Iraqi army deserters and refugees from other areas of Iraq. As a result, the marshes have become the site of guerrilla resistance. The Allied no-fly zone over southern Iraq, imposed in 1992, continued in 1993 to protect the Shi'a marsh dwellers from attacks by Iraqi helicopter gunships and fixed-wing aircraft. In defiance of the no-fly zone, Iraqi forces in 1993 stepped up their use of land-based artillery to shell marsh villages.

In January a number of villages in the Al-Amarah marshes were reported burned to the ground. In April opposition sources reported that government forces had killed some inhabitants and burned homes in two villages in Maysan governorate and had removed survivors to other locations. In June, according to the U.N. Special Rapporteur, civilian settlements in the Al-Hammar marshes were subjected to a 4-day bombardment, followed by a razing of their homes by armored vehicles and tanks. In August opposition sources reported attacks on the village of Al-Ksara in the Al-Aziz region of Maysan governorate. Many of these attacks appeared targeted at unarmed civilian populations, particularly suspected opposition sympathizers. Many civilians were killed or wounded, and an estimated 6,500 refugees fled to Iran, where they joined between 50,000 and 60,000 who had fled in previous years.

Iraqi government efforts to divert water sources and drain the marshes made considerable headway in 1993. The U.N. Special Rapporteur as well as various human rights groups have reported that, as the marshlands dry, Iraqi military units are able to advance their land-based attacks on villages. In his November report to the U.N. General Assembly, the Special Rapporteur stated that he had viewed aerial and satellite photography confirming the destruction of numerous villages in the marshes. In March the European Parliament (EP) passed a resolution characterizing the Baghdad leadership as "seeking the destruction of the marsh Arabs of southern Iraq" through the "systematic poisoning of water, the indiscriminate shelling of civilians, and the destruction of the resources and environment of the people by draining the marshes."

In 1993 a team of Middle East Watch and U.S. Government researchers discovered, in a cache of Iraqi government documents seized 2 years earlier by the Kurds, a 1989 Iraqi plan to destroy the marshlands and the people living there. The plan appears to have been approved at the highest levels of the Government. Minister of Defense Ali Hassan Al-Majid, the same military leader who supervised the Anfal campaign in 1988, is now charged with directing the Government's so-called development plan for the marshes. The U.N. Special Rapporteur has noted the similarity between the "genocide-type operations" directed against the Kurds and the operations currently being conducted in the south. He concluded that "persons in the highest echelons of Government hold special and individual responsibility for a large number of the violations" and that "international law would not afford immunities."

The U.N. Special Rapporteur also reported that he continued to receive detailed accounts of the discovery of mass graves in southern Iraq, which are thought to contain the bodies of persons killed following the post-Gulf war civil uprising of March 1991. None of these reported grave sites have yet been investigated. However, forensic information obtained from mass grave sites in northern Iraq by forensic specialists in 1992 was released in 1993; investigators found the remains of hundreds of persons presumed killed in the Anfal campaign carried out in 1988 by Iraqi military and security forces under the leadership of Ali Hassan Al-Majid. In April a new mass grave, containing up to 1,500 bodies, was found in Irbil in northern Iraq, and another grave with up to 100 bodies was found nearby. As of the end of the year, these graves had not been examined by forensic specialists.

Based on forensic evidence obtained from previously examined graves and extensive documentation that the Kurds seized from Iraqi government offices during the civil uprisings of 1991, Middle East Watch and Physicians for Human Rights now estimate that between 50,000 and 100,000 Kurds were killed and up to 4,000 villages may have been destroyed during the Anfal campaign. These human rights groups have built a substantial body of evidence suggesting that Iraqi government efforts to eliminate Iraqi Kurdish communities were widespread, systematically planned, and ruthlessly implemented.

In northern Iraq, Operation Provide Comfort—the joint U.S., British, French, and Turkish command—continued in 1993 to inhibit attacks from the air on the inhabitants of the region. However, the Iraqi military forces continued intermittent, sometimes heavy shelling of northern villages by long-range artillery. The village of Al-Shariye was shelled every night for a week in late September. Also in September, one person was killed and two were wounded during shelling attacks on Taqtaq, near As Sulaymaniyah. In May Iraqi soldiers reportedly entered the security zone, firing on the town of Awaina, located about 10 kilometers inside the zone. Artillery shelling and bombardments reportedly preceded the attacks.

Attacks on humanitarian relief efforts in northern Iraq continued throughout 1993. In the winter and the spring, convoy trucks carrying relief supplies occasionally were destroyed by bombs as they crossed through Iraqi-controlled territory. In June and July, two U.N. guard offices were attacked, four U.N. vehicles were bombed, and a motorcyclist threw grenades onto loaded convoy trucks. Later in the summer, attacks against nongovernmental organizations (NGO's) appeared to accelerate. In one incident an NGO convoy was attacked by rocket-propelled grenades, leaving one relief worker critically injured. In another a bomb exploded on a Turkish truck carrying U.N.-consigned medicines. In December a bomb exploded in the offices of a Belgian NGO, killing two local employees. Some of these incidents pointed to involvement by the Iraqi authorities; in others, it was impossible to determine who was responsible.

Innocent civilians were killed occasionally in fighting between Kurdish guerilla forces and armed forces of the Kurdish Islamist League, a pro-Iranian party. In late December 72 persons were reported killed and 250 wounded in such clashes in Irbil and As Sulaymaniyah.

Civilians also were the occasional victims of armed raids by the Government of Turkey, which conducted counterterrorism operations along the Iraqi-Turkish border against the PKK (Kurdistan Workers' Party). Relief workers reported that at least two women and seven children were killed in a Turkish raid near the northern town of Barzan on November 29. The Government of Turkey says Iraqi civilian deaths were unintended.

The Kurdish population along the Iranian border suffered from Iranian shelling of civilian villages, as well as from sporadic Iranian military incursions into Iraqi territory.

Innocent civilians continued to be killed or maimed by exploding landmines in northern Iraq. Many of the mines were originally set to deter Iranian forces during the Iran-Iraq war. However, the Iraqi army failed to clear the mines after that war ended in 1988 and before it withdrew from the north in 1991. The mines appear

to have been haphazardly planted in civilian areas. The U.N. Special Rapporteur has repeatedly reminded the Iraqi Government of its obligations under the Land Mines Protocol, to which Iraq is a party, to protect civilians from the effects of mines.

The U.S. Government in 1993 released to the U.N. Security Council a document, based on interviews with victims and eyewitnesses, charging that the Iraqi regime engaged in war crimes (willful killing, torture, rape, pillage, hostage taking, unlawful deportation, and related acts) immediately prior to and during the 1991 Gulf war. The United States urged the Security Council to create a commission of inquiry to examine possible war crimes, crimes against humanity, and genocidal actions perpetrated by the Iraqi Government.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and of the press do not exist in areas under Baghdad's control, and political dissent is not tolerated in those areas. The Government and the ABSP own all print and broadcast media and operate them as propaganda outlets for the regime. Opposition views are not reported. The Government periodically attempts to jam news broadcasts from outside Iraq (e.g., the Voice of America, the British Broadcasting Corporation, and radio stations maintained by Iraqi opposition groups in neighboring countries).

In the northern security zone, which is protected by international forces and is administered by a local de facto government, several newspapers have appeared over the past2 years, as have opposition radio and television broadcasts.

b. *Freedom of Peaceful Assembly and Association.*—Except in northern areas under the protection of international forces, Iraqi citizens may not legally assemble or organize for any political purpose other than to support the regime. Two organizations, the Communist Party and al-Da'wa al-Islamiya ("Call of Islam") are outlawed; membership in either is a capital offense. Though Iraqi authorities insist that the penalty has never been invoked in such cases, the Special Rapporteur has reported in previous years that persons have been executed for membership in these groups. No new cases were reported in 1993.

c. *Freedom of Religion.*—Freedom of religion is circumscribed. The Government closely regulates and monitors Islamic affairs under a 1981 law giving the Ministry of Endowments and Religious Affairs authority over places of worship, appointment of clergy, publication of religious literature, and participation in religious councils and meetings.

Although Shi'a Arabs (constituting between 55 and 60 percent of the population) are the largest ethnoreligious group, Sunni Arabs, who comprise only about 12 to 15 percent of the population, have traditionally dominated Iraq economic and political life. Despite legal guarantees of sectarian equality, the Government has in recent years engaged in a succession of actions directed at the clergy and followers of the Shi'ite faith. Attacks on the Shi'a of the southern marshes in 1993 were preceded by the Government's harsh response to the spring uprising of 1991, in which government forces damaged or totally destroyed Shi'a mosques, holy sites, libraries, and archives. Iraqi security forces in 1993 were still encamped in the shrine to Imam Ali at Al-Najaf, one of Shi'a Islam's holiest sites. There were credible reports that the security forces' desecration of the shrine included using it as an interrogation center. Also in 1993, security forces reportedly expelled foreign clerics from Al-Najaf, under the pretext that the clerics' visas had expired.

The U.N. Special Rapporteur in 1993 cited the following continued abuses of religious rights by the Government: a ban on the call to prayer in certain cities, including Samara and Balad; a ban on the broadcast of Shi'a programs on government radio or television; a ban on the publication of Shi'a books, even prayer books; and the prohibition of certain processions and public meetings commemorating Shi'a holy days. Moreover, the Government also intervened, through coercion, in the selection of a replacement for the late Grand Ayatollah Abul Qasim al-Khoei, who had died in government custody in 1992 (see Section 1.b.). Late in the year, the Government appointed al-Khoei's successor.

The Government has been less intrusive into the religious affairs of Iraq's Christians—a small community of approximately 300,000. Their freedom of worship in churches of established denominations is legally protected, but they may not proselytize or hold meetings outside church premises.

The Jewish community—which at its height following World War II was estimated at 150,000 persons—has almost totally disappeared. Only a few hundred remain, nearly all in Baghdad. There is no recent evidence of overt persecution of Jews, but the regime restricts contact with Jewish groups abroad.

Iraqi law does not imposes penalties for conversion from one religion to another. Muslims who convert may suffer a social stigma, however.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government maintains close control over the movement of both citizens and foreigners. Within the country, sensitive border areas and numerous designated security zones are off-limits to all travelers; persons who either deliberately or inadvertently stray into prohibited areas are immediately arrested (see Section 1.d.). Police checkpoints can be found on highways and outside major towns.

All citizens are presently limited to two trips outside Iraq annually, and some citizens reportedly are prohibited from international travel. Women are prohibited from traveling outside Iraq alone.

There are no emigration restrictions for members of minority groups, although emigrants often must leave behind substantial property because of the difficulty of exporting assets. Currency exchange violations are considered security offenses, and penalties can be severe. In May the Government announced that such violations resulting in devaluation of the national currency are punishable by death.

The Government continued to pursue its discriminatory resettlement policies, including demolition of villages and forced relocations. In May the Iraqi security service in Mosul ordered Kurdish residents to leave voluntarily within 30 days to central and southern Iraq or face deportation to Kurdish-controlled areas. Subsequently Kurdish families were reportedly required to register at security checkpoints. By late December, approximately 30 Kurdish families (200 persons), reportedly fearing expulsion by the Iraqi Government, had fled their homes in the Mosul area and had crossed into the Kurdish-controlled zone.

The Government continued in 1993 to offer pecuniary inducements to Arab families from central Iraq to resettle in the north. However, the Government's resettlement policies were directed primarily at residents of the south. The Special Rapporteur noted in his November report that he had interviewed numerous witnesses who testified that marsh Shi'a arrested during the course of military operations are regularly taken to the main southern cities and then transferred to detention centers and prisons in central Iraq, primarily in Baghdad.

It is estimated that more than 6,500 Shi'a refugees, most of whom had been displaced from their homes in the southern marshes by the draining of the marshes and indiscriminate shelling and burning operations of the Iraqi army, fled into Iran during the summer of 1993. According to some estimates, up to 40,000 other persons are still in imminent danger in the marshes (see also Section 1.a.).

Several tens of thousands of some 1.5. million refugees who fled the country in the wake of the regime's bloody suppression of the civil uprising of 1991 remained abroad, mainly in Iran, Saudi Arabia, Syria, and Turkey; lesser numbers are in Jordan and Kuwait. Of the 1991 refugees, approximately 45,000 are in Iran, 23,000 in Saudi Arabia, 6,500 in Syria, and 4,000 in Turkey. Also still in Turkey are approximately 5,300 Kurdish refugees who fled northern Iraq during the Anfal campaign of 1988, in the wake of chemical weapons attacks on their villages.

The great majority of the refugees who fled in 1991, particularly the Kurds, repatriated themselves either to the area of northern Iraq, over which the allies have proscribed overflights by Iraqi aircraft, or to other areas not under government control. However, several hundred thousand Kurds who returned to Iraq still were unable to go back to their former homes in Iraqi-controlled territory.

Iraqi students abroad who refuse to return to Iraq are required to reimburse the Government for education received at government expense, whether in Iraq or abroad. Each student wishing to travel abroad must provide a guarantor. The guarantor and the student's parents may be held liable if the student fails to return.

The Government also requires employees leaving government jobs before 20 years of service to reimburse the State for the cost of their education provided at government expense. Amounts due can be recovered by confiscation, and nonpayment may result in imprisonment of family members.

Non-Iraqi spouses of Iraqi citizens who have resided in Iraq for 5 years must take Iraqi nationality or leave the country. Naturalization is required after 1 year for the spouses of Iraqi citizens employed in government offices. Many foreigners have thus been obliged to accept Iraqi citizenship and become subject to official travel restrictions. The penalties for noncompliance include loss of job, a substantial financial penalty, and repayment of the costs of education.

Iraq does not recognize the concept of dual nationality. Many Iraqi "dual nationals," especially the children of Iraqi fathers and mothers of non-Iraqi birth, have been denied permission to leave Iraq to visit the country of their other nationality.

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

Iraqi citizens do not have the right to change their government. Only in the Kurdish-controlled region in northern Iraq have free and open local elections been held.

Full political participation at the national level is confined to members of the Ba'ath Party (ABSP), estimated to number 1½ million, or about 8 percent of the population. The ABSP governs the country under the provisional Constitution of 1968, and legislative and executive authority is vested in the RCC. The National Assembly is completely subordinate to the executive branch. General elections were last held for the 250-seat National Assembly in April 1989.

Saddam Hussein continues to wield decisive power over all instruments of government. He is President of the Republic, Chairman of the RCC, and Secretary General of the Regional (i.e., Iraq-wide) Command of the ABSP. A personal or tribal relationship with Saddam Hussein is much more important for political advancement than is ABSP membership or ideological affiliation. Almost all of Iraq's most powerful officials are either members of the President's family or long-time family allies from his home town of Tikrit. Although ABSP membership is not required for appointment to senior military or government positions or election to the National Assembly, it can be a powerful aid in attaining political influence.

Opposition political organizations are illegal and severely suppressed. Membership in the Communist Party is punishable by death (see Section 2.b.). In 1991 the RCC adopted a law theoretically authorizing the creation of political parties other than the ABSP. In fact, the law merely reinforced the preeminent position of the ABSP by prohibiting parties that do not support Saddam Hussein and the present Government. New parties must be based in Baghdad and are forbidden to have any ethnic or religious character.

The Government does not recognize the various political groupings and parties that have been formed among natural opposition constituencies—the Shi'a of southern Iraq and the Kurdish, Assyrian, and Turcoman communities in the north. These political groups continued to thrive notwithstanding their illegal status.

A unique political situation exists in northern Iraq, where since 1991 all government functions have been performed by local administrators, mainly Kurds. Following the March 1991 uprising, the Iraqi national administrators pulled out of northern Iraq. Local civil servants stepped in to fill the vacuum. In May 1992, local political parties participated in elections to choose assembly representatives and de facto government administrators, who manage the affairs of the security zone—which is protected by allied military forces—and adjacent liberated areas.

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

In 1993 the Government continued to deny allegations of human rights violations. It also refused to cooperate in the investigation of alleged violations. The one authorized human rights group in Iraq operates under official control and routinely corroborates official denials of violations. The Government did not allow the Special Rapporteur to visit in 1993 and objected to his recommendation that human rights monitors be stationed throughout Iraq. In March the U.N. Human Rights Commission called on the U.N. Secretary General to send human rights monitors to "help in the independent verification of reports on the human rights situation in Iraq." In December the U.N. General Assembly endorsed the request of the Human Rights Commission for monitors for Iraq.

Iraq has failed to comply with the provision of UNSCR 688 insisting that Iraq afford immediate, unrestricted access by humanitarian workers to all those in need of assistance in all parts of Iraq. In 1993 various organs within the U.N. system—the U.N. Human Rights Commission, the U.N. Subcommission on Prevention of Discrimination and Protection of Minorities, and the U.N. General Assembly—adopted resolutions condemning the human rights violations of the Iraqi regime. These bodies also called for the Iraqi Government to allow the U.N. Special Rapporteur to visit the southern region to interview refugees. Iraq has refused to give access to the Special Rapporteur. Throughout 1993, the Government threatened, harassed, and assaulted employees of the United Nations and nongovernmental organizations (see Section 1.g.). The U.N. guard contingent—which protects U.N. personnel and operations—operated under severely reduced staffing in 1993, following the Government's refusal in 1992 to allow new guards into the country.

The regime has refused to renew its Memorandum of Understanding (MOU) with the United Nations on U.N. operations in Iraq. The United Nations has informed Iraq that the terms of the previous MOU are still operative and that the Government must comply with them. Nonetheless, the Government persisted in violating UNSCR 688 by interfering with the international community's provision of humanitarian assistance to the Iraqi people (see Section 1.g.).

In October the Government definitively refused to implement the provisions of UNSCR's 706 and 712, which would allow Iraq to sell oil and purchase humanitarian goods, the equitable distribution of which the United Nations would monitor.

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

Women.—The Government claims that it is committed to equality for women, who make up about 20 percent of the Iraqi work force. Laws have been enacted to protect women from exploitation in the workplace and from sexual harassment; to permit women to join the regular army, Popular Army, and police forces; to require education for female children; and to equalize women's rights in divorce, land ownership, taxation, suffrage, and election to the National Assembly. It is difficult to determine to what extent these protections are afforded in practice.

Familial violence against women, such as wife beating and rape, is known to occur, but little is known about its extent. Such abuse is customarily addressed within the tightly knit Iraqi family structure. There is no public discussion of the subject, and there are no official statistics. Excessive violence against women is grounds for divorce and criminal charges, but suits brought on these charges are believed to be rare.

Continuing analysis of documents and testimony concerning the Anfal campaign of 1988 indicate that many women and children, including infants, were killed by firing squad and in chemical attacks during that operation and that many more remain unaccounted for.

Children.—No information is available on whether the Government has enacted specific legislation to promote the welfare of children. However, the U.N. Special Rapporteur and various human rights organization have collected a substantial body of evidence pointing to the Iraqi Government's continuing disregard for the rights and welfare of children.

The Government of Iraq's failure to comply with the terms of U.N. resolutions has led to a continuation of economic sanctions against Iraq. As a result, general economic and health conditions throughout Iraq have deteriorated seriously. Children have been particularly susceptible to the decline in the standard of living; increases in child mortality and disease rates have been reported.

Under these circumstances, the Special Rapporteur observes, the Government of Iraq has special obligations to "take steps to the maximum of its resources" to ensure that the most vulnerable groups in the population have adequate food and health care. The Special Rapporteur stated in his November report that Iraq's ongoing refusal to implement U.N. Security Council Resolutions 706 and 712 (which would permit a one-time sale of oil in order to finance the import of humanitarian goods), has had an adverse effect on vulnerable populations, including children. The Special Rapporteur noted: "The Government's failure to act (regarding 706 and 712) bears heavily upon those in need and no doubt accounts for a significant portion of the large increases in mortality rates."

The Special Rapporteur further reported that the Government's policy of diverting humanitarian aid to its own supporters also deprived vulnerable groups, including children, of essential food and medicines.

Finally, the Special Rapporteur observed in his November report that the ongoing bombardment of civilian settlements in the southern marshes has resulted in the "deaths of large numbers of innocent persons, including women, children, and the elderly." The Special Rapporteur stated that he had interviewed numerous orphans who had survived military attacks which had killed their parents.

National/Racial/Ethnic Minorities.—The striking cultural, religious, and linguistic diversity of Iraqi society is not reflected in the country's political and economic structure. Sunni Arabs, who constitute only about 12 to 15 percent of the country's population, have effectively controlled Iraq since independence in 1932. Shi'a Arabs, who make up 55 to 60 percent of the population and live mainly in the Baghdad area and the south, have long been economically, politically, and socially disadvantaged. Like the Sunni Kurds of the north, the Shi'a Arabs of the south have been targeted for particular discrimination and abuse, ostensibly because of their opposition to the Government. Actions against the Shi'a have included large-scale forced resettlement and closure and destruction of Shi'a institutions (see also Section 2.c.).

In the southern marshes, the traditional way of life of the Shi'a—fishing, herding water buffalo, cultivating rice, and selling hand-made reed mats—has all but been destroyed by ongoing military operations. Credible reports describe a continuing process of large-scale environmental destruction in the marshes caused by the Government's burning, draining, and water-diversion projects. The army has constructed canals, causeways, and earthen berms to divert water from the wetlands. Hundreds of square kilometers of marsh areas have been burned, imperiling the marshes' fragile ecosystem. The Government claims the marshes are being drained as part of a land-reclamation plan that will increase acreage of arable land, spur agricultural production, and reduce salt pollution in the Tigris and Euphrates rivers. However, the evidence of large-scale humanitarian and ecological destruction

appears to belie the Iraqi claim. The destruction also has alarmed many in the international human rights community, including the U.N. Special Rapporteur, who filed a special report on the situation in the marshes in November.

Iraq's Kurds, who make up between 20 and 25 percent of the population, historically have suffered political and economic discrimination, despite the token presence of a small number in the national Government (see Sections 1.a., 1.b., and 1.g.).

The outstanding current example of discrimination against the Kurds and the Shi'a is the Government's ongoing embargo on the north and the diversion of basic supplies in the south, primarily to supporters of the regime. The total blockade of the north includes humanitarian necessities such as food, medicine, and fuel. Since August the embargo against the north also has included massive electric power cutoffs in specific areas, causing spoilage of medicines, breakdowns in local water-purification systems, and loss of certain hospital services. A disaster was averted only by the prompt action of the United Nations and donor governments, who imported and installed temporary generators to alleviate the crisis.

The repressive diversion of supplies in the south—combined with the military burning and razing operations (see Sections 1.a. and 2.d.)—has limited the population's access to food, medicine, drinking water, and transportation.

Citizens considered to be of Iranian origin must carry special identification and are often precluded from desirable employment.

People with Disabilities.—No information is available on the Government's efforts to assist people with disabilities or to indicate whether it has enacted legislation or otherwise mandated provision of accessibility for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—Although Iraq is a party to the 1919 Constitution of the International Labor Organization (ILO), which guarantees the freedom of association, trade unions independent of government control do not exist in Iraq. The Trade Union Organization Law of June 2, 1987, prescribes a monolithic trade union structure for organized labor.

Workers in private and mixed enterprises and cooperatives—but not public employees or workers in state enterprises—have the right to join local union committees. The committees are linked to trade unions, which in turn are part of provincial trade union federations. At the top is a single umbrella organization, the Iraqi General Federation of Trade Unions, which is linked to the Ba'ath Party and is utilized to promote party principles and policies among union members. The General Federation is affiliated with the International Confederation of Arab Trade Unions and the formerly Soviet-controlled World Federation of Trade Unions.

Union members have not been systematically targeted for human rights abuses.

The right to strike is heavily circumscribed by the Labor Law of 1987, and no strike has been reported over the past two decades.

b. *The Right to Organize and Bargain Collectively.*—The right to bargain collectively is not recognized. Salaries for public sector workers (i.e., the bulk of the employed) are set by the Government. Wages in the much smaller private sector are set by employers or negotiated individually with workers.

The Labor Code does not protect workers from antiunion discrimination, a failure that has been criticized repeatedly by the ILO's Committee of Experts. There are no export processing zones in Iraq.

c. *Prohibition of Forced or Compulsory Labor.*—Compulsory labor is theoretically prohibited by law. However, Iraq's Penal Code allows prison sentences—including compulsory labor—for civil servants and employees of state enterprises accused of breaches of labor discipline such as resignation from the job. According to ILO commitee reports, foreign workers in Iraq have been prevented from terminating their employment to return home because of government-imposed penal sanctions on persons who do so.

d. *Minimum Age for Employment of Children.*—Employment of children under age 14 is legally forbidden except in small-scale family enterprises. Children are nevertheless frequently encouraged to work as necessary to support their families. The law stipulates that employees between the ages of 14 and 18 work fewer hours per week than adults.

e. *Acceptable Conditions of Work.*—The workweek in urban areas is 6 days, 7 to 8 hours per day, for workers in the private and mixed sectors. These provisions do not apply to agricultural workers, whose workweek and workday vary according to individual employer-employee agreements. Hours for government employees are set by the head of each ministry.

Occupational safety programs are in effect in state-run enterprises, and inspectors theoretically make periodic inspections of private establishments. Enforcement varies widely.

ISRAEL AND THE OCCUPIED TERRITORIES*

Israel is a parliamentary democracy with a multiparty political system and free elections. There is no constitution, but a series of basic laws defines the responsibilities of government institutions. The legislature (The Knesset) can limit the government and force its dissolution. Although Israel has an independent judiciary, the Supreme Court, with few exceptions, has sided with the Government on policy issues of land and security, especially in the occupied territories. Public debate on issues of concern to Israelis is open and lively. A vigorous free press scrutinizes all aspects of Israeli life and politics.

Since Israel's founding in 1948, it has been in a formal state of war with most of its Arab neighbors, except Egypt, with which it concluded a peace treaty in 1979. As a result of the 1967 war, Israel occupied the areas of the West Bank, the Gaza Strip, the eastern sector of Jerusalem, and the Golan Heights. Throughout its existence as a state, Israel experienced numerous terrorist incidents, within and outside its borders. Israel has relied heavily on its military and security services and has retained many security-related emergency regulations from the preindependence British mandate period.

On September 13, Israel and the Palestine Liberation Organization (PLO) signed an historic Declaration of Principles relating to a transfer of authority from Israel to an interim Palestinian authority. The Declaration lays out a timetable for Israeli withdrawal from the Gaza Strip and the West Bank city of Jericho, scheduled to be completed in the first quarter of 1994. In addition, the Declaration calls for redeployment of Israeli security forces away from populated areas in the West Bank as early as July 1994, which is the target date for the election of a Palestinian council and for the dissolution thereafter of the Israeli military-backed Civilian Administration (CIVAD), which has governed daily life in the occupied territories since 1981. Israel is to continue to control external security, internal security and public order in Israeli settlements, foreign relations, and certain other areas until an agreement on permanent status is achieved.

Internal security is the responsibility of the General Security Service (Shin Bet), which is under the authority of the Prime Minister's office. The police are under the authority of a separate minister. The Israel Defense Forces (IDF), which include a significant portion of the Israeli adult population in either active duty or reserve status, also play a role in maintaining internal security. The IDF is under the authority of a civilian Minister of Defense. The Knesset Foreign Affairs and Defense Committee reviews the activities of the IDF and the Shin Bet.

Israel has a developed market economy. While there is substantial government regulation, intervention, and ownership in the economy, the Government is moving in the direction of reducing state involvement in it. Israel enjoys a relatively high standard of living.

Positive human rights developments, in addition to the ramifications of the September signing of the Israeli-PLO agreement (see report on the occupied territories), included the Knesset's action to eliminate restrictions placed upon membership in or contact with the PLO and court decisions that limited house demolition orders and expanded prisoner rights. Israeli citizens enjoy a wide range of civil and other rights. Israel's main human rights problems arise from its policies and practices in the occupied territories. In addition, while the Government's declared intention has been to close the social and economic gap between the Arab and Jewish sectors of the population within Israel, Israel's Arab citizens still do not share fully in the rights granted to, and the levies imposed on, Jewish citizens. However, in 1993 the Government began seriously to address imbalances in resource allocations to the Arab sector, especially in education and infrastructure development.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Political killings in Israel are neither practiced nor sanctioned by Israeli authorities. In the context of the extreme political tension between Israel and the Palestinians, intercommunal killings are often assumed to have political motivation. In 1993 authorities ascribed the murders of at least 16 Israelis in Israel to Arab nationalist motivations. In the wake of several killings and stabbings of Israelis by Palestinians from the occupied territories, the Government in March imposed a closure on the occupied territories, sealing off

*Because the legal status and the political and human rights conditions of the West Bank, Gaza, and East Jerusalem differ sharply from those in Israel, the situation in those territories is dealt with in a separate report following the report for Israel.

indefinitely the West Bank and Gaza from Jerusalem and Israel. This action resulted in restrictions on the numbers of Palestinians able to work in Israel and travel to Jerusalem.

b. *Disappearance.*—There were no reports of government-condoned disappearance.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although Israeli laws and administrative regulations prohibit such practices, there are credible reports of abuses of Palestinian detainees. (See the occupied territories report for a discussion of mistreatment of prisoners from the occupied territories incarcerated in detention facilities located in Israel.)

Incarceration facilities in Israel and the occupied territories are operated by one of three authorities, the Israeli Prison Service (IPS), the national police, and the Israel Defense Forces. Although the conditions vary greatly among the facilities, all are monitored by various branches of the Israeli Government and members of the Knesset, the International Committee of the Red Cross, and many human rights organizations which have access to the prisons, police jails, and IDF camps. Generally, inmates are not subject to physical abuse by guards, food is adequate, and prisoners receive basic necessities. Security prisoners are subject to a different regime, even in IPS facilities, and as a class they are often denied certain privileges given to prisoners convicted on criminal charges. In general, however, the most severe problem in all facilities is overcrowding, even among facilities run by the IPS.

IPS prisons conform to general international standards which permit inmates to receive mail, have televisions in their cells, and receive regular visits. Prisoners can receive wages for prison work and benefits for good behavior. Many IPS prisons have religious and drug-free wards and educational and recreational programs.

Police detention facilities are intended for short stays prior to trial, but due to chronic overcrowding and slow scheduling for court dates, police detention facilities can become de facto jails for several months. Inmates in these centers frequently are not accorded the same rights and living conditions as prisoners in the regular IPS facilities, and some of these can fall below generally accepted minimum international standards. For example, the Abu Kabir police detention facility in Jaffa has approximately 562 inmates for 466 beds. Prisoners awaiting transfer can be confined for months under these conditions. One U.S. citizen has been confined in a cell with 11 prisoners and 8 beds. He was unable to bathe for over a week. Violence is common in the Abu Kabir facility with weapons made by prisoners from such items as bed legs, spoons, and pens. There were also reports of mixing juveniles with adults as well as pretrial offenders with convicted prisoners.

Prison conditions in the IDF detention camps, which are limited to male Palestinian security prisoners and are guarded by armed soldiers, do not meet minimum international standards and threaten the health of the inmates. The camps use unheated outdoor tents even in severe weather conditions, mix minors and adult prisoners, restrict family visits, and contain minimal recreational facilities. Poor health care in Ketziot prison has resulted in a petition, filed before the High Court in September by a human rights organization composed of medical professionals, to close the camp unless medical conditions are improved. According to the Government, the petition concerning Ketziot, due to be heard at the end of the year, was postponed to March 1994.

d. *Arbitrary Arrest, Detention, or Exile.*—Israeli law and practice prohibit arbitrary arrest or imprisonment. Writs of habeas corpus and other procedural and substantive safeguards are available. Defendants are considered innocent until proven guilty. However, administrative detention with no formal charge or trial is permitted under a 1979 law. The Minister of Defense may issue a detention order for a maximum of 6 months. Within 48 hours of issuance of such an order, a detainee must be brought before a district judge. The process of review to confirm, shorten, or overturn a detention order must be carried out as quickly as possible, and, if the order is confirmed, an automatic review must take place after 3 months. Administrative detention orders are renewable. The detainee may be represented by counsel and may appeal to the Supreme Court. The Government may withhold evidence from the detainee and counsel on security grounds. According to the Ministry of Justice, no Israeli citizens were held in administrative detention in 1993. Israel continued to hold most Palestinian administrative detainees from the occupied territories in detention centers inside Israel. The transfer of prisoners from the occupied territories to Israel contravenes Article 76 of the Fourth Geneva Convention. (For a full discussion of administrative detention, see the separate report on the occupied territories.)

A judge of a district court may, in cases involving a felony, permit the postponement of notification of an attorney of the arrested person. This period normally cannot exceed 48 hours. It may, however, be extended for a total of 7 days when theMinister of Defense has certified in writing that national security requires the

arrest to be kept secret or if the Inspector General of Police certifies in writing that secrecy is required in the interest of the investigation. The law also allows an extension of up to 15 days in cases involving certain security offenses, such as espionage.

The whereabouts of 10 Lebanese detainees is not known, according to human rights groups. The Government of Israel acknowledges holding the 10, but the disposition of their cases, as well as those of 12 Lebanese prisoners who have served their sentences, appears to be linked to Israeli efforts to obtain definitive information on the fate of Israeli prisoners of war and others missing in action in Lebanon.

Israel does not exile its citizens. (See the separate report on the occupied territories for discussion of deportations).

e. *Denial of Fair Public Trial.*—There are both civil and military courts in the judicial system. There are also religious courts, labor relations courts, and other administrative tribunals. Although the judiciary is independent, the Israeli Supreme Court has, with rare exceptions, sided with the Government on policy issues of land and security, especially in the occupied territories. According to human rights lawyers, in the few instances the court has ruled in favor of individuals it has been on procedural grounds. The right to a hearing by an impartial tribunal with representation by counsel is guaranteed by law and observed in practice. All nonsecurity trials are open except for those in which the interests of parties are deemed best served by privacy. Security cases may be tried before a military court or a civil court and may be partly or wholly closed to the public. The Attorney General determines whether a security case is tried before a military or civil court.

The prosecution must justify nonpublic proceedings. Defense counsel is present, even during closed proceedings, but may be denied access to some evidence on security grounds. In security cases in which access to some evidence is denied, that evidence may not be used to convict a defendant.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Although privacy of the individual and the home are generally protected by law within Israel, interference with mail and the tapping of telephones are practiced in some cases. Israeli law permits wiretapping by court order in criminal cases; in security cases the order must be issued by the Ministry of Defense. Emergency regulations permit mail to be stopped, opened, and even destroyed on security grounds.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—(See the separate reports on the occupied territories and Lebanon for discussions of excessive use of force.)

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Although individuals, organizations, the press, and the electronic media freely debate a wide range of public issues and criticize government officials and policies, emergency regulations authorize censorship and outlaw statements and written materials that express or encourage support for illegal organizations. Publications and domestic or foreign press articles dealing with security-related matters must be submitted to the military censor. Arabic-language publications and press are censored more strictly than Hebrew-language equivalents. In 1993 the Supreme Court rescinded a closure order against the Arabic-language newspaper With the People. The newspaper had been closed because its editor was the former editor of another publication that had been closed for inciting its readers to action against the State and the IDF. No other Arabic-language newspapers were closed in 1993.

The Government occasionally initiates prosecution for statements or writings on behalf of terrorist organizations; such action is almost always directed against Israeli Arabs. The Government asserts that at various times it has prosecuted Jewish individuals and groups for inflammatory statements and writings. No cases were filed against Jews in 1993, but investigations into statements made by members of the Kach and Kahane Chai, ultranationalist extremist organizations, are currently under way. In 1992 the poet Shafiq Habib received a suspended sentence carrying a stipulation that he not engage again in the type of activity of which he was accused and a 3-year probationary period as well as a fine for violating the 1949 Antiterror Act which bans the publication of statements praising, supporting, or encouraging any acts of violence that could lead to personal injury or death. Habib had published poems in 1990 which, according to government officials, praised the revolutionary aspect of the Intifada. In 1993 Habib was acquitted of these charges by a district court on appeal, and the High Court has refused to review the case.

All newspapers are privately owned and managed. Newspaperlicenses are valid only for Israel; to distribute publications inside the occupied territories, separate licenses are required. The quasi-independent Israel Broadcast Authority, whose director is appointed by the Government, retains significant control over electronic media. There are now six cable companies operating in Israel under franchises

granted by cable councils whose members are appointed by the Government. Three companies were awarded franchises in 1993 to start a second television channel which has brought commercial television to Israel for the first time.

b. *Freedom of Peaceful Assembly and Association.*—The law and court rulings protect the rights of Israelis to assemble and associate. In 1993 the Knesset repealed the 1986 amendment to the Prevention of Terrorism Ordinance under which Israelis were prohibited from membership in, or contact with, outlawed organizations, primarily the Palestine Liberation Organization, its subdivisions, or its individual members.

c. *Freedom of Religion.*—Israeli law provides strong guarantees of freedom for all faiths. Approximately 82 percent of Israeli citizens are Jewish. Muslims, Christians, and Druze, and members of other minority religions make up the remaining 18 percent. Each recognized religious community in Israel has legal authority over its members in matters of marriage and divorce. Secular courts have primacy over questions of inheritance, but parties, by mutual agreement, may bring the case to religious courts. Orthodox religious authorities have exclusive control over marriage, divorce, and burial in all sectors of the Jewish community, whether or not they are Orthodox.

Missionaries are allowed to work in Israel. According to the Justice Ministry, the Government has not applied a 1977 antiproselytizing law, prohibiting the offering and receipt of material benefits as an inducement to conversion, against any individuals or organizations for several years.

Travel to visit religious sites or perform religious obligations in and outside Israeli is widely permitted. (See separate report on the occupied territories on denial of rights of Muslim and Christian Palestinians to worship at holy places.) In 1993 Israel approved the pilgrimage to Mecca (for both the hajj and the umra) of over 4,000 Israeli Muslims. However, for security reasons, the Government forbids participation in the hajj by males under 30 years of age. The Government asserts that travel to Saudi Arabia, a country formally still in a state of war with Israel, is a privilege and not a right for Israeli Muslims. In 1993 the Government welcomed the visit of 192 Libyan pilgrims to Muslim holy sites in Jerusalem.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Israeli citizens may move freely within Israel except in military or security zones or in cases where they may be confined to their neighborhood or village by administrative order under emergency regulations. Israeli citizens are free to travel abroad and to emigrate, provided they have no outstanding military obligations or are not restricted by administrative order.

Israel welcomes Jewish immigrants and family members, including Jewish refugees, to whom it gives automatic citizenship and residence rights under the Law of Return. It accepts the return of Jewish Israeli citizens who have emigrated. The Law of Return does not apply to Israeli Arabs or to persons of Jewish descent who have converted to another faith. Under the principle of family reunification, Israel has allowed the return of a few Arab refugees who fled Israel in 1948–1949 (the Government claims that 100,000 Arabs were allowed to return to Israel after the 1949 armistice agreement) but has rejected the great majority of requests by such refugees to return. Israel offered temporary haven to 100 Bosnian Muslims, victims of the civil strife in their country.

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

Israeli citizens have the right and ability to change their government peacefully. Israel is a parliamentary democracy, with a multitude of parties representing a wide range of political views. Relatively small parties, including those whose primary support is among Israeli Arabs, regularly win seats in the Knesset. All adult Israeli citizens have the right to participate in the political process and to vote by secret ballot. According to official figures, 77.4 percent of Israeli citizens over the age of 18 voted in the 1992 parliamentary elections.

Two women serve as Cabinet ministers, and there are 11 women in the Knesset. Two Arab Israelis serve as deputy ministers in the current Cabinet. There are 6 Arab members (and 2 Druze members) in the 120-member Knesset.

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

Private Israeli organizations are active in publicizing and litigating human rights issues and cases. Israel is generally responsive to international and nongovernmental interest in its human rights situation and treats seriously responsible challenges to its human rights practices.

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Human rights groups may litigate general questions of law or go before the courts on clients' behalf. Israel permits regular visits by a wide range of private and international organizations concerned with human rights such as Amnesty International (AI), Middle East Watch, the Lawyers Committee for Human Rights, the International Labor Organization (ILO), and others. It hosts and works with a delegation of the International Committee for the Red Cross (ICRC).

The Justice Ministry has a human rights office which responds to human rights inquiries, and the Government has designated specific points of contact within the Ministries of Defense and Foreign Affairs to prepare responses to human rights inquiries from foreign governments, international bodies, and human rights organizations.

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

The Equal Opportunity Employment Law prohibits discrimination on the basis of sex, marital status, or sexual orientation. The Labor Exchange Law prohibits discrimination on the basis of race, religion, political beliefs, and age. A general law prohibits government bodies from practicing discrimination on any of these grounds.

Women.—The Equal Opportunity Law requires employers to pay male and female workers equal wages for equal work. In 1993 a new law was passed that prohibited discrimination in unemployment compensation benefits paid to elderly female citizens. However, women's advocacy groups, which are very active in Israel, report that women routinely receive lower wages, are promoted less often, and benefit from fewer career opportunities than male counterparts.

Domination of personal status law by religious courts means that women are subject to restrictive interpretations of their rights in such crucial areas as marriage and divorce. In 1993 common law spouses were entitled to take the family names of their partners, helping to mitigate problems faced by unmarried couples. In 1993 women's groups stepped up their protest of the rabbinical authorities' refusal to require husbands to grant divorces to a number of women claiming marital abuse or neglect.

Women are drafted into the IDF but do not serve in combat positions.

The Government asserts it condemns violence against women, and the subject is being dealt with on an ongoing basis. The courts in Israel deal with persons convicted of violence, including violence against women. In 1991 the Government passed the Law for the Prevention of Family Violence, which allows legal authorities to act expeditiously to ban violent family members' access to property. In the last 2 years, enforcement of the law has improved markedly as women's groups cooperate with legal and social service institutions to educate primarily women about their rights under this law. Women's groups and the Government have collaborated on opening seven shelters for battered women, while the women's movement Na'amat operates four counseling centers for battered women. Women's groups also lobby for higher conviction rates and harsher sentences for men accused of perpetrating violent acts, including rape, against women. Government and advocacy groups estimate that at least 10 percent of Israeli women over the age of 15 are liable to experience violent attacks.

Children.—The Government has a strong commitment to the rights and welfare of children. While there is no pattern of societal abuse against children, the Government has legislated against sexual, physical, and psychological abuse of children and has mandated comprehensive reporting requirements to assure close attention to the issue. Prostitution involving children—mostly adolescents—has been reported in isolated cases and has been promptly dealt with by appropriate authorities. A combination of police and educational and socialwelfare officials are charged with monitoring cases of abuse and administering government programs to treat the victims.

National/Racial/Ethnic Minorities.—Israeli Arabs, who constitute 18 percent of the population, are not provided with the same quality of education, housing, employment, and social services as Israeli Jews. For security reasons, Israeli Arabs are not allowed to work in companies with defense contracts or in security-related fields. In 1993 the Government moved to redress inequities in resource allocations to Arab sectors but acknowledges that gaps remain in a number of areas, including education, health, infrastructure development, and public sector employment. The Sheves Plan, adopted in 1993, for the first time recognized Arab municipalities as developmental areas, entitling them to government benefits. The new policy now recognizes the geographical, rather than the ethnic, basis of an area as the main determinant of eligibility for priority government funding.

Relative to their numbers, Israeli Arabs are underrepresented in the student bodies and faculties of most universities and in higher level professional and business

ranks. The Arabic-speaking community has access to local and foreign Arabic press, publications, and media. The Israeli Druze and Circassian communities, at their initiative, are subject to Israel's military draft, and some Bedouin and other Arabs serve voluntarily. Other than Druze and Muslim but non-Arab Circassians, Israeli Arabs are not subject to the draft. Consequently, they have less access than do other Israelis to a variety of social and economic benefits for which military service is a prerequisite or an advantage, including housing and new-household subsidies and government or security-related industrial employment. The Government has decided to award national insurance equally to veterans of the IDF and those who have not served in the army. The Government has also determined that, within a 3-year period starting in 1994, it will bring social security child bonus allowances for parents who have not served in the army in line with those for parents who have. The Government asserts that it maintains an open door policy with respect to Israeli Arabs who volunteer for military service and that hundreds of Muslim and Christian Arabs are voluntarily inducted into the IDF and serve in various units, including the infantry, armored corps, and paratroopers. Parts of the Israeli Arab community have objected to the idea of alternative national service.

The problem of the legal status of unrecognized Arab villages remained unresolved in 1993. The Government promised to study the situation of the villages but offered no solutions. Residents of the village of Ramyah (see the 1991 and 1992 country reports) continued to negotiate the future of their village after the Government stayed an order of eviction against them in 1992. A private member's bill before the Knesset proposing that the pre-1948 residents of the villages of Bir Am and Ikrit or their descendants be permitted to rebuild their houses there has passed a first reading and has now been referred to a Knesset committee for preparation of the law for its second and third readings.

Religious Minorities.—In general the Government respects freedom of religion and protects the rights of citizens of all creeds to worship freely. In those civic areas where religion is a determinant criterion—primarily religious courts and religious centers of education—non-Jewish institutions routinely receive less state support than Jewish counterparts. Immigration to Israel is significantly easier for those who are Jewish than for non-Jews. The Government generally respects and protects non-Jewish religious sites. Muslim organizations continue to demand that cemeteries and an unused mosque in Beersheba be protected. In 1993 the Government allowed Libyan pilgrims to visit Jerusalem and encouraged the attendance of Syrian and Lebanese Druze at the funeral of the sect's religious leader in northern Israel. At year's end, Arabs in the city of Jaffa were trying to prevent the building of housing units over a Muslim cemetery in Kfar Shalem. The High Court turned down an appeal by Jaffa's supreme Islamic committee which had argued that the land in question had been illegally acquired by a joint government/municipality building company.

People with Disabilities.—The Government provides a range of benefits, including income maintenance, housing subsidies, and transportation support, for the approximately 10 percent of the Israeli population who have disabilities. While the law provides for equal treatment of disabled persons, advocacy groups report continued difficulties with enforcement in the areas of employment and housing. The law also requires public buildings to provide complete access for disabled persons, but it is not widely enforced. There is no law providing for access to public transportation.

Section 6. Worker Rights

a. *The Right of Association.*—Israeli workers may join freely established organizations of their own choosing. Israeli Arabs are free to form their own unions but have not done so. Most unions belong to the General Federation of Labor in Israel (Histadrut) or to a much smaller rival federation and are independent of the Government, although a majority of the elected union leadership is identified with the Labor Party and a significant Likud Party minority. About 60 percent of the work force, including Israeli Arabs, are members of the Histadrut trade unions, and an additional 15–20 percent are covered by Histadrut's social and insurance programs and collective bargaining agreements. Histadrut members democratically elect national and local officers and officials of its affiliated women's organization, Naamat, from political party lists. Plant or enterprise committee members are elected individually.

The right to strike is exercised regularly. A 15-day notice prior to a strike or a lockout is legally mandated unless otherwise specified in the collective bargaining agreement, but unauthorized strikes also occur. Strike leaders—even those organizing illegal strikes—are protected by law. If essential public services are affected, the Government may appeal to labor courts for back-to-work orders while negotiations continue. The Government had recourse to this right during a 2-week general strike

in the public sector in July. Other strikes in 1993 were concentrated in the health and public sectors.

Unions freely exercise their right to form federations and affiliate internationally. The lifting of the Israeli ban on contacts with the PLO and the signing of the Declaration of Principles have led to the beginning of an informal dialog between Histadrut and the representatives of Palestinian trade unions in the occupied territories on issues of mutual interest. Nonresident workers, including the approximately 52,000 nonresident Palestinians from the West Bank and Gaza currently working legally in Israel, may not be members of Israeli trade unions and thus may not belong to union health systems or participate in union elections or other activities.

Palestinian workers may not organize their own trade unions within Israel. Palestinian trade unions in the occupied territories are not permitted to operate in Israel. However, nonresident workers in the organized sector, including Palestinians from the occupied territories, are entitled to Histadrut contract and grievance protection and may join, vote for, and be elected to shop-level workers' committees if their numbers in individual establishments exceed a minimum threshold. Palestinian participation in such committees is minimal. Labor laws applicable in Israel also apply to Palestinians in east Jerusalem and Syrian Druze on the Golan Heights (see the occupied territories report for discussion of worker rights in east Jerusalem and the West Bank and Gaza.)

b. *The Right to Organize and Bargain Collectively.*—Israelis fully exercise their legal right to organize and bargain collectively. While there is no law specifically prohibiting antiunion discrimination, the basic law against discrimination could be cited to contest discrimination based on union membership. No antiunion discrimination has been reported. Nonresident workers may not organize on their own or bargain collectively but are entitled to representation by the bargaining agent and the protection of collective bargaining agreements. They do not pay union membership fees but pay a 1-percent agency fee which entitles them to union protection by Histadrut's collective bargaining agreements. Israelis fully exercise their legal right to organize and bargain collectively. The Ministry of Labor can and does extend collective bargaining agreements in one sector to nonunionized workplaces in the same sector. The Ministry of Labor also oversees personal contracts and wage arrangements in unorganized sectors of the economy.

There are currently no export processing zones, although a government bill authorizing creation of such zones has been approved by the Cabinet and is currently pending in the Knesset. The city of Eilat is a duty-free area in which all relevant Israeli labor laws apply.

c. *Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, and neither Israeli citizens nor nonresident Palestinians working in Israel are subject to such practices.

d. *Minimum Age for Employment of Children.*—By law, children under age 15 may not be employed. Schoolchildren aged 15 may not be employed without special permission except as apprentices or during school vacations. Employment of those aged 16 to 18 is restricted to ensure time for rest and education. Israeli labor exchanges do not process work applications for West Bank or Gaza Palestinians under age 17, and often higher age requirements are imposed for security reasons. Ministry of Labor Inspectors enforce these laws, but advocates of children's rights charge that enforcement is lax, especially in smaller, unorganized workplaces.

e. *Acceptable Conditions of Work.*—Legislation in 1987 established a minimum wage at 45 percent of the average wage, calculated periodically and adjusted for cost of living increases. As of August 1993, the minimum wage was about $499 (NIS 1396.77) per month. The Ministry of Labor is charged with enforcing minimum wage regulations. In 1993 the Government increased resources available to tighten the enforcement of minimum wage legislation but continued to identify this as a problem. The minimum wage is often supplemented by special allowances and is generally sufficient to provide workers and their families an acceptable standard of living.

By law, maximum hours of work at regular pay are 47 hours per week, 8 per day, and 7 the day before the weekly rest, which must be at least 36 consecutive hours and include the Sabbath. By national collective agreements, the private sector established a maximum 45-hour workweek in 1988, while the public sector moved to a 5-day, 42-1/2 hour workweek in 1989.

Along with union representatives, the Labor Inspection Service enforces labor, health, and safety standards in the workplace, although resource constraints affect overall enforcement. Legislation protects the employment rights of safety delegates elected or appointed from among the employees of an enterprise and charged with overseeing, in conjunction with management, the overall safety and health of the

work force. Workers do not have the legislated right to remove themselves from dangerous work situations without jeopardy to continued employment. However, collective bargaining agreements in some sectors provide the worker with recourse through the work site labor committee. In addition, any worker may challenge unsafe work practices through appropriate government oversight and legal agencies.

For the first 3 months of 1993, the Government continued to enforce restrictions on West Bank and Gazan workers imposed in the aftermath of the 1991 Gulf war requiring employers to register all Palestinian employees with government agencies and requiring all Palestinian workers seeking employment in Israel to qualify for a government-issued "magnetic card" which permits access to Israel and also serves as a work permit. In late March, after a series of attacks against Israelis, the Government closed access to Israel from the occupied territories. The Government gradually applied new occupational quotas, stricter criteria regarding age and marital status, and additional security checks for Palestinians seeking to work in Israel. In the succeeding months, these criteria were gradually relaxed but not removed. As a result the number of workers from the occupied territories employed through the Israeli employment service labor exchanges fell from 74,000 in February to 8,500 in mid-April before rising to 52,000 by December. (The latter figure excludes Palestinians working in Jerusalem, transportation services, or diplomatic missions.) Prior to the March closure of the territories, an estimated 30,000 to 40,000 unregistered workers from the occupied territories entered Israel to work. Government officials estimated in December that between 10,000 and 15,000 unregistered Palestinian workers were employed in Israel. All workers from the territories are employed on a daily basis and, unless they are employed on shiftwork, are not authorized to spend the night in Israel. Police carry out identity checks of Palestinians found outside the workplace and arrest and fine those without valid work permits.

Palestinians working in Israel are technically covered by the laws and collective bargaining agreements that cover Israeli workers, including minimum wage, sick leave, severance pay, paid vacations, and pensions administered by the Ministry of Labor and Social Affairs. However, it is widely believed that most Palestinian workers do not receive the full benefits to which they are entitled under these laws and agreements. In return for their NII contributions, Palestinian workers receive some of the benfits Israeli workers receive but do not have access to unemployment insurance, general disability payments, low-income supplements, child allotments or maternity leave, all of which are provided to Israeli workers. In 1993 the Government made public for the first time parts of the civil administration budget relating to programs carried out in the occupied territories.

Palestinians working in Israel are paid through the employment service of the Labor Ministry, which receives their wages and benefits from employers and pays the recipient after deducting taxes, a 1-percent union fee, and contributions to the National Insurance Institute (NII). The same percentage (5.35 percent) for NII contributions is deducted from the pay of legally hired Palestinians and from Israeli workers. In return for their NII contributions, Palestinian workers receive some, but not all, of the benefits Israeli workers receive. Because of these restrictions, only 1.2 percent of Palestinian workers' pay goes to the NII. The remaining 4.15 percent is nonetheless deducted from their pay in order to equalize the labor costs of Palestinians and Israelis. The ILO has long criticized this inequality in entitlements. These funds are deposited with the Finance Ministry, which applies them to programs administered by the Government in the West Bank and Gaza. In 1993 the Government made public parts of this budget for the first time.

In 1991 an employer brought suit to the Supreme Court, arguing that Palestinian workers and their employers should have to contribute only that part of the salary that applied to benefits directly received by the employee. In response to the Supreme Court's recommendation, the Government formed an interagency committee to study the issue. In 1993 the committee issued draft legislation that would essentially institutionalize the status quo. The proposed legislation remained under Knesset review at the end of 1993. Also at the end of 1993 a human rights organization announced plans to file a class-action suit against the Ministry of Labor and Social Affairs for failing to provide equal benefits to Israeli and Palestinian workers employed in Israel. Israeli settlers living in the occupied territories but working inside Israel have the same benefits as all other Israeli workers.

OCCUPIED TERRITORIES

This report deals with territories under military occupation, whereas most others in this volume describe practices within sovereign states and deal with the relation-

ship between governments and their own citizens. Israel occupied the lands known as the "occupied territories" (the West Bank, Gaza Strip, Golan Heights, and East Jerusalem) as a result of the 1967 war.

Israel is not recognized internationally to have sovereignty over any of the occupied territories. Israel has, however, asserted sovereignty over and annexed East Jerusalem. The West Bank and Gaza legal regime derives from Ottoman, Jordanian, Egyptian, and British law, as modified by Israeli military orders. Israel has extended its law and administration to the Golan Heights. The United States considers Israel's occupation to be governed by The Hague Regulations of 1907 and the 1949 Fourth Geneva Convention Relative to the Protection ofCivilians in Time of War. Israel considers the Hague Regulations applicable, but not the Geneva Convention, though Israel states that it observes the Geneva Convention's humanitarian provisions.

Israel has governed the West Bank and Gaza through the Civil Administration (CIVAD), which is answerable to the Minister of Defense. Most Palestinian municipalities have Israeli-appointed mayors, the majority of elected mayors having been dismissed in the early 1980's. Palestinians have not had the opportunity to participate in significant political or economic decisions regarding the occupied territories, except for East Jerusalem, where Palestinian residents have largely boycotted the Israeli political process. Israeli settlers in the territories (about 5 percent of the population of the territories, exclusive of East Jerusalem) are subject to Israeli law and receive better treatment than Palestinians under military occupation law. Israeli economic policies discriminate in favor of Israeli interests and Israeli settlers in the territories.

The security forces in the occupied territories have consisted of the army (Israeli Defense Forces-IDF), the Shin Bet (General Security Service-GSS), the police, and the paramilitary border police. Crimes by Palestinians related to "security," as defined by the authorities, have been tried in military courts.

The economies of the West Bank and Gaza Strip are small, poorly developed, and highly dependent on Israel. The West Bank produces many agricultural items and some light manufactured goods. Gaza's economy is more focused on agriculture and depends heavily on earnings from day laborers in Israel. Both economies have suffered from the effects of the occupation, the 6-year-old Palestinian uprising (intifada) against Israeli rule, the Gulf war and resulting cutoff of Arab funding, and the March 29 closure of the occupied territories.

The first 5 months of 1993 witnessed a dramatic increase in violence and confrontation. After a series of killings and stabbings of Israeli soldiers and civilians in Israel and the occupied territories during the first 3 months of 1993, the Government on March 29 sealed off indefinitely the West Bank and Gaza from Jerusalem and Israel. While proving an effective measure in curbing Palestinian attacks against Israelis in Israel, closure has severely constricted Palestinians' freedom of movement and has caused a deterioration of economic conditions (see also Sections 2.c. and 2.d.). The closure, which was partially eased later during 1993, does not apply to Israeli citizens, who are not required to obtain special permits to cross into and out of the West Bank and Gaza.

On September 13, Israel and the Palestine Liberation Organization (PLO) signed an historic Declaration of Principles on a gradual transfer of authority from Israel to an interim Palestinian self-governing authority. The Declaration lays out a timetable for Israeli withdrawal from the Gaza Strip and Jericho, scheduled to be completed in the first quarter of 1994. In addition, the Declaration calls for a redeployment of Israeli security forces away from populated areas in the West Bank by as early as July 1994, which is the target date for election of a Palestinian council and for the dissolution of the Israeli military-backed CIVAD which has administered the occupied territories since 1981. Through this process, Palestinians will also assume early responsibility for functions such as the health sector; educational, cultural, and social welfare affairs; tourism; and taxation. The Palestinians are also to create a Palestinian police force for the occupied territories. Israelis are to continue to control external security, internal security, and public order in Israeli settlements, foreign relations, and certain other areas until an agreement on permanent status is achieved. This historic agreement, when implemented, should fundamentally transform the basic relationship between Palestinians and Israelis.

Both Palestinian and Israeli opponents of the Declaration of Principles have attempted to exploit the violence as a means of derailing the agreement. The Palestinian Islamist extremist organizations Hamas and Palestinian Islamic Jihad launched a number of attacks on Israeli soldiers and civilians between September 9 and the end of the year. Armed settlers also blocked roads, harassed Palestinian commuters, destroyed Palestinian property, and fired at unarmed Palestinians. From October through mid-December, six settlers were killed by Palestinians, while eight Pal-

estinians were killed by settlers. As the occupying power, Israel remained obligated under international occupation law to ensure, as far as possible, public order and the safety of the civilian population in the occupied territories. Violence in the occupied territories also included killings of Palestinians by other Palestinians because of alleged collaboration with Israel.

All of the 414 Palestinians deported to southern Lebanon in December 1992 because of their alleged association with Hamas and Palestinian Islamic Jihad were allowed to return in 1993, with the exception of about 15 who chose not to return. Some were then administratively detained.

There were credible reports that during 1993 Israel mistreated and, according to those reports, in some cases tortured Palestinians during arrest and interrogation, utilized undercover units implicated in possible extrajudicial killings, ordered administrative detentions, used heavy weaponry to destroy houses in which IDF soldiers believed security suspects to be hiding, limited freedom of movement, employed harsh tax collection practices, and followed discriminatory policies in land and resources use and trade. The longstanding U.S. position is that several Israeli practices, such as the transfer of prisoners outside the occupied territories and the demolition or sealing of houses for security offenses as a form of collective punishment, contravene specific provisions of the Fourth Geneva Convention.

Apart from the major development reflected in the Israeli-PLODeclaration of Principles, there were other improvements in the human rights situation. Israel liberalized its policy on family reunification for residents of the West Bank and Gaza (see Section 2.d.), carried out significantly fewer court-sanctioned demolitions of Palestinian houses (although demolition orders were usually converted to orders for sealings), and used curfews less frequently in the West Bank. The nighttime curfew imposed on Gaza since 1987, however, remained in effect, and general curfews were used extensively throughout the year in Gaza. In October Israel released 617 Palestinian prisoners as a goodwill gesture following the signing of the Declaration of Principles. As of the end of the year, Israeli and Palestinian negotiators were discussing the timing and numbers of additional releases.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Credible sources report that undercover units disguised as Palestinians killed 27 Palestinians as of late November. This number represents a significant decrease from the 45 Palestinians reported killed by undercover units in 1992. As in 1992, the task of the undercover units appeared to have been to arrest activists wanted by the authorities for serious crimes. The undercover units also focused on stone-throwers or graffiti-writers. Human rights organizations continued to charge that the undercover units targeted certain activists, in some cases killing suspects under circumstances in which it may have been possible to apprehend them without killing. Israeli authorities acknowledge the operation of special undercover units whose members circulate among Palestinian activists and claim that such units observe standard rules of engagement applicable to other IDF units and that all killings and allegations of misbehavior are investigated. Investigations of abuses by IDF troops are conducted by IDF investigators. These investigations rarely result in imposition of serious punishment. According to the Israeli Government, one investigation into the killing of a child by an undercover unit did result in an undercover unit lieutenant's conviction on charges of negligence. The officer was sentenced to 6 months' imprisonment and was demoted to the rank of sergeant.

According to some human rights groups, the General Security Service (GSS) was responsible for at least one extrajudicial killing—the death of Omar Khamis Yusef Al-Ghula, who, according to eyewitnesses, was handcuffed and offering no resistance when he was shot by a security officer on January 27. The Israeli Government states that members of an army patrol shot and killed Al-Ghula, while he was in their custody, when he attempted to draw a handgun. The military prosecutor for Gaza investigated this case. He concluded that the soldiers acted in accordance with the rules of engagement and instructed that the file be closed.

Palestinian attacks against Israeli soldiers and civilians in 1993 resulted in the deaths of 49 Israelis in the occupied territories, compared to 23 such deaths in 1992. Most deaths were by knifing or gunfire. After a series of killings and stabbings of Israeli soldiers and civilians in Israel and the occupied territories in the first 3 months of the year, the Government sealed off the West Bank and Gaza from Jerusalem and Israel on March 29 for an indefinite period as a means of reducing the number of Palestinian attacks on Israelis.

As of mid-December, 79 Palestinians had been killed by other Palestinians, most often because of alleged collaboration with Israeli security services but also because of disputes between political factions or street gangs or because of personal feuds. These killings included Palestinian women accused of collaboration with Israeli authorities, infidelity, or prostitution. (The Government of Israel claims that 139 Palestinians were killed by other Palestinians in 1993.) Sixty-six of these killings took place in Gaza, a dramatic decrease from 149 killings in 1992; in the West Bank, the phenomenon continued a downward trend begun in 1992.

During the October to December period, there were credible reports of IDF inaction during several settler attacks, which occurred usually in retaliation for the killing of a settler, on Palestinians and their homes and property. In late December, the IDF appeared to investigate more vigorously two separate incidents in which Palestinians were killed, reportedly by settlers, and it appeared that by the end of the year the IDF had begun taking stronger measures to protectPalestinians from settler attacks. These measures included the provision by the IDF's Judge Advocate General to IDF officers of a 14-page handbook on how to deal with disturbances involving Israeli citizens in the occupied territories. According to that guidance, soldiers were authorized to arrest Israelis if they were breaking the law.

Israeli authorities prosecute Palestinians accused of killing other Palestinians as well as those accused of killing Israelis, and, although there is no capital punishment, sentences are severe. Palestinians suspected of killing Israelis and alleged collaborators have been a principal target of undercover unit operations. The Government also prosecutes Israelis accused of killing Palestinians, though sentences given to Israelis are generally much lighter than sentences handed down to Palestinians convicted of killing either Israelis or Palestinians. (See Section 1.e. for additional information on trials; for further discussion of killings, see Section 1.g.)

b. *Disappearance.*—There were no confirmed reports of disappearances.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—As in 1992, international, Israeli, and Palestinian human rights groups and diplomats continued to provide detailed and credible accounts of widespread abuse, which they claim in some cases amounted to torture, of Palestinian and Palestinian-American detainees, both immediately after arrest and during interrogation. According to credible reports, hooding, forced standing or tying up in contorted positions, prolonged exposure to extreme temperatures, blows and beatings, confinement in a small space, sleep and food deprivation, threats against the detainee's family, and threats of death were common practice in interrogation facilities. The apparent intent of these practices was to disorient and intimidate prisoners, often with the goal of obtaining confessions or information about third parties. The International Committee of the Red Cross (ICRC) in 1992 declared such practices to be violations of the Geneva Convention.

In June the Israeli-Palestinian Association of Physicians for Human Rights published a form reportedly used in the interrogation section of Tulkarem Prison in the West Bank. The form requested an examining physician to certify the medical fitness of a detainee for interrogation and specifically asked the doctor to indicate any medical "limitations" by reason of which the prisoner should not be chained, forced to wear a hood, or forced to stand for long periods. Subsequent to the publication of the form, the Israeli Medical Association issued a statement forbidding member physicians to answer such questions. The Government asserts that the form, while considered, was never put into use. Human rights groups believe that IDF and prison service doctors have routinely been called upon to certify prisoners for interrogation, whether or not a specific form is required.

Torture is forbidden by Israeli law. Israeli authorities say that torture is not authorized or condoned in the occupied territories but acknowledge that abuses occur and state that they are investigated. In 1987 the Landau Judicial Commission specifically condemned "torture" but allowed for "moderate physical and psychological pressure" to be used to secure confessions and to obtain information; a classified annex to the report defining permissible pressure has never been made public. In a case brought by the Public Committee Against Torture, the Israeli Supreme Court refused to halt the use of "moderate physical pressure."

In April the director of the GSS, responding to a petition before the Israeli Supreme Court, presented the court with an affidavit in which he announced amendments to the GSS's policy on interrogation. While the GSS was to continue to adhere to principles contained in the Landau Commission Report, he listed the following activities as prohibited: torture and humiliation, denial of food, water, and access to a toilet; and subjecting a detainee to extreme temperatures. Interrogators were required to proceed in steps, starting with "psychological pressure" and moving on to "additional pressure methods" in accordance with regulations. Human rights

groups assert that despite these announced changes in policy, there was no perceivable difference in treatment of suspects under interrogation.

The Israeli Ministry of Justice established two units in 1992 to investigate allegations of misconduct by police and GSS officers, including ill-treatment of detainees during interrogation. As of late November, 61 complaints of maltreatment during interrogation had been filed against GSS interrogators during 1993. Investigations into most of those complaints had not yet been completed. The Government claims that during 1993 unspecified legal or disciplinary measures had been taken in 13 cases, approximately half of which had been initiated prior to 1993.

In 1993 six Palestinians died in detention, four from what appeared to be natural causes. Human rights groups claim, however, that lack of prompt and adequate medical attention while in detention in at least three cases aggravated the medical conditions of those three prisoners. The Israeli Government states that all of these prisoners received medical examinations, and none complained of chronic ailments. According to credible sources, one detainee, a 23-year-old from Gaza, was denied medical attention for smoke inhalation for at least 3 days after his arrest. A second case was an apparent suicide.

Most convictions in security cases are based on confessions. An attorney is normally not allowed to see a client until after interrogation is complete and a confession, if obtained, has been made. The ICRC is not allowed access to detainees until the 14th day after arrest. Human rights groups point to this prolonged incommunicado detention as contributing to the problem of abuse. Detainees frequently tell judges that confessions were coerced. Human rights groups assert that Palestinian detainees often fail to lodge complaints either from fear of retribution or because they assume their complaints will be ignored.

Charges of beatings and physical abuse by Israeli security forces continued in 1993. The IDF says that it investigates automatically every fatality but that it does not routinely investigate nonfatal violent incidents unless a complaint is made. According to the IDF, from January 1 to September 1 there were 11 indictments against 24 soldiers and officers for "intifada-related offenses." Twelve soldiers were convicted while none were acquitted. Five indictments are still pending. No information was provided as to the sentences in these cases.

d. *Arbitrary Arrest, Detention, or Exile.*—As of the end of 1993, a total of 9,573 Palestinians were incarcerated in IDF (5,308) and prison service facilities. Of those, roughly 68 percent had been tried and were serving sentences, 29.6 percent were awaiting charges or trial, and 2.3 percent were detained administratively, i.e., sentenced to a specific period of detention without formal charge or trial.

In October Israel released 617 Palestinian prisoners as a goodwill gesture following the signing of the Declaration of Principles. At the end of the year, Israeli and Palestinian negotiators were discussing the timing and numbers of additional releases.

Since the beginning of the intifada in late 1987, Israel has routinely transferred Palestinian prisoners from the occupied territories to detention facilities within Israel, especially to the Ketziot camp in the Negev desert and Megiddo prison near Afula. This practice, which continued in 1993, contravenes Article 76 of the Fourth Geneva Convention. Estimates of the number of Palestinian residents of the occupied territories incarcerated within Israel range up to 7,000. In late 1993, there were indications that Palestinian prisoners were being transferred from detention centers in Gaza to facilities in Israel prior to the Israeli withdrawal from Gaza scheduled to begin on December 13.

The use of administrative detention for alleged security reasons without formal charges or a full opportunity for detainees to defend themselves continued in 1993. As of October, 277 Palestinians were held in administrative detention, compared to 520 held at the end of 1992.

Detention periods are for a maximum of 6 months and are renewable. Evidence used at hearings frequently is declared secret and unavailable to either the detainee or his attorney. Israeli officials state that administrative detention is used only when IDF legal advisors have determined that there is sufficient evidence to detain a person and that the evidence has been corroborated by two sources. They assert, however, that the evidence cannot be presented in open court because to do so would compromise the method of acquiring the evidence, which is often provided by informers whose lives would be jeopardized if their identities were known. Human rights monitors contend that administrative detention is often used when evidence against a suspect would not stand up in court.

District military commanders may order administrative detention without formal charges. Detainees may appeal detention orders or renewal of detention before a military judge. Attorneys may question security service witnesses concerning the

general nature of that evidence. The Supreme Court may review rulings by military judges and may examine secret evidence.

Any soldier may arrest without warrant a person who has committed, or is suspected of having committed, a criminal or security offense. Persons over age 12 are treated as adults by the court system. Persons arrested for common crimes are usually provided the opportunity for bail, access to an attorney, and a statement of charges (although these opportunities are sometimes delayed). Bail is rarely available to those arrested for security offenses. Special summonses are reportedly issued to Palestinians wanted by authorities for security reasons. Israeli Military Order 1369 allows authorities to sentence to 7 years' imprisonment any person who does not respond to a special summons that is delivered to him or a family member or is posted in the Civil Administration office nearest his home address.

Persons may be held in custody without a warrant for 96 hours and then must be released unless a warrant is issued. A warrant may be issued by a police officer for two periods of 7 days each. For extensions beyond 18 days from the date of arrest, the detainee has to be brought before a military judge, at which point he is entitled to defense counsel. In 1992 Israeli authorities shortened this period to 8 days for minors and those accused of less serious offenses (such as stone throwing). A military judge may extend the detention for a period of no longer than 6 months from the date of arrest. If there is no indictment during this period, the detainee must be released. If there is an indictment, a judge may order indefinite detention until the end of the trial, though the detention may be appealed.

In theory a detainee has the right to see a lawyer as soon as possible. In the cases of security detainees, however, officers routinely issue a written order to delay access to counsel for up to 15 days for reasons of security or to conduct the investigation. Higher ranking officials or judges may extend this period by up to 75 more days for the same reasons. In June the Israeli Supreme Court ruled that the fundamental right to consult a lawyer required the Government not only to inform a detainee of his right but also to advise the detainee of any orders preventing him from seeing a lawyer. Israeli regulations also permit prisoners to be held in isolation from family and from other detainees during interrogation.

Israeli authorities claim that they attempt to post notification of arrest within 48 hours; Palestinians assert that families and lawyers are normally notified much later and generally locate the detainee through their own efforts. Notification to the U.S. Embassy or Consulate General of detained Palestinian-American citizens has almost always been through the family. The ICRC attempts to help by passing on to families (by telephone) the information it receives from Israeli prison officials. A senior officer may extend for up to 12 days denial of notification of arrest to immediate family members, attorneys, and consular officials. A military commander may appeal to a judge to extend this period in security cases for an unlimited time.

The Israeli authorities acted in a number of areas to improve prison conditions in the occupied territories after Palestinian prisoners staged an 18-day hunger strike in September and October 1992 to protest prison conditions. Implementation of the specific measures, however, was not uniform throughout all detention facilities. In August 1993, prisoners at Hebron prison staged a hunger strike to protest lack of water for toilet and bathing facilities. The Israeli Supreme Court agreed to consider a petition presented by the prisoners but, as of October, the case had not been resolved. In the meantime, Israeli authorities reportedly agreed to truck in water supplies to meet prisoner needs. In September the Association of Israeli-Palestinian Physicians petitioned the Israeli Supreme Court to close the Ketziot Military Detention Camp in Israel because of "inferior conditions of imprisonment." The petition argued that the conditions at the camp, which reportedly houses 4,900 Palestinian security detainees, violated the Geneva Convention. Overcrowding (26 inmates to a tent), inferior diet, lack of adequate medical care, and lack of arrangements for religious worship were cited as key problems. At the end of the year, Ketziot camp was still in use. According to the IDF Judge Advocate General, the IDF has been granted a postponement to study the report of an advisory panel. Consideration of the case by the Supreme Court has been postponed until March 1994.

In December 1992, the United Nations Security Council adopted Resolution 799, which called for the immediate return of 415 Palestinians who had been deported to South Lebanon earlier that month because of their alleged association with Hamas—the Islamic Resistance Movement and the largest Islamist organization in the occupied territories—and the Palestinian Islamic Jihad. Israel agreed in March to a two-phase plan to return the deportees. In September 186 deportees returned from the edge of the Israeli-declared security zone in South Lebanon where they had been camped since December 1992. Upon their return, the deportees were investigated by the Israeli authorities, and some were freed while others were placed in administrative detention. In mid-December, the remaining deportees returned ex-

cept for about 15 deportees who reportedly elected to remain outside the occupied territories to avoid imprisonment. Like those who had returned in September, the 197 who returned in December were subject to interrogation and investigation. As of the end of the year, approximately 65 remained in detention.

In addition to the deportees in southern Lebanon, Israel allowed 30 pre-intifada deportees to return to the occupied territories in May as a confidence building measure. Among those who returned was one former West Bank mayor elected in 1976 and later deported to Jordan.

e. *Denial of Fair Public Trial.*—Palestinians accused of nonsecurity offenses are tried publicly in local courts by Palestinian judges appointed by Israeli officials, except where jurisdiction has been transferred by military order. Since the beginning of the uprising, local administration of justice has deteriorated seriously. At the beginning of the intifada in December 1987, the intifada leadership ordered Palestinian police and judges to resign. Since then, Palestinian courts have functioned sporadically. Palestinians accused of security offenses are tried in Israeli military courts. Security offenses are broadly defined by Israel and may include charges of political activity, such as suspected membership in outlawed organizations. Following the exchange of letters of recognition between Israel and the PLO, membership in the mainstream Fatah organization ceased to be considered a "security offense" by the Israeli authorities. Charges are brought by military prosecutors, and suspects are entitled to counsel. Serious charges are tried before three-judge panels, and defendants are entitled to appeal the judgments of such courts as a matter of right. Lesser offenses are tried before single-judge courts. The Court of Military Appeals may accept appeals of decisions by those courts based on the law applied in the case, the sentence imposed, or both. The right of appeal does not apply in all cases, and appeals sometimes require court permission. In practice, it is rare for Palestinians tried for security offenses to be acquitted, though their sentences sometimes are reduced through the appeal process.

Trials are delayed for several reasons: witnesses (including Israeli military or police officers) do not appear; the defendant is not brought to court; files are lost; or attorneys fail to appear. These delays may constitute an additional source of pressure on the defendant to plead guilty in order to avoid serving a period of pretrial detention that would exceed the sentence likely to apply in the context of a plea bargain. In cases involving minor offenses, such as stone throwing, an "expedited" trial may be held, in which a charge sheet is drawn up within 48 hours and a court hearing scheduled within days. In 1993 the IDF reported that approximately two-thirds of detainees in military prisons had completed their trials.

By law, most military trials are public, although access is limited. Consular officers are allowed to attend military court proceedings involving foreign citizens, but there have been delays in gaining admission.

Most convictions in military courts are based on confessions. Israeli officials assert that Palestinians rarely cooperate as witnesses to crimes, refusing to deal with Israeli authorities. Physical and psychological pressures and reduced sentences for those who confess contribute to the likelihood that security detainees will sign confessions. Confessions are usually recorded in Hebrew, which many defendants cannot read. Israeli authorities say that confessions are made by and repeated to the defendant in Arabic, although they are written down in Hebrew because, while many Israeli court personnel speak Arabic, few write it.

Crowded facilities and poor arrangements for attorney-client consultations in prisons hinder effective legal defense efforts. Palestinian attorneys report that appointments to see clients are difficult to arrange and that prison authorities often fail to produce clients when scheduled. In addition, prison authorities often limit the time available to meet with clients.

Israeli settlers in the occupied territories accused of security and ordinary criminal offenses are tried in the nearest Israeli district court under Israeli law. Civilian judges preside over these courts, and standards of due process and admissibility of evidence are not governed by military occupation law. Settlers convicted in Israeli courts of crimes against Palestinians regularly receive lighter punishment than Palestinians convicted of crimes against either Israelis or other Palestinians.

In 1992 an amendment to Israel's penal law provided greater discretion in sentencing for cases of self-defense or necessity where a defendant has used excessive force. Palestinians raised concerns that this might result in unjustifiably lenient sentences for Israeli settlers who use force. As of October, however, the Israel state attorney's office was unaware of any cases in which that amendment had been applied.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Military authorities in the occupied territories may enter private Palestinian homes and institutions without a warrant on security grounds. Authorization by an officer of the

rank of lieutenant colonel is required prior to entry. Forced entries are used in IDF operations and are sometimes accompanied by beatings and destruction of property, including foodstuffs. Undercover units have engaged in destructive and violent behavior during searches, as well as harassment of families of wanted Palestinians. Israeli authorities claim that forced entry may lawfully occur only incident to arrest when entry is resisted, that beatings and arbitrary destruction of property during searches are punishable violations of military regulations, and that compensation is due to victims in such cases. The Government did not provide information regarding such compensation.

In 1993 the security authorities sealed 27 houses for security reasons, a decline from 33 sealed in 1992. Indicating the continuation of a policy begun in 1992, the Israeli Government reports, and some human rights groups agree, that no houses were ordered demolished for security reasons in 1993. Other credible sources, however, believe that three house demolitions which occurred during 1993 were ordered for security reasons, not because of building permit violations or during military operations. Using bulldozers and other construction equipment, security forces may demolish or seal the home of a suspect, whether he is the owner or only a tenant, before any trial is held. The final decision to seal or demolish a house is made by a number of high-level Israeli officials, including the coordinator of the Civil Administration. Owners of houses ordered to be demolished have 48 hours to appeal to the area commander, and final appeals may be made to the High Court. A successful appeal generally results in the conversion of a demolition order to sealing. When a house is demolished, the land on which it sits is confiscated by the Israeli authorities, and the house owner is not allowed to rebuild or even remove the rubble.

Israeli authorities say there is a formal procedure whereby owners may apply to regional military commanders for permits to rebuild or unseal, but this procedure is rarely used. The Israeli Government did allow two homes to be rebuilt after being demolished, and four homes were permitted to be opened after being previously sealed. The Government reports that 10 houses in Gaza and 10 in the West Bank were sealed in 1993. During 1993, the IDF continued the practice of using various heavy weapons, including rockets, to destroy houses in which soldiers believed security suspects to be hiding (see Section 1.g.).

The security services sometimes monitor mail and telephone conversations. The authorities sometimes interrupt telephone service to specific areas.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Estimates vary on the number of casualties caused by use of excessive force in the occupied territories. Figures compiled from press, Palestinian, international organizations, and Israeli government sources indicate that a total of 184 Palestinians were killed by security forces in 1993, compared to 158 in 1992. Estimates of the numbers of Palestinians wounded vary; the number could be as high as 4,120. IDF figures report approximately 890 Palestinians were injured as of September 1 by the security services. Forty-nine Israeli soldiers and civilians were killed by Palestinians in 1993 in the occupied territories, and estimates of Israelis wounded were about 366. Extremists associated with Hamas and Palestinian Islamic Jihad were responsible for many of the lethal attacks on Israelis.

After May it appeared that both the security forces and Palestinian activists pursued less confrontational policies in order to reduce violent clashes. The killing of an Israeli settler near Ramallah in October began a cycle of killings and reprisals which had not ended as of late December. Many of the IDF observation posts erected in camps and cities throughout Gaza, which had provoked violence, were removed in August. Of the total number of Palestinians killed, the Israeli human rights group B'tselem estimates that 37 were children aged 16 or under, 33 of whom were killed between January and June. Many of these children were involved in demonstrations or were near the sites of confrontations or incidents at the time they were shot. In July, however, a soldier reportedly shot 10-year-old Ezzat Mattar while the boy was flying a kite in an open field.

In a June report on IDF killings of Palestinian children under age 16, B'tselem charged that the IDF pursued a deliberate policy of opening fire in situations in which soldiers were not in mortal danger. Citing the IDF's rules of engagement for dispersing demonstrations and pursuing suspects which allow, in the last resort, use of live fire, B'tselem declared that "the many instances in which Palestinians in the territories have been killed by soldiers . . . are unequivocal proof of the danger inherent in such orders and of the need to change them." B'tselem acknowledged that the IDF had no deliberate policy to kill children but contended that "in hundreds of instances security forces had the option of refraining from shooting, at the risk of having suspects (the vast majority are demonstrators or stone-throwers) escape, in order to ensure that innocent people would not be hurt."

In its response to the B'tselem report, the IDF stated that soldiers were under orders to act with the greatest care in dealing with "riots" in which women and children participated and noted that opening-fire regulations prohibited shooting at children. Children were injured, the IDF said, because they were near or among rioters or armed terrorists who endangered the lives of IDF soldiers. The IDF statement attributed the increase in deaths to the escalation of violence in the first half of 1993.

Until April IDF regulations permitted the use of live ammunition only when soldiers' lives were in immediate danger, to halt fleeing suspects, or to disperse a violent demonstration. In April the IDF issued an amendment to those regulations permitting the use of live fire on an "individual unlawfully carrying firearms." Palestinians asserted, and the Government of Israel denied, that this modification ipso facto allowed soldiers to open fire on anyone carrying a firearm. It was not clear how soldiers were to determine if an individual was authorized to carry a firearm. According to IDF policy, soldiers are to direct fire at the legs only and at a fleeing suspect only if they suspect a serious felony and have exhausted other means of apprehending the suspect. In practice, however, uniformed soldiers, police, and undercover units used live fire in situations other than those described above (see Section 1.a.) and often shot suspects in the upper body and head. Uniformed soldiers, police, and undercover units also injured many bystanders (including children) by live fire, rubber bullets, or beatings while pursuing suspects.

During 1993 the IDF continued the practice of using various heavy weapons, including rockets, to destroy houses in which soldiers believed security suspects to be hiding. These demolitions took place almost exclusively in Gaza. Although the IDF stated that no figures were available on the number of houses damaged in these operations, human rights groups count up to 220 houses or apartments either destroyed or partially damaged by the IDF in the course of military operations in pursuit of suspects. Israel defended this practice as a necessary military operation and a measure to save the lives of Israeli soldiers. The Israelis assert that the operations were based on intelligence received that certain suspects were in the reported places. In practice, IDF units regularly evacuated houses in which they believed suspects to be hiding and then fired rockets into the buildings. In several instances, no suspects were found in the houses. Since late 1992, 177 Palestinian claims have been filed for damages to homes by the security forces. Sixty claims have already been settled to the sum of approximately $500,000 (one and a half million NIS).

On a number of occasions, security forces forcibly removed Palestinian suspects undergoing medical treatment from hospitals or prohibited Palestinians in need of medical care from crossing roadblocks or going out during curfews. The Israeli Government asserts that a patient is removed only after a doctor certifies a patient is fit for transfer; the transfer must be made with a doctor present.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Israeli authorities impose some restrictions on freedom of speech. Israel prohibits, for example, public expressions of support for Muslim extremist groups, such as Hamas, and other banned organizations. For most of the year, the display of Palestinian political symbols, such as flags, national colors, and graffiti was punishable by stiff fines (usually the equivalent of $150–300 for graffiti), or imprisonment. Security forces often forced Palestinians to erase graffiti found on their property, regardless of whether they were responsible for it. Since September, after Israel and the PLO signed the Declaration of Principles on the transfer of authority, Israeli authorities have generally permitted displays of the Palestinian flag or national colors, although there has been no formal change of policy.

The Israeli authorities impose restrictions on the Arabic press, citing security reasons. Arabic-language publications in East Jerusalem must submit to the military authorities for prior censorship all copy relating to the security, public order, and safety of Israel and the occupied territories. Many reports and editorials related to the uprising and Palestinian political goals were permitted, but other articles and editorials were routinely expurgated. Arabic translations of news stories about the intifada, which had previously appeared in the Hebrew-language press, were routinely censored from the Arabic press.

A permit is required for publications imported into the occupied territories. Imported materials may be censored or banned for anti-Semitic or anti-Israeli content. According to the Government, publications supporting Palestinian nationalism are not censored or banned unless they advocate violence. Possession of banned materials, such as uprising leaflets espousing violence, is punishable by fine and imprisonment. Reports by foreign journalists are subject to a system of self-regulation.

No broadcast media originate from the occupied territories. Jordanian radio and television is broadcast throughout the occupied territories.

Israeli authorities continued to close individual secondary and elementary schools for short periods, citing security problems emanating from the schools. In addition, strike days called by Palestinian activists continue to cause students to lose a few days of school each month. In contrast, Palestinian universities generally operated normally for the first time since the intifada began in 1987.

b. *Freedom of Peaceful Assembly and Association.*—Military orders ban public gatherings of 10 or more people without a permit. Until September, when Israel recognized the PLO as the representative of the Palestinian people, Palestinian political parties and other groups, including some labor unions viewed as political, were banned. However, student and professional associations have been allowed to operate and hold democratic elections. Since the signing of the Declaration of Principles in September, Israeli authorities have permitted large-scale rallies in support of the agreement in a number of towns. The authorities also permitted several rallies organized by opponents of the agreement.

Private organizations are required to register with the authorities, though some operate without licenses. Israeli authorities permitted Palestinian charitable, community, professional, and self-help organizations to operate unless their activities were viewed as overtly political or supporting the uprising.

c. *Freedom of Religion.*—Freedom of religion is respected, and no group or sect is banned on religious grounds. Muslim and Christian holy days are observed, as are Jewish holy days in Jerusalem and the settlements. All faiths operate schools and institutions. Religious publications circulate subject to the laws for publications described in Section 2.a. After the occupied territories were sealed off in March, Muslim and Christian Palestinians who wanted to visit or attend services at holy places in Jerusalem were often unable to obtain permits to enter the city. While some Palestinians were allowed to travel by bus from the West Bank directly and only to the Haram as-Sharif (where the al-Aqsa and Dome of the Rock mosques are located), authorities often restricted access by male worshipers under a certain age.

In April many Palestinian Christians protested the closure of Jerusalem, which prevented their attending Easter Rites at the Church of the Holy Sepulchre. While some congregations refused to apply for permits, claiming it would establish a precedent for Israeli control over holy sites, other Christians did apply and found that their applications were denied or delayed. Various sources alleged that Israeli police interfered with passing of the "holy fire," one of the most important rituals of the Greek Orthodox Church during the Easter season, by extinguishing lanterns that worshipers at checkpoints were using to pass the flame among themselves.

Israeli authorities also banned West Bankers and Gazans (even those with permits) from entering Jerusalem on several major Jewish holidays, citing this as a precautionary security measure. These restrictions were not applied to Jewish settlers in the occupied territories.

d. *Freedom of Movement Within the Occupied Territories, Foreign Travel, Emigration, and Repatriation.*—The escalation in violence both in the occupied territories and inside Israel during the first 3 months of 1993 led the Government to seal off indefinitely the West Bank and Gaza from Jerusalem and Israel on March 29. By inhibiting the free movement of goods and people, the closure caused deterioration in economic conditions in the occupied territories and disrupted patterns of religious, educational, cultural, and family life as well as access to medical care. The March 29 closure constitutes the longest period during which the Israeli security forces have employed this measure, which was first used in 1991.

Closure severely constricted Palestinians' freedom of movement between the West Bank and East Jerusalem, between the northern and southern sections of the West Bank, and between Gaza and the rest of the occupied territories. As during previous periods of closure, any Palestinian wishing to enter Jerusalem or Israel must obtain a special permit issued by the Civil Administration. Any Palestinian found in Jerusalem without such a permit is subject to a fine (usually the equivalent of about $160) or arrest. Because most main roads pass through Jerusalem, closure effectively divides the West Bank into two parts, with the result that Palestinians from the north may not travel to the south without special permission, and vice versa. In addition, Gazans may only travel to Jerusalem and the West Bank if they are able to obtain permits.

The closure had a serious effect on the economy of the occupied territories. Of the 120,000 Palestinians who prior to March 29 worked in Jerusalem or Israel, only about half had received permits to resume their employment by year's end. Palestinian factories in the occupied territories, having lost their markets in Jerusalem and Israel, were unable to pay their workers. Unemployment rates in the West Bank were estimated at 25 percent before closure and are now estimated at 40 percent.

Palestinian businesses and institutions in Jerusalem suffered because their West Bank clients were unable to enter the city.

The IDF states that the number of Palestinian workers who have been issued permits since closure (about 52,000), added to the number of Palestinians exempt from the permit requirement who work in Jerusalem (15,000), is roughly equal to the number of Palestinians (70,000) who had been legally permitted to work in Israel and Jerusalem before March 29. The IDF maintains that only Palestinians who had been working illegally in Israel and Jerusalem lost their employment. After closure, however, the Israeli Government significantly reduced the number of permits issued to unskilled Palestinian day laborers allowed to work in Israel or Jerusalem. Permits to enter Jerusalem and Israel were valid for periods varying from a few hours to 3 months. Permits were denied for a variety of reasons, including security concerns and nonpayment of taxes. As of October, the CIVAD had issued 268,309 temporary permits of varying duration for various purposes to Palestinians from the occupied territories who were not employed in Israel or Jerusalem.

In April Palestinian and Israeli human rights groups issued a joint statement in which they condemned the closure. The statement described closure as an illegal collective punishment of the population of the occupied territories and as "disproportionate to any legitimate security concern." As noted in Section 2.c., many Muslim and Christian Palestinians were denied the right to worship at holy places associated with their faith because of closure. The closure also affected the movement of health care personnel and prevented or slowed the provision of health care services to some emergency and critically ill patients in the West Bank and Gaza strip. In October Israel eased certain restrictions on access to Jerusalem as a "goodwill gesture." At the end of the year, Palestinians employed in the city, women over 25, men over 50, and children under 16 accompanied by a parent were the categories of individuals not required to present permits. All Palestinians entering Jerusalem, however, were still required to stop at checkpoints and present either their permits or identification proving they were exempt from the permit requirement.

Israeli authorities also continued to issue "green" identity cards, which identified the bearer as a security risk and precluded travel in or through Jerusalem, as well as travel abroad. "Green" cards generally were valid for 6 months, renewable indefinitely. The issuance of such cards, like administrative detention, is a form of punishment without formal charge or trial.

The Israeli authorities continued to impose curfews and military closures as security controls in 1993. Curfews were more frequent in villages and refugee camps than in urban areas but occurred less frequently in the West Bank than in previous years. Curfews were still used extensively in Gaza in 1993, including the continued imposition of a night-time curfew in effect since 1987. Human rights groups criticized the prolonged curfews, which do not apply to Israeli settlers, as a form of collective punishment.

All Palestinians need permits, which require several clearances, in order to travel outside the occupied territories, and Israeli authorities have imposed travel restrictions on certain political activists. However, thousands of Palestinians in the occupied territories travel abroad each year.

In 1991 Israeli authorities announced that bridge-crossing permits to Jordan could be obtained at post offices without a screening process. In July Israel announced that the requirement for Palestinian males crossing the bridge into Jordan to remain out of the occupied territories for 9 months no longer applied to men above the age of 25. The requirement remained in effect, however, for Palestinian males between the ages of 16 and 25. In late 1993, Jordan tightened restrictions on entry, with the result that Palestinians granted permission to travel by Israeli authorities were sometimes denied permission to enter Jordan.

Obstacles to emigration include the inability to obtain a travel permit and the fear of losing residency. Restrictions on residence, tourist visas, reentry, and family reunification have applied only to Palestinians resident in the occupied territories. Israel sometimes refuses to renew laissez-passers of Palestinians from the occupied territories who live or work abroad, on the grounds that they have abandoned their residence, even though they may not have acquired foreign citizenship. Palestinians who obtain foreign citizenship ordinarily are not allowed to resume residence in the occupied territories; those who acquire the right to residence elsewhere or who remain outside the occupied territories for over 3 years are often not permitted to resume residence. They are permitted to return only as tourists and sometimes are denied entry entirely. These restrictions do not apply to Israeli settlers resident in the occupied territories. Israeli authorities have limited family reunification for demographic, political, and economic reasons. Most Palestinians who were abroad during the 1967 war (estimated to be one-fourth of the Palestinian population at that

time) or who have lost their residence permits for other reasons are not permitted to return to reside permanently with their families.

Permanent residency permission or family reunification has usually been denied to foreign-born spouses and children born in the occupied territories to nonresident mothers, although they were generally allowed to reside as temporary residents with renewable permits.

In August the Israeli Government announced a change in its policy on family reunifications. Following the presentation by human rights groups of a series of petitions to the Israeli Supreme Court, Israel decided to expand its policy on family reunification for residents of the West Bank and Gaza by offering to consider the cases of 6,000 immediate family members who had arrived and applied for visitors' visas between June 1990 and November 1992. As of the end of August, the Israeli authorities had considered 3,249 applications from residents of the West Bank and Gaza for family reunification, of which they had approved 723 and denied 861. Still pending were 1,781 applications, including 116 held over from previous years. Israel also announced it would consider 2,000 new cases annually, allowing the return of up to 5,000 persons. However, immediate family members of Palestinian residents of East Jerusalem were excluded from the new policy.

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

The people of the occupied territories do not enjoy this right. Israel's Ministry of Defense has ruled the West Bank and Gaza through a military government and civil administration. The Government of Israel has not recognized the right of Palestinians to participate in policy decisions concerning land and resource use and planning, taxation, trade, and industry. Israeli authorities have permitted some Palestinian municipalities, which have approved town plans, to issue building permits within their boundaries. Municipal elections were last held in 1976 in the West Bank; most mayors elected then were later dismissed. Palestinians appointed by Israel have filled most vacancies.

On September 13, Israel and the Palestine Liberation Organization (PLO) signed a Declaration of Principles on a transfer of authority from Israel to an interim Palestinian authority. The Declaration lays out a timetable for Israeli withdrawal from the Gaza strip and Jericho, scheduled to be completed in early 1994. In addition, the declaration calls for the redeployment of Israeli security forces away from populated areas in the West Bank by as early as July 1994, which is the target date for the election of a Palestinian council, and for the dissolution thereafter of the Israeli military-backed Civilian Administration (CIVAD), which has administered the occupied territories. Through this process, Palestinians will also assume early responsibility for governmental functions such as the health sector; educational, cultural, and social welfare affairs; tourism; and taxation. The Palestinians will also create a Palestinian police force for the occupied territories. Israel is to continue to control external security as well as security and public order in Israeli settlements, foreign relations, and certain other areas until an agreement on permanent status is achieved. Although Israel's annexation of East Jerusalem has not been recognized internationally, East Jerusalem is governed as part of Israel. Palestinian residents of East Jerusalem are permitted to vote in Israeli municipal elections but have largely boycotted them.

No Palestinian resident of East Jerusalem sits on the city council. In the November municipal election less than 7 percent of Jerusalem's Palestinian population voted. According to the Declaration of Principles, negotiations on the final status of Jerusalem are scheduled to start by 1996.

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

Many local groups—Israeli, Palestinian, and mixed—monitor human rights. Israeli authorities permit their publications and statements to circulate in the occupied territories, and they are allowed to hold press conferences. Some Palestinian human rights workers encountered administrative obstacles to their work in 1993, such as denial of permits to enter Jerusalem (where their offices are located) after the occupied territories were sealed off in March.

Although Israel normally permits international human rights groups to visit the occupied territories, Israel declined to accept the visit of the U.N. Human Rights Commission Special Rapporteur for the occupied territories. The Government stated that while Israel has always been open to individuals, groups, and representatives of organizations concerned with human rights, Israel was being asked to comply with a decision of a body to which, unlike every other U.N. member state, Israel cannot be elected because it is not a member of any regional group. Israel generally

cooperates with human rights organizations, and officials are generally available for meetings on human rights issues. Some of these organizations, however, find that Israel's responses are inadequate. Not all inquiries receive answers, and some groups' requests for meetings with officials or access to detention facilities are denied.

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

Women.—Palestinian women living under military occupation face similar human rights problems as do men in their contact with Israeli authorities. In addition, many Palestinian women face poverty, lack of education, and social repression. Palestinian society is only now coming to recognize the problem of violence against women. A major difficulty in dealing with this highly sensitive issue is lack of resources: women's organizations are working to raise consciousness and provide help and intervention when needed, but funds are not available for shelters or centers. The CIVAD has made no significant attempt to relieve the situation, and Palestinian social institutions have so far failed to focus on the issue.

Palestinians are governed by a mixture of Jordanian and Egyptian law, British mandate law, and Israeli military regulations. There are no laws guaranteeing women's rights in the workplace. Palestinian women often work outside the home and are prominent in many professions, including medicine, law, and teaching. Personal status law for Palestinians is based on religious law. For Muslim Palestinians, personal status law is derived from Shari'a (Islamic) law. Women have certain rights regarding marriage and divorce, inheritance, property ownership, and children. Many women's rights activists believe, however, that many women are not aware of their rights and often fail to demand what is guaranteed to them by law.

Women's rights groups are active throughout the occupied territories, dealing traditionally with social issues (children, health, education) but have more recently begun to venture out into practical training, women's rights education, advocacy work, and political activism. The major concern of women's groups is that women who have contributed significantly to Palestinian political efforts will be relegated to traditional roles in the interim period.

Children.—There is no pattern of societal abuse of children. Palestinian children have, however, probably suffered disproportionately from the effects of military occupation and the intifada. Since the uprising began in 1987, schools, which are often overcrowded and underfunded, have been subject to frequent closings by both the Israeli authorities and by Palestinian activists enforcing strikes. Political tensions and lack of funding have closed most of the few sports and recreation facilities that existed for children. Encouraged by political rhetoric and the example of older siblings, children have been drawn into street violence and have frequently provoked it by throwing stones. During 1993, credible sources report that 37 children (aged 16 and under) were killed by Israeli security forces. While some had been involved in demonstrations or rock-throwing incidents, others had been merely in the vicinity of clashes when killed.

National/Racial/Ethnic Minorities.—Under the dual system of governance applied to Palestinians and Israelis, Palestinians are treated less favorably than Israeli settlers on a broad range of issues, including the right to due process, residency rights, freedom of movement, sale of crops and goods, land and water use, and access to health and social services. Since the occupied territories were sealed off in March, Muslim and Christian Palestinians have often been denied access to holy places associated with their faith, while the same restrictions have not applied to Jewish settlers (see Section 2.c.). Israeli settlers involved in security violations have been treated far more leniently than Palestinians guilty of similar offenses. Offenses against Israelis are investigated and prosecuted more vigorously than offenses against Palestinians. Some Israeli agriculture and manufacturing are protected against Palestinian competition from the territories, whereas all markets in the territories are open to Israelis. Significant disparities exist between personal income taxes levied on Palestinians versus Israeli settlers.

Despite tax reforms that took effect in January 1992, the minimum taxable income applied to Israelis and Palestinians differs markedly: while an Israeli pays no tax if his monthly income is below about $1,000, Palestinians are liable for taxes on any monthly income in excess of about $250. Corporate tax breaks available to Israeli business people in settlements are not applicable to Palestinians. Harsh tax enforcement practices, including raids at night backed by Israeli soldiers, are used against Palestinians who attempt to avoid paying taxes. Tax raids directed at businesses and individuals typically involve teams of tax inspectors, backed by soldiers, who confiscate movable property and cash. Tax raids frequently result in the temporary confiscation of identity cards as well. According to the Declaration of Prin-

ciples, direct tax authority over non-Israelis will pass to the Palestinian authority once the agreement is implemented. As of the end of the year, transfer of that authority and other powers had not yet been agreed.

People with Disabilities.—There is no mandated provision of accessibility for the disabled in the occupied territories. While some Palestinian institutions for the care and training of disabled persons exist, they generally suffer from chronic underfunding. This sector has received little attention from Israel.

Section 6. Worker Rights

The applicable sections for West Bank and Gaza Palestinians working in Israel are contained in the country report for Israel.

a. *The Right of Association.*—The labor law in the West Bank is Jordanian Law No. 21 of 1965, as amended by military orders. It permits workers to join unions without government authorization. It also permits formation of unions by any group of 20 or more workers from the same trade or workplace, with prior government authorization.

Nevertheless, Israeli authorities in the West Bank require all proposed new unions to apply for a permit. During 1993 two new unions were formed, but no new unions were licensed by the authorities. Israeli authorities have licensed 31 unions out of approximately 125 unions functioning in the West Bank.

The labor law in Gaza is Egyptian Military Order No. 331, which supplements the prior British Mandate labor law and which has been amended by Israeli military orders. It allows the organization of unions on a workplace or craft basis. Since 1979, unions have been permitted to operate under strictly enforced restrictions that permit only the 6 unions that existed in 1967 to function in Gaza, under an umbrella organization.

Palestinian residents of East Jerusalem are governed by the same law as workers in Israel and are free to establish their own labor unions. The Israeli authorities officially bar East Jerusalem unions from joining the West Bank trade union federations, though this restriction has not been enforced. Individual Palestinian workers in East Jerusalem may belong to both local unions, some of which are affiliated with a West Bank federation, and the Israeli Histadrut Labor Federation.

West Bank unions are not affiliated with the Israeli Histadrut Labor Federation. Palestinian workers who are not resident in Israel or East Jerusalem are prevented by government order from being full members of Histadrut. Nevertheless, all legal Palestinian workers in Israel are required to contribute an agency fee of 1 percent of their wages to Histadrut. Palestinian workers also are required to contribute to the National Insurance Scheme (NIS) which provides worker benefits, e.g., unemployment, old age, maternity, and disability from occupational accidents. Palestinian workers are not eligible for all NIS benefits. (Israeli authorities maintain that the Palestinians receive tax allowances and benefits through CIVAD investment programs which adequately compensate Palestinian workers.) The 1993 International Labor Organization (ILO) Director General's report noted that: "Contrary to what is maintained by the Israeli authorities, there is not a country in the world that excludes such a high number of workers living outside its territory from full social protection—which is paid for by workers and employers—solely on the grounds that their place of residence is outside the national territory."

The great majority of West Bank unions belong to either the General Federation of Trade Unions in the West Bank (GFTU) or the General Federation of Trade Unions in the West Bank - Workers' Unity Bloc (WUB). Membership in the West Bank unions was estimated at 100,000 in 1992, but deteriorating economic conditions and the closure of the occupied territories significantly reduced union membership in 1993. According to the 1993 ILO Director General's report, membership in the GFTU (the largest federation of unions) at most numbered 63,000, of whom only 19,000 were full dues-paying members. The four principal trade union blocs in the West Bank, including the WUB, told an ILO mission that they were moving toward a full reunification of the GFTU. The General Federation of Trade Unions of the Gaza Strip consists of the six registered unions. The GFTU participates in meetings of the International Confederation of Arab Trade Unions (ICATU), although it is not formally affiliated. Both the GFTU and the WUB have applied for membership in the International Confederation of Free Trade Unions (ICFTU). The GFTU and the Gaza Federation began a dialog in 1993 with the Histadrut as a result of the Declaration of Principles.

The West Bank unions are independent of the Government of Israel. However, union organizations do reflect the prevailing Palestinian political factions. Israeli authorities tend to view unions more as political organizations than as labor unions and occasionally inhibit union activities in the West Bank and Gaza. Union leaders have been subject to harassment ranging from arrests and administrative detention

to interrogation, denial of travel permits, and the refusal of telephone and fax facilities.

Citing the reports of the ILO, the ICFTU's annual report for 1993 observed that a general fear of intimidation and possible arrest by the Israeli authorities for participation in union activities inhibits the development of union membership in the territories. Like all organizations in the territories, Palestinian labor organizations are subject to disciplinary measures for engaging in political activities. All meetings of 10 or more non-Israeli citizens in the territories must have prior CIVAD approval. During 1993, however, unions were able to conduct meetings without reported interference. The Gaza Federation was able in 1992 to hold its first May Day since 1967. According to the ILO's report, however, CIVAD told the ILO mission that the IDF had prevented fundamentalists from establishing what they considered to be a trade union front in Ramallah.

Military Order 825 of 1980, officially applied in the West Bank and unofficially in Gaza, requires that Palestinian unions present lists of candidates for union office to the CIVAD for approval 30 days before elections. The order authorizes the CIVAD to remove from the lists any candidates who have been convicted of a felony, including those sentenced for security offenses. Despite this restriction, nearly half a dozen West Bank trade unions held elections in 1992. West Bank unions held no elections in 1993 due to internal organizational difficulties and uncertainty about how the newly approved peace accords would affect labor law and union structure.

There has been no dissolution of unions by administrative or legislative action. Under prevailing labor law, unions have the right to strike only after submitting a complaint to the CIVAD for mandatory arbitration. Only one abbreviated strike in the West Bank occurred in 1993, and the Israeli authorities did not interfere. There are no laws that specifically protect the rights of striking workers, and, in practice, such workers have little or no protection from employers' retribution.

b. *The Right to Organize and Bargain Collectively.*—A majority of workers in the occupied territories are self-employed or unpaid family helpers in agriculture or commerce. Only 40 percent of employment in the territories consists of wage jobs, most in services provided by CIVAD, the United Nations Relief and Works Agency (UNRWA), or municipalities. Collective bargaining is protected. The CIVAD does not record collective agreements because it does not recognize some unions and union leaders. However, most union-employer agreements are honored without interference from the authorities; approximately 60 are currently in force in the West Bank. According to the ILO Director General's report, several labor committees, consisting of 3 to 5 members each in businesses employing more than 20 workers, have been formed to mediate labor grievances. The Center for Trade Union Rights, headquartered in Bethlehem, is also active in conducting labor courses and working with many different trade unions on the spectrum of labor-related issues. Existing laws and regulations do not offer real protection against antiunion discrimination. The labor dispute ordinance of 1972 established a process for settling labor disputes in general but does not deal specifically with antiunion discrimination.

There are no export processing zones in the occupied territories.

c. *Prohibition of Forced or Compulsory Labor.*—There is no forced or compulsory labor in the occupied territories.

d. *Minimum Age for Employment of Children.*—A 1978 military order raised the minimum working age in the West Bank and Gaza to 14. This order is not effectively enforced, and underage labor is used in the agricultural sector and in some West Bank and Gaza factories. Hours of young workers are not limited compared to the regular work force.

e. *Acceptable Conditions of Work.*—There is no minimum wage provision in the West Bank or Gaza. In the West Bank, Jordanian law allows for a maximum workweek of 48 hours with a required 24-hour rest period, except for certain hotel, food service, and cinema employees, whose workweek is 54 hours. In Gaza, Israeli authorities amended this law to provide for a 45-hour workweek for day laborers and a 40-hour week for salaried employees. There is no effective enforcement of maximum workweek laws.

The Ministry of Labor's Office of Inspection services is charged with enforcing health and safety standards in the West Bank and Gaza and claims to have undertaken a small number of inspections. Health and safety conditions in some factories do not meet industry standards established by international labor organizations.

JORDAN

According to the 1952 Constitution, Jordan is a hereditary monarchy in which the King forms and dismisses governments, may dissolve Parliament, and is the ultimate arbiter of domestic and foreign policy. In practice, the King sets the broad parameters of foreign and domestic policy while the Prime Minister and the Council of Ministers exercise management of daily affairs. The Parliament—consisting of a 40-member Senate whose members are appointed by the King and an 80-member lower house whose members are elected—is subordinate to the executive branch.

The General Intelligence Directorate (GID) and the Public Security Directorate (PSD) have broad responsibility for internal security and wide powers to monitor segments of the population thought to pose a threat to the security of the regime. Although the Government revoked martial law directives in 1991, important elements of martial law, such as the broad scope of police powers, remain operative.

Jordan has a mixed economy, with government participation in key sectors, including industrial production, transportation, and communications. The country has few natural resources and one of the highest population growth rates in the world. Jordan's stance during the Gulf war caused Arab Gulf states to suspend flows of financial aid. Nevertheless, the economy continued to show surprising strength in 1993, growing by a projected 6 to 7 percent. Growth during this period is in part attributable to the investment of repatriated savings by returnees from the Gulf. Jordan continues to remain highly dependent on foreign assistance and remittances from its nationals abroad. The Jordanian economy was adversely affected by a reduction of exports to Iraq, a major trading partner, as a result of United Nations' sanctions against Iraq. The unemployment rate was at least 14 percent for the year, while the inflation rate moderated to approximately 5 percent.

Jordan continued to show progress in liberalizing the country's political system. As a result of the legalization of political parties in 1992, 20 political parties, running the gamut of leftist, centrist, and Islamist conservative parties, were licensed in 1992 and 1993. The King ratified a change from the previous bloc-voting system to a "one person, one vote" system in August. On November 8, 1992, the Government of Prime Minister Abd Al-Salam Al-Majali supervised the country's first multiparty parliamentary elections since 1956. While there were some minor irregularities on polling day, international and domestic observers agreed that the parliamentary elections were essentially free and fair. Nevertheless, citizens still do not have the right to change their government. Other continuing human rights problems included the broad scope of police powers, abuse of prisoners, prolonged detention without charge, lack of fair trial in some security cases, official discrimination against adherents of the Baha'i faith, and restrictions on women's rights.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of such killings.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Despite the Government's denial that torture occurs and the Legal Code's requiring humane treatment of prisoners, physical abuse of prisoners during interrogation and detention continues to occur. Lawyers often do not receive timely access to their clients in cases involving state security, and this lack of access makes confirmation of abuse in specific cases difficult. The most frequently alleged methods of torture or maltreatment are sleep deprivation, beatings, and subjection to the "falaqa" (beatings on the soles of the feet).

Defense lawyers in the trial of six military cadets and two civilians accused of plotting to assassinate the King charged the security services with torturing the suspects during 4 months' incommunicado detention from April to August (see Section 1.d.). Although the State Security Court approved the defense lawyers' September request for medical examinations to determine if physical or mental torture was used by GID interrogators, the judges did not release the results of the physician's October examinations until mid-November. As of December, the "Mu'tah" trial proceeded without an official court ruling on the allegations of torture. A forensic specialist and a military doctor testified in early November that they found no evidence of physical or mental maltreatment. (The GID claims that detainees are routinely provided medical examinations during detention.) The defense, however, challenged the testimony and alleged that, since the doctors were government employees, they were vulnerable to government pressure. The military judge rejected the defense request to provide its own doctor to examine the detainees. Amnesty International and

the Arab Organization for Human Rights investigated the allegations of torture but reserved judgment until the verdict was reached and the anticipated appeal process completed. The Government gives the International Committee of the Red Cross (ICRC) full access to detainees. ICRC representatives have had full and unimpeded access to the suspects detained in the Mu'tah case throughout the trial.

d. *Arbitrary Arrest, Detention, or Exile.*—Most persons are arrested and held in accordance with the Criminal Code, which requires filing of formal charges within 10 days. This period of detention may be extended if a court approves the Prosecutor General's renewable request for 10-day extensions. The Ministry of Justice is responsible for monitoring cases to ensure that persons are charged on a timely basis. In many cases, however, repeated requests by the prosecution for 10-day extensions of a suspect's detention—which can result in months of incarceration without charge—are routinely granted. Notification of arrest and access to legal counsel are provided on an inconsistent basis during the detention period. Notification and access are less likely to be provided in so-called state security cases.

The practice of prolonged detention without charge continued in 1993, especially in "security" cases. After obtaining an arrest warrant, the GID detained persons without formal charges or trial for indeterminate periods. The Government detained a number of Islamists in 1993 for alleged affiliation with or membership in an illegal political organization, the Islamic Liberation Party (Hizb Al-Tahrir Al-Islami), which advocates the violent overthrow of the Jordanian Government, the abrogation of the Constitution, and the adoption of Islamic law as the foundation of the State. Several—including party leaders Ata Abu Rishtch and Bakr Al-Khawlidah—were released after almost 6 months in incommunicado detention. There are unconfirmed reports that up to 10 Hizb Al-Tahrir party members remained in detention without charges at the end of the year. Eight Islamists involved in the Mu'tah case (see Section 1.c.), charged with plotting to assassinate the King and with membership in the outlawed Islamic Liberation Party, were held incommunicado from the time of their arrest in late April until defense lawyers were granted access by the State Security Court in late August. Throughout that time, the suspects were denied visitation by family members, human rights representatives, and legal counsel.

Governors may order arrest and detention under a law authorizing them to do so in order to prevent a crime. As an example of this practice, human rights monitors cited the case of a Jordanian man arrested in September and detained for1 week without charges upon the instruction of the Governor of Amman, allegedly to prevent his participation in antipeace process demonstrations.

The Constitution prohibits the exiling of Jordanian citizens, and the Government does not engage in the practice.

e. *Denial of Fair Public Trial.*—The judicial system consists of civilian courts, which hear most criminal cases; the Appeals Court; the State Security Court, which replaced the Martial Law Court in 1991; religious courts; and special courts, including one that deals exclusively with disputes involving government agencies.

In the civilian courts, trials are open, except in a few cases such as those involving sexual offenses. Defendants are presumed innocent until proven guilty and are entitled to have counsel, to question witnesses, and to testify. Defendants facing the death penalty or life imprisonment must have legal counsel; if they cannot afford or do not want counsel, the Government must appoint representation. Decisions may be taken to the Appeals Court.

Religious courts have jurisdiction over such family matters as marriage and divorce. The Shari'a Court handles all family and religious cases involving Muslims. Other courts handle similar matters for members of the main Christian sects (Greek Orthodox, Catholic, and Protestant). Shari'a laws are generally applied in matters of inheritance, regardless of the religion of those involved.

Observers continue to express concern about the impartiality of the judiciary, citing low judicial salaries and strong tribal affiliations as undermining the court system. Observers have also raised concerns about the impartiality of military judges who preside over security cases in the State Security Court prosecuted by military lawyers.

The State Security Court comprises a minimum of three judges. While either civilian or military judges may serve, the use of military judges in security cases has prevailed in recent years. State Security Court procedures give rise to concern because of the routine denial of private, unimpeded access to lawyers in the pretrial period and the absence of the right of appeal. A State Security Court sentence of death or imprisonment of more than 10 years must be reviewed by the Court of Cassation (the highest court) within 30 days. Although the State Security Court is theoretically open to the public, in practice, courtroom access is restricted to official guests, journalists, and a limited number of family members. Embassy officers have been allowed to attend sessions.

Under the State Security Court Law ratified in January, all Security Court decisions may be appealed to the Court of Cassation. Unlike the previous law, which allowed the Supreme Court to review only the application of the law, the new code permits the court to review witnesses' testimony, the evidence presented, and the State Security Court's decision. Most important, the appeal of State Security Court cases must be reviewed by a civilian—rather than a military—panel of judges. As of the end of the year, the appeal procedures had remained untested in sensitive state security cases such as the "Mu'tah" case. Claiming that no one is currently serving a prison term solely for political views, the Government denies that it holds any political prisoners. Following King Hussein's general amnesty in November 1992, approximately 50 prisoners remain in prison who were convicted in military courts of crimes committed in pursuit of political aims; the charges in these cases included arms possession and terrorism, but in at least some of these cases the legal proceedings did not meet international standards for fair trial because of the State Security Court's denial of unimpeded access to lawyers in the pretrial period and an inadequate right of appeal.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law stipulates that search warrants must be issued by the prosecutor general or a judge for searches of premises in most cases. In cases involving state security, however, the normal legal requirements for a search warrant are not routinely applied. Search warrants for security-related cases are sometimes obtained retroactively. Security personnel reportedly monitor telephones, read correspondence, and engage in surveillance. These practices, legal under Jordanian law, are not believed to be widespread.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—In principle, the Constitution provides for freedom of speech and the press, and Jordanians freely express wide-ranging opinions, including criticism of the Government. However, the Government continues to exercise limited censorship of the local media by pressuring news editors to change or omit coverage that the Government finds embarrassing or contrary to what it perceives to be Jordan's interests. More often, the print and broadcast media censor themselves without specific prompting from the Government because of fear of the authorities. The Parliament is also sensitive to public criticism and as an institution has been quick to sue critics for slander.

A reporter for a weekly political party newspaper covering the "Mu'tah" conspiracy trial was banned from the courtroom and arrested September 26 on the order of the military prosecutor; his editor was called in for questioning on September 29. Both were charged with slandering the State Security Court in articles written about court delays in ordering medical examinations for defendants. The Ministry of Information refused to intercede with the court on behalf of the journalist and editor, stating that the issue was judicial in nature.

The new Press and Publications Law that went into effect on May 17 calls for the Government to reduce its ownership share of the capital of the press company or organization to 30 percent within 2 years. The Government still owns the main newspapers and administers the broadcast media. Foreign newspapers and magazines are widely available, though on two known occasions the Government forbade distribution of foreign newspapers containing controversial articles about the King. In August the Government blocked distribution of two London-based Arabic dailies which carried off-the-record comments made by the King during a meeting with journalists. The Jordanian authorities forbade sale of an issue of the International Herald Tribune in September that carried a Washington Post editorial questioning the future of Jordan as a state. Western cable television is available through satellite links.

The new Press and Publications Law, which replaces the 1973 Press and Publications Law, was widely criticized by Jordanian journalists and by international press rights groups because it continues restrictions on freedom of expression. Controversial provisions include: licensing of journalists, editors, and directors of publications and printing facilities; licensing of newspapers and periodicals; limited protection of confidentiality of journalists' sources; and restrictions on press coverage and prior restraint. Its requirement that journalists join the Jordan Press Association is a continuing source of contention. In August the Information Minister proposed a "press code of honor" to be enacted as a provision of the Press and Publications Law and as a Jordan press association law. The proposed honor code contains 11 points, including exhortations not to publish off-the-record information or state secrets, particularly those pertaining to the armed forces that might benefit the "enemy of the Hashemite Kingdom of Jordan or any sister Arab states." Many journalists have characterized the code as redundant and view it as a further attempt to control

their activities. The Press and Publications Law authorizes licensed political parties to publish newspapers, and these new publications have tested the limits of the new law's vaguely worded restrictions on coverage of proscribed topics such as national security, parliamentary proceedings, and stories about the royal family.

The Prime Minister issued a directive in September barring civil servants from writing for the press. Such activity was already proscribed by the Civil Servants' Law, but that law was not previously enforced.

Academic freedom is inhibited by the fact that academics have been dismissed for expressing certain political views. There were no known dismissals in 1993.

b. *Freedom of Peaceful Assembly and Association.*—Public demonstrations—including election campaign rallies—require permits. While such permits have been readily granted for peaceful protests since the beginning of the political liberalization in 1989, the Ministry of Interior banned election campaign rallies in late September. Jordan's Supreme Court overturned this ban on October 28 and election rallies were permitted in the last week before the November 8 parliamentary elections.

Political parties were legalized in October 1992, and the first political party was licensed by the Ministry of Interior on December 2, 1992. Since that time, a total of 20 political parties have registered.

c. *Freedom of Religion.*—Under the Constitution, Islam is the state religion, and over 90 percent of Jordanians are Sunni Muslims. The Government adheres to the constitutional guarantee of freedom of worship, and followers of most religions experience no governmental persecution. Religious groups must be registered and recognized by the Government in order to manage property and administer schools.

Non-Muslim sects are not allowed to proselytize among Muslims, but Muslims are allowed to convert to other religions. Individuals who wish to convert from Islam complain of social and legal barriers to equal treatment once they have converted. Such persons are regarded as apostates under Shari'a (Islamic) law and may be legally denied property and other rights. Converts from Islam do not fall under the jurisdiction of their new religion's laws in personal status matters and are still considered Muslims under Shari'a law. The Government does not recognize the Baha'i faith as a religion, but it did take steps in 1993 to alleviate some of the problems of discrimination faced by Jordan's small Baha'i community (see Section 5).

Several other religious groups are not officially recognized by the Government but are able to meet without harassment: Jehovah's Witnesses, the United Pentecostal Church, the Church of Christ, and the Church of Jesus Christ of Latter-day Saints.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Movement within the country is restricted in military areas. While all women are required by law to obtain the written permission of a male guardian to travel abroad, this requirement is generally enforced only with married women who wish to travel abroad with their children. Jordanian men can prevent their children from departing the country, even when traveling with their mothers or other family members.

Passport renewals for citizens residing in Jordan require clearance from the police. Palestinians residing in the East Bank may obtain 5-year passports, while Palestinians residing in the West Bank may obtain 2-year passports. Jordan also grants some Palestinians of Gazan origin 2-year passports regardless of where they live. The Interior Ministry routinely grants permits for travel between the East Bank and the Israeli-occupied territories and neighboring states. There were reports in 1993 that several Palestinians, carrying restricted validity Jordanian passports, were barred from returning to their residences in Jordan from the West Bank on suspicion of belonging to radical Islamist groups outside the country.

The Government claims that 300,000 Palestinian refugees returned from the Gulf states—the majority from Kuwait—as a result of the Gulf crisis (actual numbers may have been substantially lower). The number of Palestinian refugees registered with the United Nations Relief and Works Agency (UNRWA) is 1,093,800 persons, 223,000 of whom reside in Jordan's 10 official and 3 unofficial refugee camps.

Jordan indicated that 120,000 Iraqi refugees moved into Jordan in the months after Iraqi travel restrictions were lifted in May 1991. International relief agencies responsible for refugee affairs in Jordan estimate the current number of Iraqis residing in Jordan to be no more than 30,000. Since the imposition of a 15,000 Iraqi dinar (about $94 in December 1993) exit tax in February, the number of Iraqis able to afford the trip to Jordan has been severely curtailed.

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

Jordanian citizens may elect municipal officials and members of the Chamber of Deputies but are not ultimately free to change their system of government or its

leaders. Executive and legislative powers are constitutionally vested in the King, who rules with the assistance of a Council of Ministers, which he appoints.

The Parliament is composed of an appointed Senate and an elected lower house. The Parliament is overshadowed by the executive branch but has the right to approve, reject, or amend laws proposed by the Council of Ministers. According to the Constitution, the Parliament has the right to approve or reject treaties and agreements with a majority vote. The King may propose extraordinary sessions of Parliament and postpone regular sessions up to 60 days. The King must approve all laws, which are then put into effect by royal decree. The Parliament must approve temporary laws issued by the Council of Ministers when Parliament is dissolved or not in session, otherwise the temporary law does not become a permanent part of Jordan's legal system. In August after the King had dissolved Parliament, he approved a temporary law issued by the Council of Ministers modifying the 1986 elections law by converting the previous bloc-voting system to a "one person, one vote" system. Despite the initial objection of 18 of the country's licensed political parties on the grounds that such drastic change to laws governing the election should be reviewed and adopted by Parliament, most parties and political figures eventually decided to participate in the parliamentary elections held in November rather than boycott them as they had threatened.

On November 8, the Government of Prime Minister Abd Al-Salam Al-Majali supervised the country's first multiparty parliamentary elections since 1956. While the Government's system for distributing ballot cards to registered voters was blamed for the difficulties in voting some citizens experienced, international and domestic observers agreed that the parliamentary elections were essentially free and fair. The lower house of Parliament created a number of committees to examine individual candidates' complaints about election procedures, but had issued no rulings on the formal complaints as of the end of the year.

Despite the political and social uncertainties that arose in Jordan in the aftermath of the September 13 signing of the Israeli-Palestinian Declaration of Principles, King Hussein insisted that all Jordanian citizens—both Palestinian and East Banker—were entitled to vote in the November 8 elections. Some Jordanians of Palestinian origin had doubts about voting in Jordanian elections, fearing that participation in the Jordanian political system would preclude their participation in a future Palestinian election. The Jordanian Government and the King actively encouraged Palestinian-Jordanian citizens to participate fully in the elections. Palestinian-Jordanians were permitted to run as candidates in the parliamentary elections as well as vote on November 8.

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

Local and international human rights groups investigate allegations of human rights abuses and particularly in the area of women's rights have published and disseminated findings critical of government policy. Human rights groups, however, must abide by laws and regulations governing the publication of information about activities of Jordan's military and security services, which constrains them from publishing detailed allegations of torture or other abuse in Jordan. The Arab Organization for Human Rights and the Amman-based Peace Center for Humanitarian Studies have actively pursued controversial human rights cases both publicly and privately. The Jordanian Bar Association also raises human rights concerns with regard to law and procedure, as well as with regard to individual cases. The ICRC operates freely in Jordan and is given access to detainees and prison facilities. Several women's organizations have dramatically increased their activism on issues of gender discrimination: in parliamentary debate on December 7, for example, Deputy Toujan Faisal criticized the discriminatory policy that does not permit Jordanian women to transmit their nationality to their children.

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

Women.—Women experience legal discrimination regarding pension and social security benefits, inheritance, and divorce.

Under Shari'a law, which applies to all Jordanian citizens in inheritance matters, a female heir's inheritance is only half that of a male heir. In practice, non-Muslim women occasionally have been able to obtain rulings based upon their own religious laws. The divorce law allows men to obtain a divorce more easily than women, but men may have to pay considerable compensation based on the original marriage contract. A woman whose husband takes additional wives may seek and obtain a divorce under Shari'a law. The law grants women equal pay for equal work, but in practice the law is sometimes ignored, and women are paid less. Under Shar'ia law,

a woman's testimony in court carries only half the value of that of a man. Tradition also constrains women's freedoms, particularly their entry into professional and academic realms.

Nevertheless, some women have successfully entered the fields of engineering, medicine, and law, and women's issues are receiving increasing attention in the media and at symposia. Women's groups stress that the problem is not only one of laws but also of social constraints, including women's lack of awareness of their rights or unwillingness to assert these rights. The Jordanian chapter of the Business and Professional Women's Club gives seminars on women's rights and assists women in establishing small businesses. Club members traveled to communities throughout Jordan during the election campaign and succeeded in increasing female voter registration and raising women's consciousness about the election process and their rights. Despite progress in these areas, overall change in women's status has been minimal.

The Koran allows a husband to discipline his wife, which some men apparently interpret as a license to discipline with force. Sources in the medical field say that, while they know wife beating occurs, family and cultural norms constrain victims from seeking medical or legal help and prevent any realistic quantification of the extent of abuse. Many Jordanians consider it culturally unacceptable to highlight what is considered a private, family matter. The issue also is considered a private one by the police and the judiciary, and public discourse rarely focuses on incidents of spouse or child abuse. Legal avenues to pursue redress in cases of spouse abuse do exist. If a woman is abused by her husband, she can visit a medical doctor, obtain a report documenting her injuries, submit the report to the police, and file a complaint in court based on this evidence. The court will then charge and try the husband. Assistance to victims of domestic violence is provided by nongovernmental organizations (nearly all of which operate with a government license). Wife beating is technically grounds for divorce, but the husband may demonstrate in court that the beating occurred because the wife was irreligious or did not obey him. It is within the discretion of the judge to deny a divorce in such cases.

Children.—Jordan is a signatory to the U.N. Convention on the Rights of the Child, and discrimination against children in Jordan is rare. In September the Jordanian chapter of Amnesty International sponsored a Jordanian children's forum, patronized by the Queen, which examined children's rights. Arab human rights organizations met in Amman in December to discuss implementation of the Convention on the Rights of the Child. Jordanian labor law prohibits children under the age of 16 from working. It is only in the past few years that employment of underage children, child street peddlers, and child beggars have appeared. The Ministry of Social Development has set up a committee to address the problem and in most cases removes the children from the streets, returns them to their families, and provides them a monthly stipend. A November report of a 12-year-old girl's engagement to her 11-year old cousin, who reportedly dropped out of school to work in a cottage shoe factory, caused public outrage. The Jordanian Women's Union called on government officials to take strict measures, and the Secretary General of the Ministry of Social Development concurred that the engagement was an abuse and unacceptable. Children under the age of 18 are excluded from capital punishment. Children convicted of crimes are held in special reform centers where they receive vocational training and are not detained with adults. Corporal punishment at schools is prohibited.

There have been problems regarding custody of children born to foreign female domestic servants. For example, if such a child has been fathered by a Jordanian man, that child is subject to Shari'a law. Currently, the Jordanian government is considering a law that would make it difficult for single foreign mothers to obtain a residence permit for children with a foreign father not present in Jordan.

Indigenous People.—According to government figures, Bedouin tribes constitute approximately 36 percent of the population. These tribes participate freely in the political system.

National/Racial/Ethnic Minorities.—There are large numbers of 1967 Palestinian refugees, primarily from Gaza, who do not have full Jordanian citizenship and carry only limited validity Jordanian passports.

Jordan has granted full citizenship to all Palestinians who fled to the East Bank following the 1948 Arab-Israeli war and to a large number of refugees that came to Jordan after the 1967 conflict. All Palestinian refugees residing in Jordan prior to August 1988 have the unrestricted right to live, work, and own property in Jordan. Many Palestinians, however, experience disproportionate scrutiny in taxation and discrimination in the awarding of university scholarships and government and military jobs, especially at senior levels. King Hussein and the Government of Prime Minister Abd Al-Salam Al-Majali determined that Jordanian citizens of Palestinian

origin were entitled to the same rights of political participation—voting and running for parliamentary and local office—as their East Bank counterparts. Although Palestinian voter turnout was lower than that of East Bank Jordanians, Palestinians did vote in the November 8 elections. Furthermore, several high-level parliamentary and ministerial positions are occupied by Jordanians of Palestinian origin.

Religious Minorities.—The Government does not recognize the Baha'i faith as a religion, and Baha'is have suffered various forms of official discrimination. Baha'i identity cards are blank where religion is indicated. In September the Ministry of Education issued regulations that made the previously mandatory study of Islam by Baha'i students optional. In December the Ministry of Interior agreed to accept Baha'i marriage certificates as proof of marriage for the issuance of passports and other official identity documents. However, the Baha'i community still does not have its own court to handle personal status and family matters. Instead, these matters are handled by Islamic Shari'a courts. Baha'i community property cannot be registered in the name of the community but must be registered in the names of individual members.

People with Disabilities.—The Government passed legislation in March regarding education and employment opportunities as well as standardized building and access codes for the disabled. The legislation, known as Law Number 12 for 1993, includes a comprehensive code for all future public buildings to accommodate the needs of the visually, hearing, and physically disabled through standardized technical building and infrastructure requirements. The code stipulates that existing public structures undergo retrofitting to conform to the code, although no specific deadlines for these adjustments were legislated. The law for the welfare of the disabled includes a "bill of rights" for the disabled and mandates the creation of a National Council for the Affairs of the Disabled. People with disabilities in Jordan face the problems of the disabled in many developing nations: severe financial constraints on government and private programs for the disabled, traditional attitudes of discrimination against people with physical and mental handicaps, and unemployment rates among the general population that restrict employment opportunities for the disabled. Currently there is no budget for programs for the disabled: all funding for government and private projects comes from private and nongovernmental organization donations as well as donations from the royal family. Several private nonprofit organizations concerned with education and rehabilitation of the disabled have been active in Jordan for many years.

Section 6. Worker Rights

a. *The Right of Association.*—All nongovernmental workers, except foreigners, have the legal right to form and join trade unions. Workers in some government-owned companies, such as the airlines, are also allowed to form unions. Jordanian labor unions are apolitical. Union leaders are elected by secret ballot for 1-year terms. The Jordan Federation of Trade Unions (JFTU) comprises 17 unions; unions are not required to belong to the Federation, but at present all unions are members. Union officials estimate that less than 25 percent of workers are unionized, thus excluding the majority of the work force from union representation. All unions must register with the Government.

Government influence over the JFTU decreased following political liberalization in 1989, but the JFTU is not independent since it depends entirely on government financing. In August the JFTU announced it would convene a general congress for the first time in 14 years. In April the JFTU established an official relationship with the Asian-American Free Labor Institute. These two moves, spearheaded by the current Secretary General of the JFTU, are designed to invigorate Jordan's labor unions.

Labor laws forbid strikes if an arbitration committee has been appointed by the Government to end the dispute. If arbitration fails, the matter may be referred to an industrial tribunal, provided both parties to a dispute agree to have the tribunal hear their case. The tribunal is a formal, independent body made up of judges appointed by the Ministry of Labor. The tribunal's decisions are binding. Strikes are not permitted during arbitration or during the tribunal's deliberations. The current labor law stipulates that it is prohibited to dismiss workers during labor disputes. There were no official strikes in 1993.

b. *The Right to Organize and Bargain Collectively.*—Unions in Jordan have the right to organize and bargain collectively. JFTU member unions regularly engage in collective bargaining with employers. Negotiations cover a wide range of issues, including salaries, safety standards, and working conditions.

Though the Constitution bars antiunion discrimination, the International Confederation of Free Trade Unions notes that the Government does not adequately protect employees against antiunion discrimination by employers and does not protect

public employees adequately against dismissal for political reasons. Allegations of such discrimination may be taken to the Ministry of Labor, which on occasion has ordered the reinstatement of employees discharged because of their union activities.

Duty-free trade zones, in Aqaba and Zarqa, are governed by the same labor provisions that apply countrywide. Private sector workers employed in these zones are part of a national union and are thus allowed to organize and bargain collectively.

c. *Prohibition of Forced or Compulsory Labor.*—Compulsory labor is forbidden by the Constitution, except in a state of emergency such as war or natural disaster, and it is not practiced.

d. *Minimum Age for Employment of Children.*—The labor laws forbid children under age 16 from working except in the case of professional apprentices, who are allowed to leave the standard education track and begin part-time (6 hours per day, no night shift) training at age 13. Ministry of Labor inspection teams attempt to enforce these laws. In practice, some underage children work, primarily in family businesses. Despite compulsory education (education is compulsory up to the 10th grade or age 15), a small number of children in more remote areas are kept from school by their parents in order to work.

e. *Acceptable Conditions of Work.*—There is no national minimum wage, but the Government periodically prepares and adjusts a minimum wage schedule for various trades, based on recommendations of an advisory panel composed of representatives of workers, employers, and the Government. The absolute minimum wage rate is estimated at $140 per month, inclusive of all allowances. Unskilled workers earning the lowest scheduled wage face increasing difficulties earning enough to provide a family a decent living by local standards.

Laws mandate maximum work hours and paid leave: workers are not supposed to work more than 48 hours per week (54 hours for hotel, restaurant, and cinema employees), and may not work more than 16 hours in any continuous period or more than 60 hours overtime per month. Employees are entitled to 1 day off each week. Domestic servants in Jordan are not protected by Jordanian labor laws. Therefore, there is no legal forum to address their labor grievances. Large numbers of Sri Lankan and Filipino workers do not have the benefit of embassies in Jordan to lobby for their interests.

The Labor Ministry maintains a group of full-time inspectors to oversee occupational health and safety standards. A parliamentary committee works with the Ministry to monitor conditions in the workplace. Jordanian law specifies a number of health and safety requirements for workers, including standards for bathrooms, drinking water, and safety and first aid equipment. The Government appears to administer and enforce its labor laws fairly, but the deployment of too few inspectors hinders its effectiveness. In addition, under the present Labor Code, inspectors lack the power to make, or have issued, orders having immediate force and no obligation is imposed with respect to notifying the Labor Inspectorate of Industrial Accidents and Occupational Diseases. Parliament declined to consider a draft labor law during its last session that would revise and update legislation dating from 1960.

KUWAIT

Kuwait's rulers (Amirs), drawn from the Al-Sabah family, have governed the country in consultation with prominent commercial families and other community leaders for over 200 years. The 1962 Constitution provides for an elected National Assembly and details the powers of the Government and the rights of citizens. Although the Constitution permits the Amir to suspend its articles only during a period of martial law, the Amir has twice (from 1976 to 1981 and from 1986 to 1992) suspended constitutional provisions by decree and ruled extraconstitutionally. The October 1992 Assembly elections and the subsequent convening of the Assembly marked a return to parliamentary life. During 1993 the Assembly assumed an active role, enacting legislation, including the national budget. (See Section 3 for further details on the role of the Assembly)

The Ministry of Interior supervises Kuwait's security apparatus, including the Criminal Investigation Department (CID) and Kuwait State Security (KSS), two agencies that investigate internal security-related offenses. Kuwait's security forces continued to commit human rights abuses, particularly in their treatment of those peoples whose leaders were associated with support for Iraq's invasion of Kuwait (Iraqis, Jordanians, Palestinians, Yemenis, and Sudanese).

Endowed with rich oil resources, Kuwait's market economy made substantial progress in recovering from the destruction caused by the Iraqi occupation. By 1993 Kuwait had an estimated per capita income of approximately $17,234. Reconstruc-

tion was largely complete; however, heavy costs accompanied the recovery. Over the past 3 fiscal years, Kuwait incurred a cumulative fiscal deficit of approximately $63 billion, a deficit that it covered by drawing down its foreign assets by half and increasing its public debt. Despite the emphasis the Government places on an open market economy, foreign nationals may not own property or majority shares in significant local businesses and are subject to restrictive labor laws. In addition, the Government has ownership interests in most of the major banks and in many businesses, chiefly in the oil industry.

Although Kuwait showed some progress in human rights in 1993, its overall human rights record was mixed. The Government relaxed its residency restrictions on Gazans, made it easier for foreign workers to sponsor their family members, agreed to begin investigating the cases of long-term detainees, and closed illegal recruitment agencies for domestic servants. The Human Rights Committee of the National Assembly and the press publicized important human rights issues, raising awareness of such issues at both the official and popular level.

Nevertheless, serious human rights problems remained. There were continuing reports of torture and of arbitrary arrest, as well as limitations on the freedoms of assembly and association and women's rights. Political parties remain banned, and citizens do not enjoy the right to change the head of state and government. The Government banned all unlicensed nongovernmental organizations in August, thereby eliminating some organizations that had been engaged in human rights work. The Government continued to refuse to readmit stateless, Iraqi, and Palestinian individuals who had strong family ties to Kuwait, and Kuwaiti labor laws continued to exclude domestic servants from their protective provisions.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—In August the body of a young Iraqi was discovered on the Kuwaiti side of the Kuwaiti-Iraqi border. The Iraqi reportedly died from intracranial bleeding and pressure resulting from a large depressed fracture of the skull, and the body showed clear signs of severe abuse and torture. Preliminary investigations indicated that the youth, along with three companions, had been apprehended by Kuwaiti police while attempting to infiltrate across the border. All four were tortured and subjected to severe abuse before being released near the border a few days later. During the preliminary investigations, Kuwaiti police denied any involvement in the incident and suggested that the perpetrators were Iraqis.

In January a Kuwaiti criminal court convicted three police officers in connection with the death of a Sri Lankan in 1992 and sentenced them each to 5 years in jail with hard labor. The Court of Higher Appeal subsequently reduced the sentences to 2-year suspended sentences following the payment of "blood money" to the deceased's father.

The Government reiterated that it was continuing to investigate the extrajudicial killings that occurred during the chaotic period after Kuwait's liberation in 1991. Most of the killings and disappearances, however, remain unresolved. Only one alleged perpetrator is known to have been arrested, prosecuted, and convicted. The defendant, a former police investigator, was sentenced to life imprisonment for the murder of two members and attempted murder of another member of a Lebanese family resident in Kuwait.

b. *Disappearance.*—There were no reported cases of permanent disappearances, but there were credible reports of foreigners (particularly those peoples whose leaders were associated with support for Iraq's invasion of Kuwait) being taken from their homes by unidentified Kuwaitis, held for a few hours, and then released as a tactic of harassment.

Numerous disappearances followed Kuwait's liberation in 1991 as elements of the military and vigilante groups sought retribution against persons, particularly foreigners, whom they suspected of being pro-Iraqi.

While there is no reliable estimate of the total number of disappearances, over 100 cases remained unresolved in 1993. In additional cases where persons are known to be dead, law enforcement officials have failed to identify or indict suspects.

According to the latest and most accurate figures provided to Iraq by the International Committee of the Red Cross (ICRC), 609 Kuwaitis and residents of Kuwait, including 9 women, were taken prisoner by Iraqi authorities during the occupation and are still missing or detained in Iraq. The Government of Iraq has refused to comply with U.N. Security Council Resolution 687, which provides for the detainees'

release. Iraq denies that it holds Kuwaiti detainees and refuses to account for missing Kuwaitis taken into Iraqi custody during the occupation.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Article 31 of the Constitution specifically prohibits the use of torture, but cases of serious abuse or torture continued to be reported, although far fewer such cases were reported in 1993 than in 1992.

There were credible reports of abuse in Kuwaiti detention facilities, especially at the KSS facility. Reported abuses included blindfolding detainees, verbal abuse, and some physical abuse, particularly beating detainees on the soles of their feet and burning detainees with cigarettes. In some cases detainees were slapped, kicked, or shoved against walls. In one instance, Kuwaiti police and KSS personnel beat and used electrical shocks to torture a Kuwaiti man. The Human Rights Committee of the National Assembly obtained his release, forced the officers involved to resign, and secured financial compensation for the man.

The ICRC has access to all places of detention in Kuwait. The Government claims to have responded to specific allegations of abuse by investigating them and punishing at least some of the offenders. However, because it has not been willing to provide details concerning the types of abuse and the punishment meted out, it is not possible to determine the likely deterrent effect, if any, of such action.

There were also credible reports of abuse of Iraqi infiltrators arrested while attempting to cross the Kuwaiti-Iraqi border (see Section 1.a.). Specifically, there were credible reports of Kuwaiti security personnel beating infiltrators and suspending them from the ceiling for extended periods of time. To date, the Government has not conducted an effective investigation into these reports.

Evidence of mistreatment during interrogation may be submitted to Kuwaiti courts, and confessions or other evidence obtained through torture are excludable. However, a number of sentences handed down by the 1991 martial law courts were based on confessions apparently obtained under torture. In State Security Court trials, including the trial of the 14 men accused of attempting to assassinate former President Bush during his April 1993 visit to Kuwait, defense lawyers occasionally sought exclusion of confessions on the basis of torture. In the latter case, following a court-ordered medical investigation, the judge ruled against excluding the confessions.

While prison conditions do not threaten life, they do frequently threaten health. In addition to experiencing the physical mistreatment described above, prisoners also often must live in severely overcrowded rooms averaging as little as 1 square meter per person.

Prison officials rarely release prisoners with severe medical problems, and sanitary conditions are such that a communicable disease would spread easily throughout the entire prison. Maintenance of toilets and showers is poor, frequently resulting in one shower or toilet being shared by up to 100 people. Maintenance of air conditioning is also inadequate—detainees at the main deportation center went without air conditioning and cold water for the entire summer, often experiencing temperatures above 125 degrees Fahrenheit. Prisoners may, however, exercise outside and receive visits by their family members. The ICRC monitors prison conditions.

In June seven Iraqi detainees at the main deportation center went on a brief hunger strike to protest detention conditions. They sewed their lips together but continued to drink and take nourishment. The Human Rights Committee of the National Assembly investigated conditions at the deportation center and presented a list of recommended improvements to the Minister of Interior. Several of the recommended changes were made, including provision of better medical care at the deportation center.

d. *Arbitrary Arrest, Detention, or Exile.*—Article 31 of the Constitution prohibits arbitrary arrest and detention, but this prohibition is not always honored in practice. Although to a lesser degree than in 1992, there were continuing credible reports of arbitrary arrests in 1993, especially of persons picked up at police checkpoints around Kuwait City. Foreign nationals from Yemen, Sudan, Jordan, and Iraq as well as Palestinians were especially subject to harassment and arrest at these checkpoints, as were other people without valid Kuwaiti residency visas.

Arrest warrants are required, but in misdemeanors the arresting officer may issue them. Prosecutorial arrest warrants are used in felony cases. Prosecutors are independent of the Ministry of Interior. A review of the legality of detention is not required, but will be granted upon request. A functioning system of bail exists.

The Kuwaiti Penal Code employs two different standards: one for criminal cases and one for cases involving state security. In all cases, a detainee may not be held for more than 4 days without charge, but in practice that requirement has occasionally been ignored in cases involving the KSS. In cases not involving the KSS, the

suspect must either be released or charged by a prosecutor, who may authorize detention for an additional 21 days. A judge may authorize further detention pending trial.

Detention rules are different for cases involving state security. In July 1991, the Government amended the State Security Law to limit to 6 months the period of detention that a prosecutor may authorize. A judge may authorize longer detentions pending trial. A defendant may appeal the detention order to the State Security Court after 21 days in detention. If the appeal is rejected, the defendant may appeal again 30 days after the rejection. The Government, especially the KSS, occasionally prevents families from visiting detainees during the first 4 days while they are being interrogated. After that, families are allowed to visit the detainees. There does not appear to be any long-term incommunicado detention. On average, detainees wait between 20 and 30 days for their trials to begin.

Approximately 650 persons remained in detention as of October, including those who had been convicted in either the State Security or the martial law courts, a decrease of 30 percent since 1992. Approximately 75 percent of these persons were detained under administrative deportation orders, which may be issued arbitrarily and which provide no judicial recourse. Around 10 percent of these persons, especially Iraqis or bidoon (stateless residents of Kuwait), had been in detention for more than 1 year. Cases against many of the people under administrative deportation orders are apparently not strong enough to take to trial, but the Government is unwilling to free them. The Government will not deport them to Iraq against their will; the prisoners have nowhere else to go. Until March of 1993, approximately 30 releases per month took place; after March the number dropped to approximately 5 releases per month.

Under Kuwaiti law, no Kuwaiti may be exiled. Before the invasion, however, there were a few credible reports of the Government evading this law by revoking citizenship and then deporting the "non-Kuwaiti" individual. There have been no reports of revocations of citizenship in the postinvasion period.

Noncitizens, even long-term residents, may be expelled without charge or judicial recourse if deemed "troublemakers" or "security risks." In addition, foreign nationals may be expelled if they are unable to obtain work or residency permits. During 1993 the Kuwaitis deported approximately 300 detainees and approximately 250 family members of Palestinians, Yemenis, Sudanese, Jordanians, and Iraqis, a marked decrease from the 1992 figures of approximately 1,250 detainees and 2,000 family members deported. The ICRC monitors deportations only of the above-mentioned protected persons, but the Government also deports Iranians and other foreign nationals, including Americans and other Westerners who have violated residency requirements or committed other offenses.

Government policies pressured Palestinians and nationals from Iraq, Yemen, Sudan, and Jordan to leave Kuwait and made it difficult for foreigners in general to sponsor their family members' entry into the country. The Government's actions reflected a deliberate policy aimed at changing the demographic balance to reduce Kuwait's overall reliance on foreign workers, particularly on nationals from countries considered hostile to Kuwait.

e. *Denial of Fair Public Trial.*—Kuwait's judicial system comprises the regular courts, the State Security Court, the Court of Cassation, and the military courts, which have jurisdiction only over offenses committed by members of the armed or security forces, except during periods of martial law. Both Sunni and Shi'a courts exist for family law cases.

The Constitution guarantees the independence of the judiciary and states that "judges shall not be subject to any authority." While Kuwait's judicial system is nominally independent, the executive branch controls its administrative and financial matters. In most recent cases, the courts have provided for fair public trials and the right of appeal. The Amir appoints judges in the regular courts on the recommendation of the Justice Ministry. Kuwaiti nationals who serve as judges usually receive lifetime appointments, while many non-Kuwaiti judges serve renewable 1- to 3-year contracts. The Justice Ministry may remove judges for cause, but rarely does so. There have been credible allegations by non-Kuwaitis of instances of pro-Kuwaiti bias in commercial disputes before the courts involving a Kuwaiti and a non-Kuwaiti.

Trials are public unless the judge holds a session in his chambers, a move commonly made in cases involving sexual assault. The Constitution states that "sittings of the court shall be public save in the exceptional cases prescribed by law." Sessions of the State Security Court, including trials of the defendants in the Bush assassination attempt and collaborator trials, were open to the public. Defendants have the right to be present at all trial sessions.

By law, all defendants in felony cases must be represented by attorneys, court-appointed if necessary. In misdemeanor cases, defined as crimes punishable by less than 3 years' imprisonment, legal counsel is optional at the discretion of the defendant, but the court does not have to appoint a defense attorney if the accused cannot afford one. In cases tried by the State Security Court, the Court must notify the defendant of his trial date at least 10 days in advance. In cases tried by the criminal courts, no requirement of advance notice exists. In both systems, however, lawyers may request a delay on the basis of not having had sufficient time and access to their clients in advance of trial. Such a delay was requested by and granted to defense lawyers in the trial of the suspects charged with attempting to assassinate former President Bush.

Defendants may confront witnesses and present witnesses and evidence. Defendants and their attorneys have the right to view all accusatory material used against them and must be notified of all prosecution witnesses in advance. The Constitution states that "an accused person is presumed innocent until proved guilty in a legal trial at which the necessary guarantees for the exercise of the right of defense are secured." Defendants tried and convicted in absentia have the right to appeal. Both defendants and prosecutors may appeal verdicts of the State Security Court to the Court of Cassation. The Court of Cassation may conduct a limited, formal review of cases to determine whether the law was properly applied in each sentence. In criminal cases not involving state security, a broader right of appeal is available through the High Court of Appeal. Regarding the case of 10 Palestinians who were sentenced to death by the State Security Court in June, international human rights groups have expressed concern about due process shortcomings, including restrictions on the right of appeal and the lengthy periods of pretrial detention.

In 1991 the Government prosecuted 74 cases involving 164 defendants in martial law courts. These trials did not generally meet internationally accepted standards of due process, but the Government has resisted international pressure to conduct retrials or allow appeals.

Under the Constitution, the Amir has the power to pardon and commute all sentences.

There are no groups (including women) who are barred from testifying or whose testimony is given lesser weight in Kuwait's secular courts. The Islamic courts, however, follow Islamic law, which states that the testimony of one man equals that of two women.

Kuwait holds no Kuwaiti political prisoners but continues to hold foreign detainees and prisoners accused of collaboration with the occupying Iraqi forces, a criminal charge under Kuwaiti law. As noted above, most of the individuals convicted in martial law courts (including the majority of collaborators) did not receive a fair trial.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The right to individual privacy and sanctity of the home is provided for in the Constitution, but there were credible reports that authorities continued to ignore this right. Kuwaiti law requires search warrants issued by the court or the prosecutor unless the police are in hot pursuit of a suspect fleeing the scene of a crime or there is an indication of the presence of alcohol or narcotics on the premises. The prosecutor issues search warrants to conduct searches on public premises.

Kuwaiti police frequently manned checkpoints on major roads to search for weapons, infiltrators, or persons without legal residence permits. Although drivers could legally refuse to have their vehicles searched, most allowed the police to do so. There were numerous credible reports of harassment and arrest of foreign nationals (especially peoples whose leaders were associated with support for Iraq's invasion of Kuwait, as well as bidoon) at checkpoints. Foreigners without residence permits were also subject to arrest and detention.

In 1986 the Government restricted the right of Kuwaiti males to marry foreigners, decreeing that advance official approval would be required. Government officials said that concern about meeting the State's responsibilities for the children of non-Kuwaiti spouses residing outside the country motivated the action, but the Government was also known to be concerned about the growing number of Kuwaiti males marrying foreigners rather than Kuwaiti women. Kuwaiti women were publicly advised against marrying foreign nationals. The Government has only sporadically enforced the law.

There is occasional surveillance of individuals and communications.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—There are laws that permit the Government to restrict speech and press freedoms, and the Government applied these laws on some occasions in 1993. Many Kuwaitis, including critics of the Government, discussed issues and offered their opinions in public and private meetings. However, public crit-

icism of the Amir or Islam is not permitted, and some public meetings were subject to surveillance by Interior Ministry personnel.

In January 1992, the Government rescinded the 1986 decrees that provided for prepublication censorship. The Kuwaiti Journalists Association concurrently drafted and implemented a code of journalists' professional ethics. However, less overt constraints on press freedom remain.

The press law restricts the press from publishing materials that contain direct criticisms of the Amir, that involve official confidential communications or treaties and agreements with other states, or that "might incite people to commit crimes, create hatred, or spread dissension among the people." With the end of prepublication censorship, the Kuwaiti press had to become its own censor, exercising judgment about what to print under the press law, subject to potential government legal action. The Government sometimes used the law to control and punish the press during 1993. For example, the Attorney General issued a statement instructing local newspapers to ban reporting on financial scandals. The local press published editorials denouncing the ban, and "violators" of the ban have not been punished. Despite numerous efforts by various parties to obtain his release, a Yemeni journalist remained in the main deportation center where he had been sent in 1991 after reporting on a controversy at the Ministry of Education.

The press discussed a wide variety of social, economic, and political issues and criticized government policies and officials, taking care to avoid criticism that the Government might construe as libelous in nature. The press criticized senior Kuwaiti officials, including the Prime Minister, the Minister of Defense, and the Minister of Interior, all of whom belong to the Al-Sabah family, on some issues but avoided criticism of the Amir. Foreign press reporting from Kuwait is uncensored, and foreign journalists have generally open access to the country. Newspapers must have a license from the Ministry of Information. By law, publishers lose this license if their publications do not appear for 6 months.

One weekly leftist newspaper that served as an oppositionist democratic forum resumed publication in 1993; it had been banned since before the invasion. In March the National Assembly overturned a 1988 Amiri decree dealing with secret state documents. The Amiri decree, issued during a period when the National Assembly had been dissolved, gave ministers discretion to treat as state secrets practically all official documents that were not officially declassified. Under this decree, journalists who revealed the contents of apparently innocuous documents could be subject to criminal prosecution.

In a related case, the courts ruled in favor of an opposition newspaper that had been charged with publishing military secrets.

The Government owns and controls radio and television, but the Middle East Broadcasting Company and Egyptian television transmit their programs directly onto Kuwaiti television without censorship. Satellite dishes are not forbidden, and many Kuwaitis watch a wide variety of uncensored cable television programming, including Israeli television.

Kuwait has a Censorship Department which reviews all books, films, videotapes, periodicals, and other material entering Kuwait in bulk or for commercial purposes. In practice, such censorship is sporadic and aimed mostly at material considered morally offensive or pornographic. In addition, the General Organization of Printing and Publishing controls the printing, publishing, and distribution of informational materials in Kuwait. Private Kuwaiti cooperative societies occasionally boycott publications that offend moral sensibilities or Islam.

Academics operate with no apparent censorship of their teaching, research, or writings, while subject to the same restraints as the media with regard to criticism of the Amir or Islam.

b. *Freedom of Peaceful Assembly and Association.*—While political parties are banned, the Government has taken no action against a number of political groups that acted much as parties during the 1992 elections and succeeding National Assembly session. Political activity finds its outlet in informal, family-based social gatherings known as diwaniyas. The Constitution affirms the right to private assembly "without permission or prior notification," specifying that "the police may not attend such private meetings," and also affirms the right to public meetings, processions, and gatherings that are "peaceful and not contrary to morals." Public gatherings, however, must receive prior government approval, as must private gatherings of more than five persons that result in the issuance of a public statement. Professional groups, bar associations, and scientific bodies operate and maintain international contacts without government interference.

To operate legally in Kuwait, a nongovernmental organization (NGO) must obtain an official permit through the Ministry of Social Affairs and Labor. Since 1985, however, the Ministry has granted no such permits for NGO's, with the sole exception

of a permit issued in 1991 for the Women's Volunteer Association, headed by the wife of the Crown Prince. The Ministry has denied all other requests on the grounds that Kuwait already has enough NGO's. Over 55 NGO's are currently registered. The Government subsidizes all licensed NGO's. Kuwait's law on public interest associations has been criticized by international human rights organizations as being clearly defective when compared to international standards for freedom of association.

Despite the Ministry's refusal to issue additional permits, private organizations have flourished in Kuwait, especially since liberation, their illegal status largely overlooked by the Government. In August, however, the Council of Ministers passed a decree stating that all unregistered NGO's must cease operations. The action appeared to be directed particularly at organizations working for the release of the missing Kuwaitis presumed held in Iraq and had the effect of eliminating some organizations that have been engaged in human rights work (see Section 4). Some of these groups had engaged in activities that the Government viewed as politically unacceptable.

c. *Freedom of Religion.*—Kuwait's state religion is Islam; the Constitution states that Shari'a (Islamic law) is "a main source of legislation" and also declares that "freedom of belief is absolute" but must not "conflict with public policy or morals." The ruling family and many prominent Kuwaiti families are Sunni Muslims. There are no restraints on worship by Shi'a Muslims, who constitute approximately 40 percent of all Kuwaitis. Kuwait has a tiny Arab Christian minority that is allowed to practice its religion freely. There are a number of legally recognized expatriate Christian congregations and churches, including a Catholic diocese and an American-sponsored Protestant church. Foreign nationals (e.g., Hindus, Sikhs, and Buddhists) who practice certain religions not sanctioned in the Koran may not build places of worship but may worship privately in their homes. Missionaries may not enter the country and proselytize, but foreign clergy may enter Kuwait to serve expatriate congregations in a pastoral function. Kuwaiti law prohibits religious education for religions other than Islam, although this law does not appear to be rigidly enforced. Non-Islamic clergy training institutions and publishing houses do not exist in Kuwait.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—In general, Kuwaiti citizens have the right to travel freely within the country and to change their workplace as desired. Representatives of societies, associations, and trade unions wishing to travel abroad and participate in international meetings must receive prior permission. In theory, both men and women enjoy the same freedom to travel abroad, but there are limitations in practice. Husbands may prevent their wives and minor children from leaving the country by refusing to sign the required documentation that airport officials may ask departing wives to show upon leaving the country. Married women who apply for passports must obtain their husband's signature on the application form. Kuwaitis are free to emigrate and to return.

An anomalous situation exists in the case of the bidoon—stateless persons generally of Bedouin background who claim that they have no nationality—who resided in Kuwait prior to the Iraqi invasion. The Government argues that many bidoon are merely concealing their true citizenship so that they can remain in Kuwait, become Kuwaiti citizens, and enjoy the generous government benefits provided to Kuwaitis. While some bidoon have longstanding ties to Kuwait, others immigrated to Kuwait in the 1960's and 1970's in response to the oil and construction booms. An estimated 120,000 of the preinvasion bidoon population of about 220,000 remained in Kuwait in 1993. The Government prevented the return of bidoon who had left Kuwait, either willingly or by force, during the Iraqi invasion by delaying or denying their entry visas. The Government's action imposed severe separation hardships on some families.

In 1993 the Government continued its postwar policy of reducing the number of Iraqis, bidoon, Palestinians, and other foreign nationals in the country. Under the arrangements worked out between the Kuwaitis and ICRC representatives, the ICRC was able to interview deportees to verify that they did not object to returning to Iraq. If they did object, they remained in the main deportation center.

As of October, 5,000 of the 8,000 Gazan Palestinians remaining in Kuwait and holding Egyptian laissez passer travel documents had been given 1-year residence permits. The Government relaxed its restrictions on the remaining Gazans, establishing a tacit agreement not to round up Gazans for violating residence laws. Many Gazans, however, left Kuwait voluntarily in response to social and economic pressure.

Kuwait has no national legislation on refugees, but the Constitution prohibits the extradition of political refugees. Persons who are granted political asylum are auto-

matically issued residence permits. The Government does not deport refugees who object to returning to their country of origin, but it does ask the United Nations High Commissioner for Refugees (UNHCR) to resettle such persons in a third country, as allowing them to remain in Kuwait would not fit in with the Government's population restructuring program, designed to reduce the number of foreigners in Kuwait. The UNHCR has refused all such requests. Refugees may also be held in detention if they are regarded as potential security risks.

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

Kuwaitis do not enjoy the right to change the head of state and government. The 30 percent of adult Kuwaitis eligible to vote (see below) choose the membership of the National Assembly. Under the Constitution, executive power is vested in the Amir and under him in an appointed Council of Ministers headed by the Prime Minister who, in accordance with family politics, has been the Crown Prince. Following the 1992 elections, the Prime Minister formed a 16-member Cabinet which included 6 elected Assembly members. While the Constitution places legislative power in the hands of the Amir and the Assembly, that has not prevented the Amir from twice suspending constitutional provisions and ruling extraconstitutionally.

The most recent dissolution of the Assembly, decreed by the Amir in July 1986, lasted until the October 1992 elections. Although the Constitution grants the Amir the right to suspend the Assembly, it also obliges him to hold elections for a new Assembly within 2 months of the dissolution, otherwise the old Assembly regains its authority until the new one is elected. The 1986 decree circumvented the election requirement by suspending the section of the Constitution that called for new elections. The Constitution gives the Amir the authority to suspend its articles only during periods of martial law. The Amir declares martial law. The Amir had previously dissolved the Assembly from 1976 to 1981. In the Assembly's absence, the Amir rules by decrees having the force of law. The Assembly has the constitutional right to review and approve or overturn Amiri decrees made in its absence. After its convocation, the 1992 Assembly reviewed all of the Amiri decrees and revoked some of them, including the official secrecy law (see Section 2.a.) and an amendment to the law on public associations.

Constitutionally, elections for the Assembly are to take place every 4 years by secret ballot. The electoral law provides that candidates for the Assembly be self-nominated, with multiple candidates permitted for the 50 seats. In 1992, 303 candidates registered for parliamentary elections.

Kuwaiti law prohibits the establishment of political parties; however, the Government tacitly accepted the existence of several opposition political groups which acted much as political parties during the 1992 Assembly elections and the ensuing Assembly session.

The law limits suffrage to adult males who resided in Kuwait before 1920 and maintained a residence there until 1959 and to their adult male descendants (21 years of age and older). According to current nationality law, naturalized citizens who do not meet the pre–1920 qualification but who have been naturalized citizens for at least 30 years must wait until 1996 to acquire the right to vote. This waiting period means that a large number of citizens do not have the right or the ability to participate in Kuwaiti elections.

Distinctions based on parentage, length of residence, and gender limit suffrage to approximately 30 percent of the adult population. In the 1992 elections, approximately 82,000 eligible Kuwaitis (almost the entire enfranchised male population) registered to vote. While a majority of candidates elected to the National Assembly expressed opinions favoring women's right to vote during their election campaigns, a public backlash after the election resulted in several proposals on this issue being held in committee. While both the Amir and the Prime Minister have publicly stated that they favor political rights for women, they have maintained that the National Assembly must decide the question.

Non-Kuwaiti residents do not exercise any political rights, nor do they participate in decisions affecting their interests.

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

There are now no private local human rights organizations legally functioning in Kuwait. Until the Council of Ministers' decree banning all unlicensed NGO's in August (see Section 2.b.), the privately organized Kuwait Association for the Defense of War Victims (KADWV), created in March 1991, sought to help in the repatriation of internees from Iraq and address the physical and psychological needs of former prisoners of war and torture victims of the Iraqi occupation. KADWV also sought

to curb human rights abuses in Kuwait and took special interest in alleviating the problems of the bidoon. Before the ban, the Government by and large did not interfere in the work of the KADWV, although on December 10, 1991 (Human Rights Day), it censored a KADWV publication that commemorated the Universal Declaration of Human Rights. The Government has permitted visits and often met with representatives of various international organizations and private agencies concerned with human rights, while remaining largely unresponsive to their criticisms and recommendations.

Government officials also cooperated with international humanitarian organizations, including the ICRC, the International Organization for Migration (IOM), and the United Nations High Commissioner for Refugees (UNHCR).

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

Women.—Women in Kuwait suffer discrimination in both law and practice in many areas. Women are denied the right to vote (see Section 3) and are traditionally restrained from freely choosing certain roles in society. There are no female judges or prosecutors, and only a few female Kuwaiti diplomats are stationed outside of Kuwait.

While spousal abuse exists in Kuwait, there are no shelters for women who have been abused by their husbands. Instead, cases are referred to the psychiatric department at the Ministry of Health. Police station and Ministry of Interior employees who handle complaints of spousal abuse are specifically instructed to try to reconcile the dispute within the family before opening a case. Each of the country's 50 police stations receives approximately one to two complaints of spousal abuse each week. Offending spouses are asked to sign a statement at the police station stating that they will not continue the abuse.

Kuwaiti women who wear Western attire and foreign women are subjected to sexual harassment. The physical and sexual abuse of some expatriate Asian women (especially from the Philippines, Sri Lanka, and other south Asian countries) who work as domestic servants received considerable attention in the press. Some observers believe that the problem worsened after liberation. On several occasions, the Philippine Embassy sheltered over 100 women at once. Although most of these women sought shelter due to contractual or financial problems with their employers, some cases involved physical and sexual abuse.

Domestic servants may take legal recourse against their employers for abuse but generally do not because of a generally substantiated fear of reprisal and a sustained fear that the police and the judicial system will side with the Kuwaiti employer. In March the Court of Appeal reduced to 2 years a 10-year sentence that had been imposed on a Jordanian couple who had been convicted of "unintentionally" killing their Philippine maid through starvation and beatings. In July, however, a Kuwaiti man and his Lebanese wife were sentenced to 7 years in jail for the "unintentional murder" of their Philippine maid. Although cited as an example of the Court's willingness to sentence a Kuwaiti for a crime committed against a domestic servant, the conviction on the basis of "unintentional murder" appeared highly questionable in view of the maid's injuries, which included a broken pelvis, broken arms, and burns over all her body. The Government said it acted to punish abusers, but government action did not deal effectively with the problem. The Government established an office to investigate crimes and complaints involving domestics but has not yet acted on plans to establish a shelter for runaway maids. As an interim measure, the authorities designated a central police station to handle maids' complaints and shelter a small number of maids. In addition to assisting foreign embassies with the repatriation of some of these women, the Government began to regulate recruitment agencies and close down unscrupulous ones.

Kuwaiti courts have the authority to dissolve a marriage if a woman is in danger of being harmed by her husband; Kuwaiti judges have also found husbands guilty of spousal abuse. Prostitution, although prohibited by Kuwaiti law, takes place.

Some legal discrimination against women exists, particularly with respect to Kuwaiti women married to foreign men. Such women receive no government housing assistance and must pay residence fees for their husbands; residence is not guaranteed for their husbands unless the husband is working. In contrast, Kuwaiti men married to foreign women do not have to pay any fees for their spouses, whose right to residence is automatic. Females do not receive social security benefits. Under the Islamic laws of inheritance, male heirs receive twice as much as do female heirs. (These laws apply only to Muslims; a special judge handles cases for non-Muslims.) Women may own property and have the same property rights as men do.

Women are restricted from working in "dangerous industries and trades harmful to the health." They are promised "remuneration equal to that of a man provided she does the same work." This promise is respected in practice.

Kuwaiti women may drive and do not have to follow a dress code. They have full access to government-provided higher education, and an estimated 60 percent of women of working age are employed. Women work as doctors, engineers, lawyers, and professors. A few women have reached senior government positions. In July a woman was appointed to the Amiri Diwan (royal court) as Director of Political Affairs; a July Amiri decree named the first female president of Kuwait University. In September the woman Director of Political Affairs in the Amiri Diwan became Under Secretary in the Ministry of Higher Education. Kuwait named its first woman ambassador in 1993 and the state-owned Kuwait Petroleum Corporation (KPC), which runs Kuwait's oil industry, named a woman as its Managing Director for Administration and Economic Affairs, one of KPC's four top positions.

While a number of individual Kuwaiti women speak openly about the need to grant more rights to women, Kuwait lacks an organized women's rights movement. Before the invasion, the Kuwait Trade Union Federation (KTUF) had a Working Woman Committee. The Committee has not yet resumed full activities since the Gulf war.

Another group, the Women's Social-Cultural Society, has committees dealing with cultural affairs, social activities, alms, nurseries, cancer, the media, cooking, tailoring, illiteracy eradication, and the Kuwaitis presumed detained in Iraq. The Society also concerns itself with statistical studies on women, cases of Kuwaiti women married to non-Kuwaitis, legal and psychological counseling for women, and children's welfare.

Children.—The Government demonstrates its commitment to children's human rights and welfare through financial means. For example, the Government provides child benefit allowances and provides free education and health care to all Kuwaiti children. The Government also subsidizes infant formula.

Governmental expenditures on children's welfare cover orphans, foster children, handicapped children, and mentally impaired children. The Government also provides monthly financial assistance for approximately 10,000 limited-income families with children.

There is no pattern of societal abuse (including child prostitution) of children. Children of persons awaiting deportation are held along with their parents at the main deportation facility. The Ministry of Interior forbade schools, public and private, from accepting children who do not have valid residence permits.

National/Racial/Ethnic Minorities.—The plight of the bidoon (long-term residents of undetermined nationality) remained one of the most pressing human rights abuses in 1993. In the late 1980's and up to the time of Iraq's invasion, the Government promulgated a series of measures that, inter alia, dropped the bidoon from the census rolls and stripped them of civil identification cards which had entitled the bearer to a variety of social services. Many of these persons were in limbo, without the legal right to work, attend school, travel in and out of Kuwait, or marry. The Government established a screening process to grant residence permits to bidoon who had served in the Kuwaiti military and security forces and their families and to bidoon in special categories (children of Kuwaiti/bidoon marriages).

In 1993 the President of Kuwait's Martial Judicial Authority announced that bidoon may no longer join the Kuwaiti army. (This decree reversed a 1967 law which allowed bidoon to enlist; it did not affect the bidoon already in the army.)

Foreign nationals are prohibited from having majority ownership in virtually every business other than certain small service-oriented businesses and may not own property. The Government continued its Kuwaitization policy, begun in 1991, applying significant labor and educational access restrictions to foreigners, especially Palestinians and other "suspect" nationalities. These persons found it difficult to obtain work and resident permits. The Government's tying of access to education to possession of a valid residence permit further restricted access to public education, creating hardships for some foreign nationals with families.

In past years, as part of its deliberate demographic policy to reduce the number of expatriates in the country, the Government also made it difficult for foreign workers to sponsor their families for residency by installing high minimum wage requirements for the individual workers wishing to apply for family visas. In mid-1993, however, the Government eased these difficulties by abolishing the visa fees for children and lowering the minimum wage requirements by almost 50 percent.

Religious Minorities.—Before the 1986 dissolution of the National Assembly, Islamic groups within that body secured a bar on granting citizenship to non-Muslims that is still in effect.

The administration of Kuwait's extensive welfare programs reflected no evidence of discrimination among citizens based on religion. Kuwait's Shi'a minority are less likely, however, to be appointed to sensitive government positions, although two ministers, including the important Minister of Oil, and a high-ranking military officer are Shi'a.

People with Disabilities.—No institutionalized discrimination exists against physically disabled persons in housing, employment, education, and provision of state services.

While the Government has not legislated or otherwise mandated accessibility for the disabled, Kuwaitis show a high degree of concern about the problems facing people with disabilities. A Committee for Disabled People exists a part of the Ministry of Social Affairs and Labor, the Ministry which serves as the regulatory agency for such issues. The Ministry of Social Affairs and Labor also provides extensive benefit programs covering transportation, job training, and social welfare for the disabled. Although not required to do so by law, almost all grocery stores have designated special parking spaces for the disabled.

A government rehabilitation center exists, as does a private society for handicapped children.

Section 6. Worker Rights

a. *The Right of Association.*—Kuwaiti workers have the right to join unions, but Kuwaiti law prevents the establishment of more than one union per functional area or more than one general confederation. Union membership in 1993 was approximately 28,400 people organized in 14 unions. All but two of the unions, the Bank Workers' Union and the Kuwait Airways Workers Union, are affiliated with the Kuwait Trade Union Federation (KTUF). The KTUF consists of nine civil service unions (18,800 members) and three oil sector unions (6,900 members), but the oil unions have equal representation (36 members) in the 72-member KTUF assembly. The remaining two unions had approximately 2,700 members.

Foreign workers, who constitute the vast majority of the work force, were permitted by law to join unions as nonvoting members after 5 years of residence in Kuwait. In practice, foreign workers interested in union membership may generally join within a year of starting employment and residency in Kuwait. In 1993 non-Kuwaitis constituted 33 percent of the unionized workers.

Kuwaiti labor law stipulates that any new union must include at least 100 workers, at least 15 of whom must be Kuwaiti. The International Confederation of Free Trade Unions (ICFTU) criticizes the latter requirement because it prevents workers in sectors where few Kuwaiti nationals are employed, notably the construction and domestic sectors, from organizing in trade unions. The KTUF opened an "Expatriate Labor Office," responsible for resolving problems between foreign workers and their employers in the private sector. The office does not interact with the Government. It looks into complaints of foreign laborers, provides legal advice free of charge, and takes necessary action. The office assists all foreign laborers, regardless of whether or not they are union members.

Although unions are legally independent organizations, in fact, the Government maintains a large oversight role with regard to their financial records; 90 percent of union budgets are in the form of government subsidies. Unions must also follow a standard format for internal rules and constitutions, which includes prohibitions of any involvement in domestic political, religious, or sectarian issues. In practice, these limitations have not prevented unions from engaging in a wide range of activities. In 1992 and 1993, for example, unions played some role in domestic political affairs; the KTUF actively sought the return of the Kuwaitis detained in Iraq, supported Kuwait's return to parliamentary life in October 1992, urged members of the electorate to vote, and called for standardization of Kuwaiti nationality.

Under the law, a court may dissolve a union for violating labor laws or laws concerning the "preservation of public order and morals." Such a court decision may be appealed. The Amir may also dissolve a union by decree. No union has been dissolved in either manner. Kuwaiti citizen union members have the right to elect representatives of their own choosing, provided the candidates are also Kuwaitis and can demonstrate that they have no criminal record.

The right to strike is recognized but is limited by Kuwaiti labor law, which provides for a compulsory negotiation followed by arbitration if a settlement cannot be reached between labor and management (see Section 6.b.).

One strike occurred in April. Conducted by 170 petroleum workers protesting a 12-year-old labor dispute, it was settled between the Ministry of Oil and the petroleum syndicate within a few days. Kuwait is a member of the International Labor Organization (ILO) and has ratified the 1948 ILO Convention 87 on Freedom of As-

sociation. However, Kuwaiti laws do not have specific provisions to prohibit retribution against strikers and strike leaders.

The ILO's Committee of Experts (COE) reiterated again in 1993 its longstanding criticisms of a number of discrepancies between the Kuwaiti Labor Code and ILO Conventions 1, 30, and 87 on hours of work and freedom of association and noted the Government's assertion that draft revisions to the Labor Code fulfill all provisions of the conventions "except those which run counter to national security."

Areas criticized by the ILO included the prohibition on establishing more than one trade union for a given field, the requirement that a new union must have at least 100 workers, the requirement that foreign workers must reside in Kuwait for 5 years before joining a trade union, the denial to foreign trade unionists the right to vote and to be elected, the prohibition against trade unions engaging in any political or religious activity, and the reversion of trade union assets to the Ministry of Social Affairs and Labor in the event of dissolution.

The KTUF belongs to the International Confederation of Arab Trade Unions and the formerly Soviet-controlled World Federation of Trade Unions.

b. *The Right to Organize and Bargain Collectively.*—Workers have the right to organize and bargain collectively, subject to the restrictions cited above. These rights have been incorporated in the Labor Law and have, according to all reports, been respected in practice.

Collective bargaining is a three-step process beginning with direct negotiations. The Labor Law provides for direct negotiations between employers and "laborers or their representatives" in the private sector. In practice, most agreements are resolved through negotiations, possibly with the assistance of the Ministry of Social Affairs and Labor. Some employers have wage scales set by wage surveys. If an amicable agreement is not reached, the parties may petition the Ministry of Social Affairs and Labor for settlement. If no agreed solution is reached by this means, the dispute is referred to a labor arbitration board composed of officials representing the High Court of Appeals, the Attorney General's office, and the Ministry of Social Affairs and Labor. Most differences do not reach arbitration.

The Civil Service Law makes no provision for collective bargaining between government workers and their employers. The government administratively sets civil service wages. Many consider civil service wages and benefits more generous than wages and benefits for comparable jobs in the private sector. In practice, government workers' representatives and ministry officials hold coordination meetings on a periodic basis. If the individual ministry and its workers do not reach an agreement, the issue is raised to the Council of Ministers, whose chairman, the Crown Prince and Prime Minister, also chairs the Civil Service Council. Union officials resolve most issues at the working level and enjoy free access to the Crown Prince and other senior officials.

Kuwaiti labor law prohibits antiunion discrimination. Any worker who alleges antiunion discrimination has the right to appeal to the judiciary. There were no reports of discrimination against union or nonunion employees. Employers found guilty of antiunion discrimination must reinstate workers fired for union activities.

There are no export processing zones in Kuwait.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced labor "except in cases specified by law for national emergency and with just remuneration." Nonetheless, there continue to be credible reports that foreign nationals employed as domestic servants have been denied exit visas if they seek them without their employers' consent.

Foreign nationals must obtain a Kuwaiti sponsor in order to obtain a residence permit and cannot change their employment without permission from their original sponsors. Domestic servants are particularly vulnerable to abuses from this practice because they are not protected by Kuwaiti labor law. Sponsors frequently hesitate to grant their servants permission to change jobs because of their financial investment in the servants. In many cases employers exercise some control over their servants by holding their passports, although the Government prohibits this practice and has acted to retrieve passports of maids involved in disputes.

Domestic servants who run away from their employers can be treated as criminals under Kuwaiti law. In some reported cases, employers illegally withheld wages from domestic servants to cover the costs involved in bringing them to Kuwait. The Government has done little, if anything, to protect domestics in such cases.

d. *Minimum Age for Employment of Children.*—The minimum age under Kuwaiti law is 18 years for all forms of work, both full- and part-time. Compulsory education laws exist for children between the ages of 6 and 15. These laws are not fully observed in the nonindustrial sector. Some small businessmen employ their children on a part-time basis, and there have been unconfirmed reports that some south Asian domestic servants are under 18. The Minister of Social Affairs and Labor is

charged with enforcing minimum age regulations. Employers may also obtain permits from the Ministry to employ juveniles between the ages of 14 and 18 in certain trades.

Juveniles may work a maximum of 6 hours per day on the condition that they work no more than 4 consecutive hours followed by a rest period of at least 1 hour.

e. *Acceptable Conditions of Work.*—The Ministry of Social Affairs and Labor is responsible for enforcing all labor laws. There is no legal minimum wage in the private sector. A two-tiered labor market ensures high wages for Kuwaiti employees while foreign workers, particularly unskilled laborers, receive substantially lower wages. In 1993 the minimum wage in the public sector, administratively set by the Government, was approximately $630 a month (180 Kuwaiti dinars) for Kuwaitis and approximately $315 a month (90 Kuwaiti dinars) for non-Kuwaitis, amounts sufficient to provide a decent living for a worker and his family.

The Labor Law establishes general conditions of work for both the public and the private sectors, with the oil industry treated separately. The Civil Service Law also prescribes additional conditions for the public sector. Labor law limits the standard workweek to 48 hours with 1 full day of rest per week, provides for a minimum of 14 workdays of leave each year, and establishes a compensation schedule for industrial accidents. Domestic servants, who are specifically excluded from the private sector labor law, frequently work long hours, greatly in excess of 48 hours.

The ILO has urged Kuwait to guarantee the weekly 24-consecutive-hour rest period to temporary workers employed for a period of less than 6 months and workers in enterprises employing fewer than five persons. Reflecting the petroleum sector's importance to Kuwait, the law governing employment in this area is more generous than the general laws. It provides for a 40-hour workweek, 30 workdays of annual leave, and a generous sick leave policy which authorizes sick leave for up to 2 years. Laws establishing work conditions are not always applied uniformly to foreign workers. Kuwaiti labor law also provides for employer-provided medical care and compensation to workers disabled by injury or disease due to job-related causes. The law also requires that employers provide periodic medical examinations to workers exposed to environmental hazards on the job (i.e., chemicals, asbestos, etc.).

The Government has issued occupational health and safety standards; however, compliance and enforcement appear poor, especially with respect to unskilled foreign laborers. Kuwaiti employers often exploit workers' willingness to accept substandard conditions. Foreign workers, especially unskilled or semiskilled south Asian workers, frequently face contractual disputes, poor working conditions, and some physical abuse. In August several Indian laborers accused the Kuwaiti police of beating them after police intervened in a bitter contractual dispute. They also alleged that some of them had occasionally been forced to work clearing unexploded mines along the Iraqi border, a task for which they had no training. In practice Kuwaiti labor laws do not protect most foreign workers well.

Workers have the right to remove themselves from dangerous work situations without jeopardy to their continued employment, and legal protections exist for workers who file complaints about such conditions. In 1992 there were 798 occupational injuries, primarily in the sectors of construction and building, manufacturing, hotels and restaurants, and transportation. To cut accident rates, the Government periodically inspects installations to raise awareness among workers and employers and ensure that they abide by the safety rules, control the pollution resulting from certain dangerous industries, train workers who use new machines in specialized institutes, and report violations.

LEBANON

Constitutionally, Lebanon is a parliamentary democratic republic. By tradition, the President is a Maronite, the Prime Minister a Sunni Muslim, and the Speaker of the Chamber of Deputies a Shi'a Muslim. The 128 deputies are divided equally between Christians and Muslims.

Non-Lebanese forces continue to control much of Lebanon. Their presence impinges on Lebanese central authority and prevents the application of normal constitutional protections in those areas. There are 30,000 Syrian troops in Lebanon. A 1991 security and defense pact establishes a cooperative framework between Lebanese and Syrian armed forces, but Syrian military and intelligence units operate independently. According to the Taif accord, the two governments were to decide in September 1992 to redeploy Syrian troops to the Biqa' Valley, with full redeployment shortly after. Lebanese officials failed to raise the issue with the Syrian Government. They have at times cited a number of reasons, including the army's al-

leged unreadiness to take over routine security functions performed by Syrian troops. Pervasive Syrian influence over Lebanese politics and Lebanese decisionmakers lay at the root of this unwillingness to engage Damascus. The U.S. Government has publicly called for a decision to redeploy.

Israel exerts control in and near its self-proclaimed "security zone" in southern Lebanon largely through the Army of South Lebanon (SLA) and the presence of about 1,000 Israeli troops. The SLA maintains a separate and arbitrary system of justice in the zone, without reference to central Lebanese authority. Palestinian groups operate autonomously in refugee camps located throughout the country and maintain a separate, arbitrary system of justice for fellow Palestinians.

The Government continued to consolidate its authority in some parts of the country by disarming Christian militias and the pro-Fatah Popular Nasirite organization but was less concerned with disarming others, especially in the south. It made no effort to disarm the Iranian-backed Hizballah and its allies or the Israeli-backed SLA. A decades-old cycle of raids and counterraids in the south continued between Hizballah and allied guerrillas on one hand and the Israeli Defense Forces (IDF) and SLA on the other. Following Hizballah Katyusha rocket attacks against civilian targets in northern Israel in July, the IDF launched an intense, week-long series of attacks, termed "Operation Accountability." Over 150 persons were killed and 500 wounded in Lebanon, and thousands of houses were destroyed or damaged. A chief feature of the operation was a declared policy of depopulating the south. Israeli warnings to civilians to flee led to the dislocation of over 300,000 people for a 1-week period. There were credible accounts of IDF use of phosphorous shells against military and civilian targets.

Lebanon has a free market economy. The country possesses few important natural resources. Before the outbreak of civil war in 1975, Lebanon was an important financial and commercial center, but the war greatly weakened its commercial leadership and inflicted massive damage on its economic infrastructure. In 1993 the economy partially recovered from sharp deterioration in the previous 2 years. The Hariri Government was able to restore public confidence, stabilize the economy, and launch a program to reconstruct the economy's infrastructure.

The human rights situation in Lebanon deteriorated as the Government launched two sets of assaults in 1993. The Government frequently arrested without due process opponents of government and Syrian policy in Lebanon, temporarily closed three newspapers, and indefinitely suspended broadcasting by a television network critical of the Government. The level of violence was at its lowest since civil strife began in 1975, but civilians and their property continued to be victims of artillery and aerial attacks, bombings, abductions, assassinations, and explosions. The Government made a small start in returning to their homes some of the more than 600,000 Lebanese displaced by the civil war.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Political killings continued to occur in 1993, but the number declined as the Government further consolidated its authority over portions of the country. On December 20, unknown persons bombed the east Beirut headquarters of the Kataib Party while a meeting of the party's Politburo was under way; two persons died and 130 were injured, many of them party officials. Numerous dynamite attacks by unknown persons on cars and buildings throughout Lebanon caused some casualties and serious property damage. In June members of the militant Sunni Islamic Grouping tried to blow up a busload of clerics attending a Catholic-Orthodox ecumenical conference in north Lebanon, but their explosive device went off prematurely, killing one of the perpetrators. The authorities arrested six suspects and charged them with inciting sectarian discord and attempting to assassinate clerics, but they have not yet been tried. An official of the Druze Progressive Socialist Party (PSP) and a member of the militant Islamic Al-Ahbash movement, among others, were assassinated. In April Israeli helicopters attacked the car of Samir Suwayden, Popular Front for the Liberation of Palestine (PFLP) commander in South Lebanon, near Yatar. His wife, daughter, and another person were killed.

Rival Palestinian factions continued to engage in a cycle of politically motivated murder, mostly in the southern city of Sidon and nearby refugee camps but also in Beirut. At least 11 such killings occurred during the spring. Most of the targets were officials of Fatah and the Abu Nidal organization (Fatah - Revolutionary Command). Other Palestinians were the object of assassination attempts, including Muhammad Abu Samra of the Palestinian Islamic Jihad movement.

b. *Disappearance.*—There were no known disappearances in 1993 attributable to state security forces. However, thousands of Lebanon's inhabitants kidnaped during the years of civil unrest remained unaccounted for. Militias and non-Lebanese forces were responsible for most of these kidnapings. Some victims are believed to have been summarily executed. The Government has taken no judicial action against groups responsible for the kidnapings, including those which held Western hostages. The families of the missing formed a group to pursue their cause with the help of a Beirut lawyer and former member of one of the militias, the Sunni Muslim Murabitun.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There were credible reports of the use of excessive force by the Lebanese army against detained members of the former militia of the Lebanese Forces (LF). Abuse included beatings as well as tying detainees' hands behind their backs and suspending them from the wrists for lengthy periods. Those responsible for the abuse were not punished.

Conditions in some prisons are harsh, threatening the lives and health of the inmates. A former police commander, Brigadier Antoine Saadah, alleged in a study published locally that overcrowding in Lebanese prisons in some instances exceeded four times the normal occupancy. The Beirut-area Roumieh prison, designed to accommodate 246 prisoners, is said actually to house more than 1,000. Saadah and other human rights activists report instances of suffocation resulting from the overcrowded conditions. An eyewitness said overcrowding in Batrun prison was particularly bad, with 40 people jailed in a 15-foot cell.

Abuses also occurred in areas outside the State's authority. There were persistent and credible reports that various Palestinian groups engaged in torture of Palestinian rivals. In June, when Fatah released 95 members of the Abu Nidal group from its prison in southern Lebanon, for example, the prisoners alleged torture and ill treatment.

Supporters of exiled General Michel 'Awn credibly reported that they had suffered torture by Syrian security elements during prief periods of detention in the autumn and winter of 1993. There were also allegations of torture and abuse by the SLA at Al-Khiyam prison in the Israeli-controlled security zone. One international observer has concluded that torture and other cruel treatment is no longer widespread at the Al-Khiyam prison, based on evidence gathered in interviews with released prisoners. The SLA continued to deny access to the facility by the International Committee of the Red Cross (ICRC).

d. *Arbitrary Arrest, Detention, or Exile.*—Arrest warrants are required before arresting a suspect. There were credible reports, however, of the availability of blank warrants signed by the military prosecutor. By law, arresting officers must refer suspects to a prosecutor within 24 hours of arrest. A suspect must be released if not charged within 48 hours of arrest. However, some government prosecutors authorized the indefinite detention of suspects for interrogation without reference to a court or a judge. The law permits incommunicado detention at the discretion of the investigating judge. Every person arrested has the right to legal counsel, but there is no public defender's office. The bar association has an office to serve those who cannot afford a lawyer. Bail is permitted in most cases, excluding felonies.

The army ignored due process in a campaign of arbitrary arrests in 1993. Its efforts focused on members of the former militia of the Christian Lebanese forces, sympathizers of the exiled former army commander and self-proclaimed Prime Minister Michel 'Awn, and members of Lebanon's Popular Nasirite Organization (PNO), a former militia noted for close links to Fatah. All these groups were at odds politically with the Syrian and Lebanese regimes and Syrian policies in Lebanon. In the autumn and winter of 1993, the Lebanese army arbitrarily arrested dozens of 'Awn's supporters and turned them over to Syrian Military Intelligence (SMI) units in Lebanon. SMI typically held them briefly in detention, and the detainees provided credible reports of torture during interrogation. These arrests occurred in the wake of attacks with small explosives on Syrian sentries in Christian areas near Beirut. Lebanese authorities arrested a member of an extremist Christian group, the Guardians of the Cedars, in November on the charge of conspiring with 'Awn and the Israeli Government. Military court proceedings were under way at the end of the year.

In the summer, the army arrested 30 members of the LF and held them incommunicado for more than a week without placing charges or referring the cases to the military prosecutor. Later, these members of the LF were accused of threatening state security and of assassinating Lebanese army officers and soldiers in 1990. The LF and an army faction backing Michel 'Awn's seizure of power were fighting at the time. One LF member remains in detention. The army also took steps to purge its ranks of suspected LF members.

Authorities arrested four PNO members July 20 and released them in September. They were never charged.

Amnesty International reported in April that 8 persons were arrested in March for distributing leaflets opposing the Government and the presence of Syrian troops in Lebanon. They were believed to be held incommunicado for an unknown period at the Defense Ministry. 'Awn supporters alleged that brief detentions by the army, for periods ranging from a day to a week, were commonplace. In July a leading 'Awnist was arrested for defamation after he issued a press release making exaggerated claims that hundreds of illegal detainees were in Lebanese jails. He was detained for 7 days.

Arbitrary detention by local militias and non-Lebanese forces continued to occur in areas outside the central Government's authority. In March the Israeli navy detained for 24 hours five Lebanese fishermen who were fishing off the coast of Tyre inside Lebanese territorial waters. In March Israeli forces released three citizens it had arrested inside the security zone and held without charges for about 20 days. The SLA continued to hold at least 350 Lebanese and Palestinian detainees at Al-Khiyam prison and denied access to them by the ICRC and family members. Seventeen detainees were released in March and another three in May. In March the Iranian-backed Hizballah militia handed over to the ICRC one person and the remains of another. The party had kidnaped them 2 years ago. No judicial action was taken against Hizballah.

The Government does not normally use exile as a means of punishment. However, in 1991 it pardoned former army commander and self-proclaimed Prime Minister 'Awn, along with two aides, on condition that they leave the country and remain in exile for 5 years. They were accused of usurping power.

c. *Denial of Fair Public Trial.*—Each confessional group has its own court for family and personal status cases. There is a separate military court system. In refugee camps, Palestinian elements operate an autonomous and arbitrary system of justice; rival Palestinian factions often try their opponents without due process.

Although Lebanese law provides the right to a fair public trial and the judiciary is considered independent and relatively impartial, influential politicians continued to intervene successfully to protect supporters from detention and prosecution. Government interference in the judicial process and low judicial salaries led to the resignation of several prominent judges and to corruption and bribery of others. The Government took steps to adjust salaries in September. The appointment of judges, like other government appointments, is allocated on the basis of religious affiliation.

The resignations, aggravating an already severe shortage of judges, dealt a blow to efforts to speed adjudication and erase a backlog of cases that had developed during the civil war. An inability to conduct investigations in areas outside effective government control also caused trial delays.

The legal system is discriminatory in its handling of so-called crimes of honor. Men, for example, are typically acquitted of murder charges in cases involving the murder of adulterous wives. By law, in some instances a female's testimony before a notary public carries half the weight of that of a male.

There are no known political prisoners, although political opponents of the Syrian and Lebanese regimes are often detained without charges for short periods of time.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—While Lebanese authorities generally show no interest in controlling personal life, they are not reluctant to interfere with the privacy of some foes. Laws require that government prosecutors obtain a warrant before entering houses, except when the Lebanese army pursues an armed attacker. Militiasand non-Lebanese forces operating outside areas of central government authority frequently violated rights of privacy. Various factions and the Government use informer networks and monitor telephones to gather intelligence on their foes. A Member of Parliament, former Prime Minister Salim Al-Huss, questioned the Government about taps on phones belonging to members of Parliament and politicians but received no response.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—The situation in South Lebanon remained explosive. Hizballah and other Lebanese and Palestinian militias on the one hand, and Israel and the SLA on the other, engaged in a cycle of violence which led to civilian casualties in South Lebanon and the deaths of two members of the United Nations Interim Force in Lebanon (UNIFIL). Lebanese and Palestinian militias attacked SLA and IDF troops deployed on Lebanese soil and Israeli civilians in northern Israel. The Israelis directed air strikes and artillery shelling on alleged guerrilla and terrorist targets inside Lebanon.

Events culminated in July when Israel launched land, sea, and air attacks on Lebanon in "Operation Accountability." The Israeli offensive was designed to put an end to militia rocket attacks on northern Israel. The intense, week-long assault in-

cluded a declared policy of depopulating the south, accomplished by using radio broadcasts and leaflets to warn residents of named villages, towns, and cities to flee by certain deadlines. These tactics resulted in mass panic and the dislocation of over 300,000 southerners, who sought refuge in areas to the north, including Beirut. During the Israeli strikes, about 150 civilians were killed and 500 wounded. Nine hundred houses were completely destroyed and 2,450 were partially damaged.

There were credible eyewitness reports of Israeli use of phosphorous shells with respect to both Lebanese military and civilian targets. International observers found evidence that at least 17 civilians had received phosphorous burns.

On September 13 the Lebanese army opened fire on demonstrators in the southern suburbs of Beirut. Nine civilians were killed and 36 wounded. Hizballah had organized the rally to protest the signing of the Israeli-Palestinian agreement in Washington, despite direct warnings from the Government and Syrian authorities that they intended to enforce a ban on demonstrations. The army said soldiers acted in self-defense after elements in the crowd had opened fire. The Government says it is investigating the incident.

Violations of international humanitarian standards with respect to treatment of prisoners continued to occur.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Lebanon has a long heritage of freedom of opinion, speech, and press, although many Lebanese journalists have been killed and kidnaped in the past two decades by Lebanese and foreign factions. Although there were repeated attempts to muzzle these freedoms in 1993, criticism of the Government's policies and leaders continued. Dozens of newspapers and magazines are published throughout Lebanon, financed by various Lebanese and foreign groups. While the press is nominally independent, press content often reflects the opinions of these financial backers. In addition, a legal framework exists to impose restrictions on the media. Some restrictive press regulations were imposed during the civil war but remain in place, such as Decree 104 of 1977. Laws prohibit attacks on the dignity of the head of state or of foreign leaders, authorize the prosecutor general to shut newspapers for up to 1 week without reference to the courts if articles appear that, in the view of the authorities, threaten Lebanon's foreign relations or incite sectarian conflict, and prohibit the publication of state secrets. A special publication court exists to try cases involving these matters. The 1991 Lebanese-Syrian security agreement contains a provision effectively banning informational activity that could endanger the security of either State.

In April and May the Government temporarily shut down three newspapers. Nida' Al-Watan, owned by a vocal Maronite critic of Prime Minister Hariri, was accused of inciting sectarian discord and suspended for 38 days. It had alleged that Hariri was buying Christian church property in a bid to Islamize Lebanon. Al-Safir, one of Lebanon's most popular dailies, was closed for publishing alleged state secrets. It had printed the text of an Israeli proposal submitted to the Lebanese delegation to the Middle East peace talks. During the paper's 1-week suspension, it appeared using a valid permit for the moribund Beirut Al-Masa' newspaper. Trials in both cases are under way. Al-Sharq was closed for 1 week after printing a cartoon that was deemed insulting to the President's family. In October the Public Prosecutor charged two newspapers, Al-Liwa and Ad-Diyar, with slandering government officials. The Government also made a new charge against Nida' Al-Watan in October for publishing a story alleging that Japanese Red Army members were present in Lebanon. The authorities denied the story and said it harmed Lebanon's reputation. A pro-Awn publication was closed in October for distributing pornography.

Direct press criticism of Syria and its role in Lebanon virtually vanished in 1993. One leading journalist was subjected to anonymous threats after writing columns critical of aspects of Syrian policy in Lebanon. Other reporters described a widespread practice of self-censorship on matters related to Syria.

Diverse political groups, particularly former militias, operated a wide variety of unregulated radio and television stations. As these groups accepted the spread of state authority and began to manage their broadcasts on a commercial basis, heavily slanted propaganda diminished. The Taif accord calls for the regulation and organization of the broadcast media; this proposal is controversial, however, and the Government has not submitted a draft law to Parliament. Pending passage of new regulations, the Information Minister and major stations signed an honor code in February banning programming which would disturb public order, stir ethnic or sectarian enmity, slander Lebanese leaders or friendly nations, violate moral standards, or promote Israel. The honor code has no discernible impact on broadcasting. Exploiting the absence of a legal framework, the Government moved to close one of its critics, the Independent Communications Network (ICN). The station, owned

by the publisher of Nida' Al-Watan, was accused of inciting sectarian discord. In late December, the Civil Court permitted ICN to resume broadcasting and scheduled for February a hearing of the Government's case against the broadcaster. The Public Prosecutor has asked for prison sentences of 3 years for ICN management.

Lebanon's partially state-owned television station, Tele-Liban, had long enjoyed virtual autonomy with respect to its news and public affairs programming. The Cabinet, however, reasserted in August the Information Minister's legal right to monitor and effectively control Tele-Liban's activities.

In 1993 the Government revived police control over all nonperiodical publications, books, foreign magazines, plays, and films, which must be submitted to the Public Security Directorate for approval before distribution. A prize-winning film on national reconciliation was banned for several months and released only after the producer made some changes. The police briefly closed a play, "The Rabbit and the Saints," acting on a request from the Maronite church. Censors later reversed the decision. Police confiscated a novel, "Garden of the Senses," by a well-known local author, saying it had pornographic passages.

Lebanon has a strong tradition of academic freedom and a flourishing private educational system, born from the inadequacy of public schools and an attachment to sectarian affiliations. Students exercise the right to form campus associations, and the Government does not usually interfere with student groups. The Government's arrests of students sympathetic to the exiled General Michel 'Awn and to the Lebanese Forces in 1992 chilled student activism among those students in 1993.

b. *Freedom of Peaceful Assembly and Association.*—Any group wishing to organize a rally must obtain the prior approval of the Interior Ministry, but this law is not uniformly applied. Some political factions, such as the Shi'a Amal movement, the Christian Kataib Party, and the mostly Druze PSP were permitted to stage rallies during 1993, but some Christian groups were not. The army obstructed a meeting of the Kataib Party Salvation Committee (a group at odds with the policies of the party mainstream), and the Interior Ministry did not grant the Committee a permit for a rally. Other Christian groups opposed to the Government were warned by army intelligence officers against staging rallies.

Hizballah held demonstrations and marches unhindered by the authorities. On September 13, however, the army opened fire on Hizballah demonstrators in an effort to impose a government ban on protests (see Section 1.g.). The rally was staged in opposition to the Israeli-Palestinian agreement. Sunni Islamist groups in Tripoli, foiled by the government ban from making a similar protest, later organized an antipeace process gathering inside a mosque.

Army intelligence monitors the movement and activities of members of opposition groups, some of whom charged that intelligence officers have warned them against holding private meetings with other oppositionists.

Neither Israel nor Syria allows groups openly hostile to them to operate in areas they control.

c. *Freedom of Religion.*—Lebanese practice their various religions freely. There are 17 officially recognized sects, including numerous Christian denominations, Muslims (Sunni, Shia, and others), and Druze. There is no state religion, but Lebanon's confessional political system means that a wide range of government positions are filled on the basis of religion.

There are no restrictions on any particular religious groups, foreign clergy, or places of worship. Religious groups are free to publish religious material, operate schools, and establish charitable organizations.

Lebanese have the legal right to convert from one religion to another, but the confessional character of society makes conversion to another religion difficult. Women, however, often adopt the religion of their husbands. Conversion can mean ostracism from family and friends. Local religious leaders often pressure members of their congregations against taking part in the religious activities of other groups.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Lebanese traditionally have enjoyed freedom of travel, domestic and foreign. The spread of government authority has removed barriers that blocked domestic travel during the civil war, but obstacles remain. Lebanese armed forces and Syrian troops maintained checkpoints in areas under their control. In the south, the SLA and IDF maintained tight restrictions on the movement of people and goods into and out of the security zone.

There are some restrictions on foreign travel by Lebanese citizens. Husbands may block foreign travel by their wives and minor children. The introduction in 1993 of compulsory military service for many males aged between 18 and 21 meant that youths subject to the draft are required to register at a recruitment office and obtain a travel authorization document before leaving the country. Travel to Israel is illegal for all Lebanese citizens, but many do so through Israeli-controlled territory in

southern Lebanon. There are no legal restrictions on the right of all citizens to return. Many emigres are reluctant to return for a variety of political, economic, and social reasons. Palestinian refugees with valid residency papers have the right to return to Lebanon.

The Government began the process of encouraging the return to their homes of over 600,000 Lebanese displaced during the civil war. The process was slowed by financial constraints as well as lingering insecurity felt by the displaced. Hundreds of families, however, received keys to their homes and began to repair them. The Government concentrated its efforts on returning Christians to areas of the Shuf and 'Alayh from which they had fled in the wake of Christian-Druze fighting in the mid-1980s.

Lebanon has historically both generated and received refugees. There are approximately 180,000 stateless undocumented persons in Lebanon. Although the families of some of them have lived in Lebanon for generations, they suffer broad discrimination since they are not accorded the legal rights enjoyed by the rest of the population. They include the inhabitants of border areas in dispute between Lebanon and Syria and Lebanon and Israel, Kurds, Syriac Orthodox, and members of other sects. These people do not benefit from such government services as the national social security fund, and cannot be employed by the Government. Concern about preserving sectarian balance was one obstacle to the naturalization of these people in the past. In 1993 political support grew for a plan to naturalize a confessionally balanced group of non-Palestinian stateless persons who have continuously resided in Lebanon for the past 15 years. The Government is reviewing applications.

Most non-Lebanese refugees in Lebanon are Palestinians. The Government has estimated their number at 361,000, but this figure only includes families of refugees who arrived in 1948. Some estimates of the actual number of Palestinians in Lebanon now range from 450,000 to 500,000. Although the Government in 1991 ended its practice of denying work permits to Palestinians, a strong bias against them continues to compel often highly trained Palestinian refugees to take menial work. Palestinians and other aliens may own land only of a limited size and only after obtaining the approval of five district offices. The law applies to all aliens, but for political, cultural, and economic reasons it is applied in a manner disadvantageous to the Palestinians and, to a lesser extent, Kurds. Under Lebanese citizenship law, only Lebanese males may transmit citizenship to their spouses and children.

Lebanon refused to admit 419 Palestinians deported by Israel on December 17, 1992. The deportees remained in an effective no man's land between Israeli and Lebanese controlled territory inside southern Lebanon. The Government turned a blind eye to the supply of relief material to the deportees, despite a ban on such activity. By the end of 1993, all of the deportees had returned to the Israeli-occupied territories except for about 15 deportees who reportedly elected to remain outside the occupied territories to avoid imprisonment.

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

Lebanon is a parliamentary democracy in which the people have the constitutional right to change their government. However, until the Parliamentary elections in 1992, the people had not been able to exercise this right during 16 years of civil war.

According to the Constitution, direct elections for the Parliament must be held every 4 years. The Parliament, in turn, elects the President every 6 years. The President and Parliament choose the Cabinet. Political parties may form, and some flourish. Since the emergence of the post–1943 state, a relatively restricted group of traditional and sectarian leaders largely have determined national policy. The unwritten 1943 National Pact allocated power on a confessional system based on the 1932 census. The Pact stipulated that the President would be a Maronite Christian, the Prime Minister a Sunni Muslim, and the Speaker of Parliament a Shi'a Muslim. Until 1990, seats in Parliament were divided on a 6-to–5 ratio of Christians to Muslims. Positions in the government were allocated on a similar basis between Christians and Muslims.

Efforts to alter or abolish the confessional system of allocating power were at the center of Lebanese politics for more than 3 decades. Those religious groups most favored by the 1943 formula sought to preserve it, while those who perceived themselves to be disadvantaged sought to revise it on the basis of different demographic data or to abolish it entirely. The struggle gave a strongly sectarian coloration to Lebanese politics and to the continuing civil strife in the country. Under the National Reconciliation Agreement reached in Taif, Saudi Arabia in October 1989, Members of Parliament agreed to alter the National Pact to create a 50–50 Chris-

tian-Muslim balance in the Parliament and reorder the powers of the different branches of government.

Constitutional amendments embodying the political reforms stipulated in the Taif agreement, which represented a dramatic political and psychological change, became law in 1990. They included an expansion of the number of seats in Parliament and the division of seats equally between Muslims and Christians and the transfer of some powers from the President to the Prime Minister and Cabinet. Parliamentary elections were held in 1992. The elections were not prepared and not carried out in a manner to ensure the broadest national consensus. Because the results do not reflect the full spectrum of the body politic in Lebanon, they cast doubt on the ability of the Lebanese people to change their government through truly democratic means.

Palestinians in Lebanon, with the exception of the few who have gained Lebanese nationality, have no political rights. An estimated 17 Palestinian factions operate in Lebanon, ranging from several characterized as "Islamic" to numerous pro- and anti-Arafat organizations, many built around prominent individual leaders. Most Palestinians live in refugee camps, under the control of one or more political factions. Leaders are not elected, and there are no representative institutions that would permit popular participation in running camps. Fundamental protections and freedoms expected of governments exist in some but not all Palestinian areas.

There are no legal barriers to participation by women in politics, but the culture discourages it. Three women were elected to Parliament in 1992. Two were related to deceased politicians, and the third is the sister of the Prime Minister. Very few women hold policy-level positions in the Government.

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

Several local associations are devoted to human rights, including the Foundation for Human and Humanitarian Rights, the Lebanese Association for Human Rights (headed by a Member of Parliament), and the Lebanese Bar Association's Office for Human Rights. The Government does not interfere with the activities of these organizations, according to their leaders. There were no known requests by international human rights organizations to investigate the situation in Lebanon in 1993, but occasional inquiries were made. The SLA has refused requests for access by the ICRC and other international humanitarian groups to visit the prison it operates at Al-Khiyam in southern Lebanon.

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

Sixteen years of civil war blocked progress in many social fields, including laws and practices on discrimination. In 1993, the Cabinet and Parliament considered amendments to laws that discriminate against women, children, and the disabled, but no action was taken.

Women.—Lebanese women, many of whom have professional degrees, can work outside the home and increasingly do so out of necessity. The idea that women should be supported by men prevails, however, and many, including those with professional training, remain home with their families or until their children are grown. Males exercise considerable control over female relatives, often restricting such activities outside the home as travel or contact with friends and relatives. Women may own property but may not be able to exercise control over it due to legal and cultural restrictions. The law stipulates that a woman must obtain the prior approval of her husband to open a business or engage in trade. The Judicial Institute refused to accept 200 female law graduates in November, offering no grounds for the decision.

Violence against women occurs, and the press reports frequent cases of rape, but judicial authorities have no statistics on the extent of the problem. Doctors and social workers believe most abused women do not seek medical help. The society's emphasis on personal privacy and honor makes it difficult for women to seek legal redress, suggesting that cases reported in the papers are but a fraction of the total number. The Government has neither expressed an interest in the problem nor made an effort to combat it.

Each confessional group in Lebanon has its own family and personal status laws administered by religious courts, and each group differs in its treatment of marriage, family property rights, and inheritance. Many of these laws discriminate against women. For example, Sunni inheritance law gives a son twice the share of a daughter. Although Muslim men can easily divorce, Muslim women can do so only with the approval of their husbands. Divorce is difficult for Christians following Catholic rites, including Maronites. Many seeking divorce convert to an orthodox

faith. Parliament approved in November a law that allowed women to testify in matters related to land registry. Previously, a woman's testimony had carried only half the weight of a man's.

Children.—The Government has not placed priority on children's rights and welfare. There is no evidence of government spending to protect children, although Lebanon has ratified the Children's Rights Charter. The area of children's rights is one of many demands made on a state that is just emerging from years of social and financial chaos. The plight of children is a growing concern in Lebanon. A huge number of children are neglected, abused, exploited and even sold to disreputable adoption agents at a rate of $5,000 for an infant, according to children's rights monitors. Hundreds of abandoned children are found in the streets, begging and cleaning car windows; others are hired illegally at low wages. Juvenile delinquency is rising. There are 428 cases before the delinquency court in north Lebanon alone, and many delinquents wait in ordinary prisons for trial and remain there after sentencing. Limited financial resources have hindered efforts to build adequate facilities to rehabilitate delinquents.

Religious Minorities.—Discrimination based on religion is built into the system of government (see Section 3). The amended Constitution of 1990 embraces the principle of abolishing confessionalism as a criterion for filling all government positions, but no steps have been taken to accomplish this.

People with Disabilities.—Over 100,000 people were handicapped during the civil war. This traditional society has tended to neglect the disabled and handicapped, and the concept of rights for the disabled is a novelty for it. Most efforts to secure education, independence, health, and shelter for the disabled were made by private institutions dealing with the handicapped, of which there are more than 100 throughout the country. In the aftermath of the war, the issue of rights for the disabled has gained the Government's attention, and in late 1992 a minister was given responsibility for handicapped affairs, although he lacked a ministry and financial resources. Parliament amended a 1973 law on the disabled, with a view to eliminating all obstacles that block equal treatment for the disabled. Even rudimentary needs remain unmet, however. Lebanon's heavily damaged cities make no accommodation to the disabled, and building codes still have no requirements to ease access. Facilities for the disabled in most instances are inadequately funded by the Government and various religious institutions, and other charities which run them. In this area as in others, the level of public philanthropy is low.

Section 6. Worker Rights

a. *The Right of Association.*—All workers, except government employees, may form and join unions and have a legal right to strike. Worker representatives must be chosen from those employed within the bargaining unit. Trade unions may determine their own policies and programs as long as they do not involve themselves in politics. About 600,000 persons form the active labor force, many of whom are members of Lebanon's 160 labor unions and associations. Twenty-three of the unions, with about 250,000 workers, are represented in the General Confederation of Workers (CGTL), 42 percent of the estimated labor force. Lebanese authorities do not control or restrict unions, although union leaders allege that the Government has tried to intervene in elections for union officials. In 1993 the CGTL executive council elections resulted in the defeat of CGTL's long-term president. There were credible allegations that the Labor Minister helped sway electors, encouraged by both leading candidates. Palestinians in Lebanon may organize their own unions. Restrictions on their right to work in the country, however, make this right more theoretical than real. Few Palestinians participate actively in trade unions in Lebanon.

Public school teachers, the staff at Lebanese University, Trans-Mediterranean Airways employees, and municipal contract workers (principally garbage collectors) in several cities including Beirut staged a handful of warning strikes in 1993. The longest lasted 3 days. Strikers suspended their walkouts in these cases in response to government offers to examine their demands. As of December 31, however, those demands were largely unmet.

After months of negotiations and strike threats, CGTL and the Government struck a deal in December on a nationwide wage increase.

Three hundred workers at a private steel factory struck on September 29 over management's decision to increase their hours of employment and over alleged inroads on worker's freedom to organize. As of November 1 the strike was unresolved. Laws prohibit retribution against strikers and leaders, and there are no known cases of such retribution. Two strike leaders among the Beirut municipal contract workers, however, were detained by the police for several hours.

Unions are free to affiliate with international federations and confederations, and they maintain a variety of them.

b. *The Right to Organize and Bargain Collectively.*—The right of workers to organize and to bargain exists in law and practice. Most workers' groups engage in some form of collective bargaining with their employers. Stronger federations obtain significant gains through their own collective bargaining efforts. Weaker unions rely on the mediation of the CGTL, which negotiates across-the-board pay increases with private employers' associations. The CGTL often assists unions affiliated with it in their bargaining efforts and on occasion has assisted nonunionized workers. There is no government mechanism to promote voluntary labor-management negotiations, and workers have no protection against antiunion discrimination. While such discrimination exists, its practical impact on union rights is negligible largely because of CGTL activism.

In May the International Labor Organization (ILO) reviewed a complaint lodged by the CGTL against the Government regarding the arrest of striking bank employees in 1992. The ILO, noting that the Government had not denied the fact of the arrests and had not responded adequately to ILO inquiries, asked the Government to safeguard unions' freedom to strike in the future.

There are no special economic incentives or export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—While not prohibited by law, forced labor is not practiced or condoned by the Government. However, children, domestics, or other foreign workers are sometimes forced to remain in situations amounting to coerced or bonded labor.

d. *Minimum Age for Employment of Children.*—The 1946 labor code stipulates a minimum age of 8. Workers between the age of 8 and 16 cannot work in excess of 7 hours, with 1 hour of rest provided after 4 hours. They are also prohibited from working between the hours of 7 p.m. and 6 a.m. There is a general prohibition against "jobs out of proportion with a worker's age." The labor code also prohibits certain types of mechanical work for children aged 8 to 13, and other types for those aged 13 to 16. The Labor Ministry is tasked with enforcing these requirements, but the civil war left it with few resources and a demoralized and sometimes corrupt staff. The law is not rigorously applied, and many younger children work in family businesses.

e. *Acceptable Conditions of Work.*—The Labor Ministry sets a legal monthly minimum wage, which was raised in December to about $117 (197,000 Lebanese pounds). The law is not enforced effectively in the private sector. In theory the courts could be called upon to enforce it, but in practice they are not. Trade unions actively try to assure the payment of minimum wages in both the public sector and large-scale private sectors, such as teaching and transport. Inflation and currency devaluation make it impossible for a worker and family to live on the minimum wage; most workers have to earn additional income to make ends meet.

Labor law prescribes a standard 6-day workweek of 48 hours, with a 24-hour rest period per week. In practice, workers in the industrial sector work an average of 35 hours a week, and workers in other sectors of the economy work an average of 30 hours a week. The law includes specific occupational health and safety regulations. Labor regulations call on employer's to take adequate precautions for employee safety. Enforcement, the responsibility of the Labor Ministry, is uneven. Labor organizers know of no right of workers to remove themselves from hazardous conditions.

LIBYA*

The Great Socialist People's Libyan Arab Jamahiriya is a dictatorship ruled by Major General (formerly Colonel) Mu'ammar Al-Qadhafi, aided by extragovernmental Revolutionary Committees operating at his behest. The governing principles of the society are expressed in Qadhafi's "Green Book" rather than in a constitution. He has created a political system borrowing from pan-Islamic and pan-Arab sources and purporting to establish a "third way" superior to both capitalism and communism. In the past, he has used assassination and intimidation as ways to control his enemies abroad; at home he continues to use a variety of summary judicial proceedings to suppress any popular resistance. Ethnic minorities, such as Berbers, are tightly controlled, and the Government continues its campaign against banned Islamic groups.

Libya maintains an extensive security apparatus, consisting of several elite military units, including Qadhafi's personal bodyguards. The local Revolutionary Com-

*Because the United States has no Embassy in Libya and because the regime strictly limits access to information, it is difficult to comment authoritatively on conditions in Libya.

mittees and People's Committees also have security functions, designed to monitor as well as protect the populace. The result is multilayered, pervasive surveillance and control of individual activities.

Limited privatization continued in 1993, with government decrees legalizing private wholesale trade and the sale of some parastatal assets. State domination of the economy is assured, however, by complete government control of Libya's rich oil resources, the principal source of foreign exchange. Libya has used part of its oil income to finance internal development (new schools, hospitals, roads), but much has been wasted.

There continued to be little change in the human rights situation in 1993, and most rights remain tightly restricted. There are no effective rights to freedom of speech, including expression of views opposing those of the Government, to peaceful association or assembly, to formation of trade unions, or to strike. Citizens do not have the right to change their government. Personal rights, such as the right to be considered innocent unless proven guilty, to a public and speedy trial, to legal counsel, to be secure in one's home or person, or to hold property, are also strictly limited.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Opposition sources claim approximately 300 military personnel were killed in a failed "coup attempt" in mid-October.

A large number of offenses, including political offenses and "economic crimes," are punishable by death under Libyan law. For example, Law No. 71 of 1972 provides for the death penalty for anyone involved with any group activity based on any ideology opposed to the principles of the revolution. Despite his longstanding stated intentions, General Qadhafi has not acted to abolish the death penalty for this offense. To the contrary, in the September 1991 Consolidation of Liberty Law No. 20, Article 4 stipulates that the death penalty may be imposed on "those whose lives constitute a threat or cause depravity to society."

b. *Disappearance.*—There were no reports of disappearance in 1993 (but see Section 1.c.).

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although Libya is a party to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, prisoners are reportedly tortured during interrogations or for discipline. There were no confirmed reports of torture in 1993; it is impossible to say to what extent torture was used in 1993 because of the tight controls maintained by the Government concerning such information. Foreign workers, particularly from sub-Saharan Africa, have been the target of periodic detentions and alleged torture. Many prisoners are held incommunicado, which makes confirmation of torture difficult.

Methods of torture reportedly include: chaining to a wall for hours, clubbing, electric shock, corkscrews in the back, lemon juice in open wounds, breaking fingers and allowing the joints to heal without medical care, suffocation using plastic bags, deprivation of food and water, and beatings on the soles of the feet. Libyan law calls for fines against any official using excessive force, but there are no known cases of prosecution for torture or abuse.

In April General Qadhafi publicly called for a stricter application of Koranic law, or Shar'ia. He criticized the leniency of judicial punishments, recommending legislation to mandate amputation for thievery and public whipping for adulterers. There was no evidence that these recommendations were enacted into law.

d. *Arbitrary Arrest, Detention, or Exile.*—Under Libyan law, detainees may be held incommunicado for unlimited periods. Many political prisoners are held in unofficial detention centers, controlled by members of the Revolutionary Committees, where prolonged periods of incommunicado detention are common. Many allegedly are held without charge or trial, apparently as an example to other would-be opponents of the regime. There continued to be reliable reports that between 400 and 500 political detainees were still being held, most of whom were arrested after a limited amnesty was proclaimed in 1988. Some opponents of the regime claim the Government repeatedly detains thousands more for periods too brief (3 to 4 months) to permit confirmation by outside observers. While undergoing interrogation, sometimes for periods of several months, prisoners are given no access to legal representation. Foreigners have also been subject to arbitrary arrest and torture. There have been credible reports that some foreign workers in Libya have been forced into military training and military service on behalf of Libya or coerced into subversive activities against their own countries.

Exile is not a form of punishment practiced in Libya; to the contrary, General Qadhafi seeks to pressure Libyans working or studying abroad to return to Libya. The regime does, however, arbitrarily expel noncitizens (see Section 6.e.).

c. *Denial of Fair Public Trial.*—Most civilians are tried in regular courts, but their cases may be referred to less formal "people's courts" or to military or revolutionary courts, depending on the arbitrary decision of the security forces. Security forces have the power to judge persons guilty without trial, particularly "traitors to the people." Some trials are held in private or in the absence of the accused.

An 1981 law prohibits the private practice of law and makes all attorneys employees of the Secretariat of Justice. Libya claims it "guarantees prisoners all necessary means of defense and safeguards of justice adequate to the principles contained in the Universal Declaration of Human Rights" and provides for legal assistance "as soon as possible with respect to the exigencies of interrogation." This claim notwithstanding, there continued to be credible reports that these rights are denied.

Alleged political offenses have at times been tried before ad hoc revolutionary courts rather than by civilian courts, with opportunities to engage defense counsel severely restricted. A number of these trials have been held in secret. Despite the regime's announcement of their abolition in 1988, "extraordinary" courts are still in operation and have been publicly discussed in the case of Islamists. Of the 400 to 500 political prisoners believed to be held in Libyan prisons, most were never formally charged or tried.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Government does not respect the right to privacy. The legal requirement that judicial warrants be obtained before entering a private home is often disregarded. Local and international telephone calls are routinely monitored. The security agencies and the Revolutionary Committees oversee an extensive informer network. Libyan exiles report that mere family ties to suspected regime opponents can result in harassment or even persecution and detention by the authorities. Property may be seized and burned if it belongs to "enemies of the people" or those who "cooperate" with foreign powers.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The authorities tolerate some difference of opinion in People's Committee meetings and at the General People's Congress but in general severely limit freedom of speech. This is especially true with regard to criticism of General Qadhafi or his regime. Infrequent media criticism of regime members or policies is interpreted as orchestrated attempts to test public reactions or as efforts to weaken the popular support of General Qadhafi's potential challengers within the Government.

Political speech is repressed through legislation banning all political activities not sanctioned by the Government, including the nonviolent expression of conscientiously held beliefs. The legislation that makes the dissemination of "hostile information" a crime is so all-encompassing that almost any form of expression may be deemed illegal. Fear of being informed upon by elements of the Revolutionary Committees and an underlying climate of mistrust at all levels of society further inhibit freedom of speech.

Libyan media are owned and controlled by the State. There is a state-run daily newspaper, with a circulation of 40,000. The Revolutionary Committees publish several smaller newspapers. JANA, the official news agency, is the designated conduit for official views. Publishing opinions contrary to government policy is not permitted. Newsweek, Time, the International Herald Tribune, and Express Jeune Afrique are available but are routinely censored. There are strict controls on foreign publications at the Tripoli airport. Foreign broadcasts can be received.

b. *Freedom of Peaceful Assembly and Association.*—Public assembly is repressed unless it is government controlled and supportive of regime positions. The right of association is limited and granted only to institutions affiliated with the regime. According to Law No. 71 of 1972, party activities constituting "treason" are punishable by death. Offending activities include "any grouping, organization, or formation, of whatever kind or number, which is based on a political concept opposed in its aims to the principles of the Revolution." Organizations such as independent trade unions and professional associations are viewed as unnecessary, since General Qadhafi has vowed not to "accept intermediaries between the revolution and its working forces."

In spite of these restrictions, worsening economic conditions and growing dissatisfaction with government performance prompted several informal protest meetings.

c. *Freedom of Religion.*—Libya is overwhelmingly Muslim. In an apparent effort to eliminate all alternative power bases, the regime has banned the once-powerful Sanusiyya Islamic religious sect. In its place, General Qadhafi established the Is-

lamic Call Society (ICS), which became the outlet for state-sanctioned religion as well as a tool for exporting the Libyan revolution abroad. In 1992 the Government announced the disbandment of the ICS; however, recent public statements by the ICS suggest it remains active. Islamic groups at variance with the state-sanctioned version are banned.

Members of some minority religions (e.g., Christianity) are allowed to conduct services. Services in Christian churches are attended by the foreign community. There is a resident Catholic bishop operating two churches with a small number of priests. Nuns reportedly are permitted to wear religious habits.

General Qadhafi's domestic campaign against banned Islamic groups continued in 1993, with frequent arrests of suspected members and sympathizers and public denouncements of the groups. There was one unverified report that General Qadhafi forced orthodox Muslims at one mosque to shave (as a form of public humiliation) after Friday services. Those who refused were allegedly arrested. A majority of the political detainees in Libya are reported to be associated with banned Islamic groups.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—With the exception of security areas, movement is not usually restricted for Libyan citizens. Traditionally, exit permits have been required for travel abroad, and currency controls have also served to restrict travel. Women must have their husband's permission for them or their children to travel abroad.

In 1991 Libya and Egypt agreed to allow the unrestricted travel of their nationals across their mutual border, and thousands of Libyans reportedly go back and forth regularly. This travel, as well as travel from Libya to Tunisia, increased in 1993 as Libyans began to feel the full impact of the international air embargo. However, the Libyan Government tightened border controls in October, apparently as a form of political retaliation against neighboring states for their enforcement of U.N. sanctions against Libya.

The Revolutionary Committees maintain surveillance of some Libyans while they are abroad. Libyan nationals' right of return is theoretically fully protected, even for opponents of General Qadhafi. However, this "right" may be more nearly an obligation; the regime often calls on students, many of whom receive a government subsidy, and others working abroad to return on little or no notice and without regard to the impact on their studies or work. Libyans who study abroad are interrogated on their return home. A number of Libyans, including most exiled opposition leaders, refuse to return.

Opposition activists claim Libyan agents in Cairo abducted, and possibly murdered, former Libyan Foreign Minister and prominent opposition figure Mansur Kikhya in December. Qadhafi also called publicly for the murder of regime opponents.

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

The people of Libya have no right to change their government. Major government decisions are controlled by General Qadhafi, a few key associates, or by committees acting in his name. He appoints military officers and official functionaries down to junior levels. Power flows through a small circle of trusted associates. Corruption and favoritism (partially based on tribal origin) are major problems, adversely affecting the efficiency of government.

Political parties and tribal or local groupings are prohibited. Participation in elections is mandatory, and all candidates are approvedd by the Revolutionary Committees. Candidates may not be "merchants, contractors, tribal advocates, election brokers, officials of the former (pre–1969) government, or people who have been attacked by the power of the revolution."

Popular participation in government is theoretically provided by the grassroots People's Committees, which send representatives annually to the national General People's Congress (GPC). In practice, the GPC is a rubberstamp assembly, approving all recommendations made by General Qadhafi.

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

No independent human rights organizations are permitted to function. The Libyan Arab Human Rights Committee, a government organization, was created in May 1989. However, there are no reports of any activities by the Committee.

Libyan officials last met with Amnesty International (AI) representatives during a June 1988 visit. Since then, the Government has repeatedly refused to reply substantively to AI's appeals on behalf of political detainees in Libya. The Government did not respond to requests for visits by AI in 1993.

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

Women.—Women's rights are restricted both by law and by the conservative Islamic attitudes of Libya's society. There were credible reports in 1993 of women being harassed or briefly detained for their manner of dress or for approaching a man in public without a male escort.

General Qadhafi has led efforts to improve the status of women and expand their access to educational and employment opportunities. With some exceptions, women currently receive basic military training and are subject to the military draft.

No information is available on the extent to which violence against women is a problem in Libya.

Children.—The Government provides subsidized medical care and education, improving the welfare of children over the past 25 years. Declining revenues and general economic mismanagement, however, is leading to cutbacks, particularly in medical services.

Female circumcision, which has been condemned by international health experts as damaging to physical and mental health, is reportedly still practiced among tribal groups in remote areas of the south.

National/Racial/Ethnic Minorities.—Arab-speaking Muslims of mixed Arab and Berber ancestry make up 97 percent of Libya's population. The principal non-Arab minorities are Berbers and blacks. There are frequent allegations of discrimination based on tribal status, particularly against Berbers in the interior and Tuaregs in the south. In past years, General Qadhafi sought unsuccessfully to assure that Berbers married only non-Berbers, presumably in an effort to erode their tribal identity.

In 1991 and 1992, the Government expelled thousands of black African workers from Libya under circumstances that appeared discriminatory (see Section 6.c.). Other threatened expulsions, primarily directed at Tuaregs, appear intended to exert political and economic pressure on their nations of origin (see Section 6.c.).

People with Disabilities.—No information is available on the Government's efforts to assist people with disabilities or to indicate whether it has enacted legislation or otherwise mandated provision of accessibility for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—Workers do not have the right to form or join unions of their own choosing. The official trade union organization, the National Trade Unions' Federation, which was created in 1972, is under government control and administered through the People's Committee system. Every Libyan worker is required to join a trade union, but foreign workers are not allowed to join.

Although unions are assured the right to "safeguard their interests," there is no right to strike, and no strikes by Libyan workers have been reported for years. In a June 1992 speech, General Qadhafi stated that workers have the right to strike but added that strikes do not occur in Libya because the workers are in control and "can change authority" any time they wish. Despite this statement, no law authorizes workers to strike.

With government financing, the official trade union organization plays an activist role in the International Confederation of Arab Trade Unions and the Organization of African Trade Union Unity and exploits international trade union contacts to engage in propaganda efforts on behalf of the Government. In November the Arab Maghreb Trade Union Federation (USTMA) suspended the membership of Libya's trade union organization. The suspension followed reports that General Qadhafi had replaced all trade union leaders, in some cases appointing loyal followers without trade union credentials.

b. *The Right to Organize and Bargain Collectively.*—Although the Labor Code provides for collective agreements, with the stipulation that the validity of these agreements must be subject to government approval, there is no collective bargaining in Libya.

c. *Prohibition of Forced or Compulsory Labor.*—The comments from the 1992 report of the International Labor Organization's (ILO) Committee of Experts that "persons expressing certain political views or views ideologically opposed to the established political, social, or economic system may be punished with penalties of imprisonment . . . involving . . . an obligation to perform labor" remain unchallenged. The same report noted that public employees in Libya can be imprisoned and sentenced to compulsory labor ". . . as a punishment for breaches of labor discipline or for participation in strikes even in services whose interruption would not endanger the life, personal safety, or health of the whole or part of the population." The Government has repeatedly told the ILO's Conference Committee on the Application of Conventions and Recommendations that there have been changes in legislation

that abolish these provisions, but no corroborating evidence has been submitted to the ILO.

d. *Minimum Age for Employment of Children.*—The minimum age for employment of children is 18. Education is compulsory to age 15.

e. *Acceptable Conditions of Work.*—Libya maintains a work force of around 1,120,000 workers (plus an additional 1.2 million foreign workers) in a population of 4.4 million. There is a legally mandated minimum wage, which is adequate to afford a worker and family a decent standard of living. The legal maximum workweek is 48 hours. Libyan labor law defines the rights and duties of workers, including matters of compensation, pension rights, minimum rest periods, and working hours. A corps of labor inspectors, based in the seven municipalities of the country, are assigned to inspect places of work for compliance with legal standards, including occupational health and safety standards. Certain industries, such as the petroleum sector, try to maintain standards originally set by foreign companies.

The labor law does not accord equality of treatment to the foreign workers in Libya, who do much of the blue-collar and technical work. Foreign workers may stay in the country only for the duration of the contracts under which they are employed. Foreign workers are subject to arbitrary pressures, such as changes in work rules and contracts, with little option but to accept or to depart the country, often without full compensation for work already performed. Conditions of employment are subject to negotiation between the worker and the employer Foreign workers who are not under contract enjoy no protection.

In the spring of 1990, the Government began expelling thousands of black African workers, claiming they were in Libya illegally. Chadians, Nigerians, Nigeriens, Malians, and Ghanaians were rounded up at their homes or work sites, detained for varying lengths of time, and returned destitute to their countries, usually with no warning to their governments. Press reports in several of these countries have carried unsubstantiated accounts of arbitrary detention and mistreatment of these workers by Libyan authorities prior to their expulsion, as well as of the disappearance of at least 16 workers and the killing, probably extrajudicially, of 1 Malian laborer. There were continued reports of expulsions in 1992, and many workers are reported to be detained under difficult conditions. General Qadhafi reportedly threatened neighboring states in 1993 with mass expulsions of their nationals from Libya to exert economic and political pressure on those states. In November he called for the expulsion of most of the 25,000 Thai workers in Libya. This was apparently in retaliation for the Thai Government's action to remove approximately 200 Thai workers from the Tarhunah chemical weapons project. To date, the Libyan Government has taken no action against the Thai workers.

MOROCCO

The Constitution of Morocco provides for a constitutional monarchy with a pluralistic political system, a representative Parliament, and an independent judiciary. Recent changes to the Constitution ostensibly increase the power of the Prime Minister and Parliament relative to the Crown. In practice, however, ultimate authority rests with the King, who retains the discretion both to dismiss ministers and to dissolve Parliament in order to rule by decree. Two-stage parliamentary elections in 1993 produced gains for opposition parties in the first stage which were reversed, amid credible reports of government manipulation, in the second stage.

The security apparatus comprises several overlapping police and paramilitary organizations whose activities are coordinated by the national government. The Direction de la Surveillance du Territoire (DST), Surete Nationale, and judicial police are under the Ministry of Interior, while the Gendarmerie Royale reports directly to the Palace. Security forces continued to commit human rights abuses, including torture. Evidence was released, in the notorious "Tabit affair," showing that senior Surete Nationale officers had systematically abused hundreds of women over several years. (Several officials were tried and convicted, while Tabit himself was executed—see Section 1.c.).

Morocco has a mixed economy based largely on agriculture, fishing, light industry, phosphate mining, tourism, and remittances from Moroccans working abroad. An illegal drug trade also is a significant factor. Since the early 1980's, Morocco has pursued an economic reform program that has contributed to generally strong economic growth and low inflation, although these developments have been set back by a drought now in its second year. The Government recently launched a program of privatizing state-owned enterprises.

The Government of Morocco took several steps in 1993 to address human rights concerns, including establishing a Deputy Minister for Human Rights, ratifying several international conventions on human rights, and amending laws on polygamy, divorce, and spousal support to mandate more favorable treatment of women. The Royal Consultative Council on Human Rights (CCDH) formed working groups to investigate various areas of human rights concerns, opened dialogs with domestic human rights groups, and recommended to the King that government ministries become more responsive to inquiries about possible human rights abuses. Closer scrutiny, however, reveals many of these steps to be cosmetic. Credible reports of routine abuse of prisoners continued unabated, and at least three deaths in custody can reasonably be attributed to torture. Freedom of speech and press continued to be restricted, especially in cases perceived to affect the security of the State. Other principal problems included limitations on the right of citizens to change their government, arbitrary arrest and detention, a weak and malleable judiciary, and restrictions on the freedoms of travel, assembly and association, and religion, and additional constraints on women's rights.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Credible reports document that at least three persons died in police custody in 1993 due to Moroccan security force brutality. The most publicized police brutality case involved the death on May 16 of Mustapha Hamzaoui in the jail at Khenifra. Hamzaoui, a former law student and activist with the left-wing Moroccan Association of Unemployed Graduates, was arrested on May 15 on suspicion of verbally assaulting four young women. According to Khenifra authorities, he was interrogated twice while in custody and then committed suicide by hanging. Alleging that the body bore evidence of multiple cigarette burns and mutilated genitalia, Hamzaoui's family refused to accept his remains without the performance of an autopsy. Although the Ministry of Justice sent a physician to examine the body, no autopsy report was made public. Khenifra authorities subsequently released a statement confirming the finding of suicide and impugning Hamzaoui's character. Despite appeals and a legal motion filed by the OMDH, no further government investigation or response has been made. Hamzaoui's family is reportedly under government pressure to drop the matter.

In another case, Abdellah Bentawet died while in detention in a Tangier jail. He was arrested on June 1 after being involved in an altercation. Members of his family allege that, while they were visiting the detainee, a security agent began to beat him and demanded payment of approximately $16 for his release, which the family refused to make. On the following day, Bentawet's family was informed that he had committed suicide. Moroccan authorities have not responded to repeated requests by human rights organizations for an investigation.

In a third case, Mounir Azzag, a 22 year-old Tangier resident was arrested on October 9 after an argument with police about a parking infraction. On October 11, his family was notified that he had committed suicide while in custody. Called to the morgue, his family reported that the body bore a large facial cut and that the authorities refused to allow them to view the entire body. An autopsy ordered by local authorities found no indications of violence yet concluded that death was caused by hanging.

The police involved in the Hamzaoui, Bentawet, and Azzag deaths were all employed by the Ministry of the Interior. No disciplinary actions have been instituted against them.

b. *Disappearance.*—There were no reported permanent disappearances in 1993. Temporary "disappearances" continued to result from the practice of holding persons in pretrial incommunicado detention, without notifying families or attorneys, for longer than the legal limit of 48 hours.

In May the Moroccan Human Rights Organization (OMDH) published a list of 24 persons who disappeared between 1973 and 1987, most after arrest or conviction on charges related to political activity. OMDH's requests to the Ministries of Justice and Interior for information regarding the welfare and whereabouts of these persons have gone unanswered. Other human rights organizations have published much higher estimates of the number of persons who have permanently disappeared after last being seen in the custody of Moroccan security forces. The Government has never acknowledged any such cases, including the 300 Sahrawis (native Saharans) released without comment in 1991 after detention for up to 15 years. As one of many examples, repeated appeals to Moroccan authorities for information regarding the fate of Abdelhaq Rouissi, a trade unionist who disappeared after his arrest 29 years ago, have been met either with silence or summary dismissal.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the Government ratified the Convention Against Torture in June, credible reports persist of security force involvement in physical abuse, including torture and degrading treatment, of detainees. Disinterested former prisoners reported that detainees suspected of politically motivated crimes were more likely than other detainees to be subjected to physical abuse. Harsh treatment reportedly continued after conviction, with guards subjecting prisoners to random violence and deliberately depriving them of family visits, sleep, baths, blankets, medical care, food, and access to study materials. There were no reports that torturers were held accountable for their actions in 1993. Moreover, although they have the power to do so, prosecutors appear reluctant to order medical examination in cases where torture is alleged.

The arrest and conviction in 1993 of a senior Surete Nationale official revealed a disturbing record of systematic rape and assault of women. One official, Mohammed Tabit, was found guilty on hundreds of charges of rape and assault perpetrated over a period of several years during which he served in various posts within the Surete Nationale, including as Commissioner of a Casablanca precinct. Under pretense of police business, Tabit typically would lure his victims to a Casablanca apartment where he would assault them while videotaping his activities. He was assisted in his crimes by several Surete Nationale officials. Tabit himself was executed. In addition to those who were convicted in connection with the affair, several high ranking government officials were removed without comment. The press held those personnel changes to be indicative of widespread knowledge within the Government of Tabit's activities throughout his career.

Prison conditions in Morocco are harsh. At least 15 persons died in prisons in 1993 due either to illnesses contracted as a result of unhealthy prison conditions or lack of medical care for preexisting illnesses. Inmate hunger strikes to protest prison conditions, especially by Islamist inmates (i.e., prisoners whose crimes were motivated by pursuit of the doctrines of political Islam), have become commonplace.

Three prisoners died in a 2-week period in a single prison in Casablanca, each within days of beginning a short sentence for a minor crime. There is no evidence to establish overt security force involvement in these deaths, which appeared to result from a lack of basic medical care, sanitation, and nutrition. Acknowledging the substandard conditions in Moroccan prisons, CCDH has established a working group to recommend improvements. However, the Government, citing economic constraints, continued in 1993 to decline to invest significant resources to improve penal living conditions.

Earlier reports of the closing and destruction of the Tazmamart detention facility, notorious for its harsh treatment of prisoners, have not been verified. After years of denials, King Hassan acknowledged for the first time in a May interview that the facility had existed. However, the Government refused to comment on past or present activities at the Tazmamart site or to provide an accounting of the prisoners who were confined there, many of whom apparently died there. The few surviving prisoners who were released from Tazmamart have indicated that their continued liberty is conditioned upon their silence regarding the circumstances of their imprisonment. There is no indication that the Government is investigating Tazmamart abuses for the purpose of bringing those responsible to justice.

d. *Arbitrary Arrest, Detention, or Exile.*—Legal guarantees of procedural due process in Morocco, extensively revised in recent years, are frequently ignored. Arrests usually take place in public, but police sometimes refuse to identify themselves. Warrants are not always used. The law requires that a detainee be brought before a judge within 48 hours of detention (extendable to 96 hours upon approval of the prosecutor) and informed of the charges against him. Under the revised due process rules, incommunicado (garde a vue) detention is limited to 48 hours, with a one-time 24-hour extension upon request by the prosecutor. An accused person must be brought to trial within 2 months of arrest, with up to five extensions of 2 months each allowed at the discretion of the prosecutor. Detainees are denied counsel during the initial period of detention when torture is most likely to take place. Counsel is allowed only as of the first cross-examination, and many cases are resolved without cross-examination.

According to Moroccan human rights groups, compliance with the new due process rules has been irregular. Some members of the security forces, long used to indefinite precharge access to detainees, continue to resist the new rules. Lawyers are sometimes not informed as to the date of detention and are thus unable to monitor garde a vue detention limits. However, there were no known instances in 1993 of the once common practice of indefinite incommunicado detention.

Moroccan law creates a limited system of bail that is rarely used, although defendants are sometimes released on their own recognizance. The law does not provide for habeas corpus or its equivalent.

Under a separate Code of Military Justice, military authorities may detain members of the military without warrants or public trial.

Abdessalem Yassine, leader of the banned Islamist organization Justice and Charity, remained under house arrest in his home after 2 years of detention without trial. His family members are only occasionally allowed to visit him. No other visits are allowed. Indicative of its subordination to the Ministry of the Interior, CCDH has not publicly questioned the propriety of the Ministry's confinement of Yassine.

There are no known instances of Moroccans being sentenced to exile.

e. *Denial of Fair Public Trial.*—Morocco has a dual legal system: a secular system based in part on French legal tradition and a parallel Islamic system which adjudicates family matters and inheritance law for Moroccan Muslims. The secular system includes courts of original jurisdiction, appellate courts, and a Supreme Court. Judges in this system are university-trained attorneys who have undergone further specialized training prior to assuming their positions.

Political and security offenses are not distinguished from common criminal offenses under Moroccan law. All criminal matters are tried in the secular courts. In general, cases are brought before a court of first instance which may call for a hearing quickly to bring cases to trial. The detainee is informed of charges and questioned by the judge who decides if the charges have merit. If the infraction is minor and not contested, the judge may release the detainee or impose a light sentence. If a lengthy investigation is required, the judge may release detainees on their own recognizance. Criminal cases are frequently resolved by confessions. Disinterested former prisoners continued to report attempts by authorities to extract confessions under duress.

The Islamic court system consists only of trial courts, and their decisions may not be appealed. Although judges in this system are clerics who traditionally were not trained in the law, judges named to the bench in recent years have been formally educated in Islamic law. Cases are decided on the basis of the Koran or the derivative Shari'a and are often tried without attorneys.

Both the secular and Islamic courts are susceptible to extrajudicial pressures. Secular court judges are not well paid. Cash payments to unscrupulous judges are widely reported to be commonplace in routine criminal cases. Likewise, judges hearing cases involving challenges to royal authority or state policy are vulnerable to political pressure, especially from the Ministry of Interior. The accused in such cases do not enjoy the procedural safeguards needed to ensure a fair trial. Comments made by the prosecutor during the Tabit trial, for example, clearly indicated that the sitting judge was following instructions from the Ministry of the Interior and the Palace. Islamic court judges are paid by the parties for services in settling inheritance cases, with compensation often a percentage of the assets involved.

Aside from external pressures, the secular court system is also subject to resource constraints. Consequently, criminal defendants charged with less serious offenses often receive only cursory hearings, with judges relying on police reports to render decisions. Although the Government provides an attorney at public expense for serious crimes (when the alleged offense carries a maximum sentence of over 5 years), appointed attorneys often provide inadequate representation.

Proceedings in the cases of three labor leaders convicted of expressing antigovernment views were concluded in 1993. In May the Court of Appeal upheld the conviction of Noubir Amaoui who was sentenced in 1992 to 2 years in prison for defaming the Government after a trial widely criticized for being politically motivated and for procedural irregularities and restrictions on public and press access. In July Amaoui was granted a royal pardon and released. Driss Laghnimi was convicted in 1993 for insulting the person of the King during a public discussion between members of different unions. He also received a royal pardon following denial of his appeal in April. The Court of Appeal also upheld the conviction of Ahmed Belaichi who was sentenced in 1992 to 3 years in prison for "affront to the military" after a trial in which several defense witnesses were not permitted to testify. He remains in prison.

Moroccan human rights organizations periodically publish lists of prisoners "of opinion," prisoners accused of armed conspiracy or violence for political reasons, and prisoners convicted following demonstrations or strikes. These groups estimate that Moroccan prisons now hold 500 to 600 prisoners in these categories, of whom approximately 100 are held for crimes of politically motivated violence, and approximately 300 were arrested in connection with strike or demonstration activities. Because the Government defines several categories of speech as criminal (see Section 2.a.), it regards political prisoners as common criminals.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution states that the home is inviolable and that no search or investigation may take place without a search warrant issued in compliance with the law. Cur-

rent law stipulates that a search warrant may be issued by a prosecutor on good cause. This stipulation is not always observed, however, and there continue to be reports of illegal searches of the homes and offices of suspected political activists.

Government security services, generally operating under the direction of the Ministry of the Interior, selectively monitor certain persons and organizations, both foreign and Moroccan, including their telephones and mail. University campuses are under close surveillance, and there is an extensive informant system, especially on campuses and in cities.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of expression, but by Moroccan law and tradition negative commentary is forbidden on three topics: the monarchy, Morocco's claim to the Western Sahara, and the sanctity of Islam. Statements on these subjects may be deemed crimes against state security. In addition, many Moroccans are careful not to criticize the foreign or domestic policies of the Government for fear of reprisal.

Mustapha Dadao, a Marrakech student arrested in 1992 for allegedly shouting offensive slogans at a May Day rally, was convicted in January of "insult to the King" and sentenced to 5 years. A year was added to his sentence when he commented that his trial had been "superficial." Fifteen Oujda students were convicted in January of "illegal demonstrations and distribution of untruthful tracts susceptible of disturbing the public order" and received sentences ranging from 1 month to 1 year. In March two students received 2-month sentences for protesting against a new examination schedule. In June five Khenifra youths received 3-month sentences for holding a demonstration protesting the death in detention of Mustapha Hamzaoui. (See Section 1.a.)

Press freedom is significantly restricted, though the limits are not clearly defined. A 1958 decree gives the Government the authority to register and license domestic newspapers and journals. In practice, authorities use the licensing process to prevent the publication of materials that they believe cross the threshold of tolerable dissent. Offending publications may be declared a danger to state security and may be seized; the publisher's license may be suspended and equipment destroyed. Article 55 of the Press Code empowers the Government to censor newspapers directly by ordering them not to report on specific items or events.

The Government tolerates satirical and often stinging editorials in the opposition parties' dailies. The tone of those editorials became especially sharp during the 1993 election campaigns. The press also continued in 1993 to report allegations of torture and other harsh treatment, abuse of authority, and prisoners' complaints of degrading conditions. In particular, the flagrant abuses perpetrated by Casablanca police officers revealed during the Tabit trial were widely reported. In November the opposition news daily L'Opinion ran a series of editorials critical of the state of democracy in Morocco. The paper's editor was summoned to the office of the Minister of Interior. The paper thereafter ran an open letter to the Minister condemning his alleged threat to imprison the editor. Other opposition papers have subsequently editorialized in support of L'Opinion's stance against the Minister.

Government control of the media generally is exercised through directives and "guidance" bulletins from the Ministry of Interior. The media regularly engages in self-censorship, prompted by a desire to avoid the Government's attention and possible sanctions. The Government owns the official press agency, Maghreb Arab Press, and the Arabic daily Al Anbaa.

The Government owns the only television station receivable nationwide without cable or satellite dish antennas. Dish antennas are available, though expensive, and permit free access to a wide variety of foreign broadcasts. Morocco's sole private station can be seen in most urban areas with the rental of an inexpensive decoder. Northern residents can receive Spanish stations with standard antennas. The Government does not impede reception of foreign broadcasts.

A great number of foreign news publications are available, particularly from Europe and the United States. Although generally tolerating a broad spectrum of opinion in the foreign press distributed in Morocco, the Government continued in 1993 to ban those editions of foreign publications that contained articles about Morocco deemed particularly offensive. For example, distribution of the February 6 and March 29 editions of Le Monde were blocked apparently because they contained articles describing efforts of a major Moroccan company to acquire a foreign radio station, offering an unflattering appraisal of Moroccan-French relations, and questioning the fairness of the Moroccan elections. Moroccan authorities searched the hotel room of a British journalist, who was preparing a story on the Tabit trial, questioned her regarding her activities, and later confiscated her notes at the airport.

Moroccan universities enjoy relative academic freedom in most areas, but the Government prohibits academic investigation of the Islamic roots of the monarchy. Limited research and publishing on Islam and Islamic fundamentalism is tolerated. Ministry of Interior approval is a prerequisite to tenure in all disciplines. Professors complain that the Ministry often confers tenure on political, rather than purely academic, grounds.

b. *Freedom of Peaceful Assembly and Association.*—Although the the Constitution provides for freedom of assembly and association, this right is significantly limited by three decrees, dating from 1935, 1939, and 1958, which permit the Government to suppress even peaceful demonstrations and mass gatherings. Several groups were subject to government restraints on speech in 1993. In the aftermath of the Tabit affair, 19 Moroccan women's groups organized a march in Rabat against sexual harassment. It was to be the first of its kind in Morocco and was expected to draw thousands of participants. Without explanation, the Government denied permission for the march.

Authorities broke up a variety of peaceful demonstrations in 1993, often injuring and arresting the participants. In April a sit-in organized by the Moroccan National Association of Unemployed Graduates to call attention to the lack of employment available to recent graduates was forcibly dispersed by authorities. In June a sit-in organized by a group of blind students to publicize their ineligibility for unemployment compensation was similarly disrupted by authorities. In November several members of this group were injured or arrested when police forcibly broke up another demonstration in front of the Ministry of the Interior. The Government continued to impede the ability of human rights groups to hold public meetings, often by denying necessary permits.

Another effective restraint on assembly rights is imposed by the Government's practice of closing mosques to the public shortly after religious services, thereby removing any potential for the practice, common in other Muslim countries, of using mosque premises for political activity.

The right to form organizations is limited. Under a 1958 decree, persons wishing to create an organization must obtain the approval of the Ministry of the Interior before holding meetings. In practice, the Ministry uses this requirement to prevent persons suspected of advocating causes opposed by the Government from forming legal organizations. Islamist and leftist groups have the greatest difficulty in obtaining official sanction. Twenty-nine Islamist groups have been active within Morocco. Membership in two of these groups, Justice and Charity and Jama'a Islamia, has been outlawed due to perceived antimonarchy rhetoric. Political parties must also be approved by the Ministry of the Interior, which uses this power to control participation in the political process.

c. *Freedom of Religion.*—Islam is the official religion of Morocco. Ninety-nine percent of Moroccans are Sunni Muslims, and the King bears the title "Commander of the Faithful." The Jewish community of approximately 7,000 is permitted to practice its faith, as is the somewhat larger foreign Christian community. Members of these religions are legally forbidden to proselytize, although several dozen evangelical missionaries conduct services and bible meetings which are attended by some Moroccan Muslims.

Although the Constitution provides for freedom of worship, only Islam, Christianity, and Judaism are tolerated in practice. The King has pronounced all other religions to be heresies. The Baha'i community of 150–200 people has been forbidden to meet or hold communal activities since 1983. According to Islamic law and tradition, conversion of any kind from Islam is strictly prohibited, and any attempt to induce a Muslim to convert is punishable by imprisonment. In October Mustapha Zmamda, a Moroccan Muslim, was sentenced to 3 years in prison after he refused to discontinue correspondence with the directors of a Christian radio program broadcast to North Africa from France. A Brazilian missionary who hosted bible meetings attended by Zmamda was fired from his teaching position, reportedly after the Ministry of the Interior threatened to revoke the operating license of his employer unless he was dismissed.

The Government monitors Friday mosque sermons and the curriculum of Koranic schools to insure that approved doctrines are taught. Fundamentalist Islamic activities are sometimes repressed but are largely tolerated so long as they remain restricted to the propagation of Islam and educational and charitable activities. Islamist groups that question the King's status as Commander of the Faithful and those that engage in violence are suppressed.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Although freedom of movement within Morocco is provided for in the Constitution, in practice security forces set up roadblocks throughout the country and stop traffic at will. In some regions the roadblocks have been maintained in the

same places for years, creating what some characterize as internal frontiers. In the Western Sahara, which is administered by Morocco, movement is restricted in areas regarded as militarily sensitive.

The Interior Ministry restricts the freedom to travel outside Morocco in certain circumstances. For example, it has refused to issue passports to a number of Moroccans, including certain political activists, former political prisoners, and Baha'is. In February the OMDH published a list of 52 former political prisoners, human rights monitors, lawyers, and others who continued to be denied passports. In a series of spring meetings, CCDH members met with Ministry of the Interior officials and requested status reports on several passport applications. By years' end the Ministry issued passports to 46 persons on the OMDH list. Some former political prisoners, after being issued passports, were denied exit at border points on the basis that government computers had not been updated to reflect their eligibility to leave. There continued to be reports of instances in which police seized passports at border points or otherwise blocked the exit of Moroccans trying to leave the country, usually without explanation.

Women must have permission from either their fathers or husbands to obtain a passport. A divorced woman must have her father's permission to obtain a passport and, if she has custody of the children, she must have permission of the children's father for passports to be issued to the children. Although the King has characterized the male consent requirement as contrary to Islam and the Constitution, no changes in these provisions were made in 1993.

There are frequent allegations of corruption in the passport offices; applicants are reportedly forced to pay gratuities to obtain application forms and to make sure that the application is not lost in the bureaucratic labyrinth. All Moroccan civil servants must obtain written permission from their ministries to leave the country each time they wish to do so.

Moroccans may not renounce Moroccan citizenship, but the King has the rarely used power to revoke it. Tens of thousands of Moroccans hold more than one citizenship and travel on passports from two or more countries. While in Morocco they are regarded as Moroccan citizens. As a result, the Government has sometimes refused to recognize the right of foreign embassies to act on behalf of dual nationals or even to receive information concerning their arrest and imprisonment. Dual nationals also complain of harassment by Moroccan immigration inspectors.

Moroccan law encourages voluntary repatriation of Moroccan Jews who have emigrated; Moroccan Jewish emigres, including those with Israeli citizenship, freely visit Morocco. The law also encourages the return of Saharans who have opposed Morocco in the Western Sahara conflict. Returning former members of the Polisario, a group seeking independence for the Western Sahara, who are deemed to pose no threat to security are integrated into Moroccan life.

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

Moroccan citizens do not enjoy the right to change their government by democratic means. The King, as Head of State, appoints the Prime Minister, who is the titular head of government. The Parliament has the theoretical authority to effect change in the system of government, but has never exercised it. Moreover, the Constitution may not be changed without the King's approval. The Ministry of the Interior appoints provincial governors. Municipal councils are elected.

Constitutional changes in 1992 vested in the Prime Minister the power to nominate all other government ministers. However, the King retained the right to replace any minister at will. Any significant surrender of power from the crown to the Prime Minister's office was further obviated by an April decree by which the King greatly increased both the power and the pay of the secretaries general of the ministries. The decree effectively delegated to the secretaries general many of the powers previously vested in the ministers. The secretaries general serve at the pleasure of the King.

The first parliamentary elections in 9 years were held in 1993. Under reforms implemented in 1992, electoral commissions were empowered to oversee the election process and to hear complaints of irregularities, but the conduct of the elections remained in the hands of the Interior Ministry. Of the 333 members of Parliament, 222 are elected directly by universal adult suffrage, while 111 are elected indirectly by various business, labor, and agricultural organizations. In the direct elections held in June, opposition parties did very well. This first phase of the elections received generally favorable marks from international observers. Although informed observers expected opposition parties to solidify their gains in the indirect elections in September, the second stage left opposition parties barely short of the strength needed to form a coalition government and resulted in widespread charges of elec-

tion fraud and manipulation, ranging from the strong-arming of association members responsible for nominating candidates to the falsification of voting lists.

Several new parties were created during the elections. Sixteen parties are now officially recognized by the Interior Ministry.

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

There are three officially recognized nongovernmental human rights groups: the Moroccan Human Rights Organization (OMDH), the Moroccan League for the Defense of Human Rights (LMDDH), and the Moroccan Human Rights Association (AMDH). LMDDH, associated with the Istiqlal Party, and AMDH, associated with the Party of the Socialist Avant Garde, have formed a coordinating committee and generally issue joint communiques. The LMDDH and the nonpartisan OMDH accepted invitations to participate in CCDH activities. All three groups report that ministries, usually Justice and Interior, invariably fail to respond or even acknowledge their inquiries regarding particular human rights cases. Investigations by Moroccan human rights groups are generally conducted with neither government hindrance nor cooperation.

As noted in Section 2.b., the authorities continued to impede the ability of human rights groups to hold public meetings and in one instance picked up a human rights group leader for several hours of questioning about the group's activities.

At the urging of CCDH, the Government in 1993 allowed the first visit by an international human rights group in 3 years. In an interview prior to the arrival of a delegation from Amnesty International (AI), King Hassan II pointedly attacked AI's methods and credibility. Nevertheless, the delegation came away, after 18 hours of meetings with the CCDH, encouraged by the Government's willingness to engage in a human rights dialogue. AI representatives returned in December.

In general, however, the Government does not cooperate with international investigations of allegations of human rights abuses in Morocco. It generally does not respond to inquiries about specific political prisoners made by diplomatic missions. If allowed in the country, human rights monitors are generally refused access to people or conditions they want to see.

In 1990, in response to criticism of Morocco's human rights performance, the King created the CCDH, among whose responsibilities was the representation of Morocco at international human rights forums such as the United Nations Human Rights Commission and with foreign nongovernmental organizations. CCDH's powers are not commensurate with its mandate from the King to expose and correct abuses of human rights. While it proposes reforms to the Palace and some of its recommendations, such as a reduction in the period of permissible precharge detention, are implemented, its capacity to investigate a particular report of abuse is limited to making inquiry of the concerned ministry, usually Interior, and awaiting a reply. CCDH has neither the authority to hold government officers responsible for abuses nor the inclination to condemn publicly the consistent failure of ministries to respond to its inquiries.

A Moroccan government official served as interim president of the preparatory commission for the 1993 World Conference on Human Rights in Geneva.

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

Women.—Moroccan women suffer various forms of discrimination, both legal and cultural. Under the Criminal Code, women are generally accorded the same treatment as men. Women are not accorded equal treatment under family and estate law, which is based on the Malikite school of Islamic law. In marriage, for example, a husband may repudiate his wife, but the wife may not repudiate her husband. The situations under which a woman may sue for divorce are far fewer than those permitted to men. Women inherit only half as much as their male siblings. Moreover, even where the law guarantees equal status, cultural norms often prevent a woman's exercise of those rights. When a Moroccan woman inherits property from a father or husband, for example, male relatives may force her to sign over her interest.

Many well-educated women succeed in breaking into the professional ranks, particularly in the areas of law, medicine, education, and government service. There are, however, few women in the top echelons of their professions. Women comprise approximately 24 percent of the work force, with the majority of them in the industrial, service, and teaching sectors. Women have the right to vote and to run for office. Some women have been elected to municipal councils and two women were elected to Parliament in 1993. There are no women on the CCDH, nor are there any women serving as government ministers.

Women suffer most from inequality in the rural areas. Rural women perform most hard physical labor; the rate of literacy, particularly in the countryside, is noticeably lower for women than for men; and girls are much less likely to be sent to school than are boys. Women who earn their secondary school diploma, however, have equal access to university training.

The law and social practices governing violence against women reflect Morocco's Islamic culture and the importance placed on the honor of the family. The Criminal Code includes severe punishment for men who are convicted of raping or violating a woman or girl, and the defendant bears the burden of proving his innocence. However, sexual assaults often go unreported because of the stigma attached to the loss of virginity. A rapist may be offered tho opportunity to marry his victim in order to preserve the honor of the victim's family. Although a woman who is the victim of wife beating has tho right to complain to the police, as a practical matter she could do so only if prepared to file for divorce and leave her husband's home. The law excuses tho murder or injury of a wife who is caught in the act of committing adultery. A woman would not be excused for committing violence against her husband under the same circumstances.

The civil law status of Moroccan women is governed by the Moudouwana, or Code of Personal Status, which is based in part on the Koran. With the active support of the King, limited reform of the Moudouwana, consistent with the mandates of the Koran, were effected in 1993. The amendments allow a wife to divorce a husband who announces an intent to take a second wife; grant a wife unspecified allowance rights, based on the husband's income, in cases where a husband files for divorce without legal justification; and recognize a wife's priority of right to custody of any children after a divorce. Women's groups in Morocco unsuccessfully requested that the Moudouwana changes include expanded rights to combat spousal violence, a problem they believe to be commonplace. Presently, a wife's charge of spousal abuse, even if proven, merely entitles her to divorce with no mandatory economic support. Hence, victims of spousal abuse are unlikely to report its occurrence to authorities.

Children.—Morocco launched in November a campaign to vaccinate children against preventable diseases. However, the Government takes little action to promote child welfare in the areas of child labor (see Section 6.d.) and education. The announced illiteracy rate is 55 percent, and the actual rate is higher, especially in rural areas.

At year's end, the Moroccan daily 'L'Opinion summarized several cases involving the physical abuse of young maids by their employers. At least two 1993 cases were before Moroccan courts. In the first, a Casablanca police officer and his wife were arrested for severely beating a 6-year-old maid recruited from poor rural relatives. In the second, a military officer's wife from Meknes was arrested for the murder of a 14-year-old maid who died after admission to a hospital exhibiting symptoms of torture and starvation. After citing scores of examples of the abuse of young girls employed as domestics, 'L'Opinion concluded that documented cases were merely the "tip of tho iceberg" and accused the Government of callous indifference to the problem.

National/Racial/Ethnic Minorities.—The Constitution affirms the legal equality of all Moroccans, and the Government does not discriminate based on ethnicity.

The official language of Morocco is Arabic, and the languages of instruction and the news media are Arabic and French. Science and technical curriculums are taught in French, thereby eliminating the large monolingual Arabic population from these programs. Moroccan educational reforms over the past decade have stressed use of Arabic in secondary schools. Failure to similarly transform the university system has functionally disqualified many students, especially those from poorer homes where French tutoring is not practicable, from higher education in lucrative fields.

People with Disabilities.—A high incidence of disabling disease, especially polio, has produced a large population of disabled persons in Morocco. Wlhile the Ministry of Social Affairs contends that the Government endeavors to integrate the disabled into society, this in practice is left largely to private charities. However, charitable special education schools are priced beyond the reach of most families. Most typically, disabled persons survive by begging. The Government recently initiated a pilot training program for the blind. There are no laws guaranteeing access for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution guarantees "the right of association and the right to join any trade union and political organization." Workers are free to form and join unions, and the right is exercised widely. According to the trade union federations, well over a million of Morocco's 9 million workers are unionized;

5 percent of the work force is a more accurate estimate. Substantial numbers of workers in the public sector are unionized.

Three of the 17 existing trade union federations dominate the labor scene; all are organizationally independent of the Government. They are the Union Marocaine de Travail (UMT), the Confederation Democratique de Travail (CDT), and the Union Generale des Travailleurs Marocains (UGTM). The UMT has no political affiliation, the CDT is linked to the Socialist Union of Popular Forces (USFP), and the UGTM to the nationalist Istiqlal Party.

Unions are not entirely free of government influence. The internal intelligence services of the Interior Ministry keep the Government fully apprised of trade union activity, and the selection of union officers and the carrying out of their duties are sometimes subject to government pressure.

Within individual unions, the right to select one's own leaders is usually recognized. However, some violations occur; in May the UMT's national headquarters unilaterally replaced the regional leaders in the town of El Jadida by forcefully expelling the local leaders and replacing them with their own.

Under the Constitution, workers have the right to strike and do so. Most work stoppages are intended to advertise grievances; they usually last 24 hours or less. However, strikes can be prolonged and arise not only from economic demands or working conditions but also from union rivalries. Partially in response to a royal warning not to disturb social peace prior to the parliamentary elections, there were relatively few strikes in early 1993, and the labor scene remained relatively quiet after the June elections in anticipation of the formation of a new, more prolabor government. Teacher trainees performing 2 years of civil service conducted a sit-in and hunger strike in the summer to demand permanent positions; the first attempt at the sit-in in July was broken up by police, and some protesters were arrested. A number of limited 1- and 2-day strikes closed most college and high school campuses for several days in February and March as teachers struck over longstanding grievances, including pay, working conditions, and benefits. There were similar 2-day strikes in the public health, railroads, and postal sectors in March.

The release from prison of CDT Secretary General Noubir Amaoui and UGTM activist Driss Laghnimi in July was seen as a sign of greater government willingness to cooperate with labor following the success of prolabor parties in the June legislative elections. The International Labor Organization (ILO) Committee on Freedom of Association (CFA), reviewing several complaints at its 1993 sessions about arrest of trade unionists for participating in strikes or distributing material expressing political opinions, expressed concern that the Government had not respected workers' right to freedom of association.

Unions and union federations are free to affiliate internationally and do so actively. The UMT rejoined the International Confederation of Free Trade Unions in 1990 after an absence of many years.

Unions belong to regional labor organizations and maintain ties with international trade secretariats.

b. *The Right to Organize and Bargain Collectively.*—The Constitution includes labor organizations among the entities that serve to "organize and represent the citizens." An implied right to organize and bargain collectively is exercised, but laws protecting collective bargaining are not highly developed. The multiplicity of trade union federations creates competition to organize workers. Any group of eight workers may organize, and a worker may change trade union affiliation. Thus, a single factory may contain several independent locals or locals affiliated with more than one labor federation.

In both the process of organizing and during collective bargaining, labor laws are widely observed most often in the corporate and parastatal sectors of the economy, where ad hoc government mediation and arbitration procedures to promote worker-employer negotiations are easily applied. These mediation procedures do not in practice limit unions' freedom to bargain collectively. The unions' most common complaint against employers is that they refuse to negotiate seriously.

In the informal and underground economies and in the textile and handicrafts fields, labor laws and regulations are poorly enforced. Small employers, especially in the agricultural sector, are often ignorant of labor laws and regulations. While the right to organize and bargain collectively exists in both the Constitution and labor law, the Government does not always protect this right. As a practical matter, the unions have no judicial recourse to oblige the Government to act when it has not met its obligations under the law. Moreover, political considerations often lead the Government to hinder the full exercise of worker rights in an effort to control the unions.

In some parts of the industrial and parastatal sectors there is a long-established tradition of collective bargaining, but this practice is not spreading to emerging sec-

tors of the economy. The wages of unionized workers are established through practices that include discussions between employer and worker representatives. However, wages for the vast majority of nonunionized workers are set unilaterally by the employer, ostensibly respecting the minimum wage law. In the industrial sector, collective bargaining agreements are often invoked in legal disputes when a worker claims to have been reprimanded or dismissed for trade union activity. Employers usually cite work-related reasons for the dismissals. An employer intending to fire workers without replacing them must apply in advance to the provincial governor through the Labor Inspector's office. In cases where employers plan to replace fired workers, the Labor Inspector provides replacements and mediates the cases of workers who protest their dismissal. Any worker fired for a serious infraction such as sabotage is entitled by law to a court hearing.

Notwithstanding the constitutional provision noted above, Morocco's ratification of ILO Convention 98 on the right to organize and bargain collectively, and some case law, there is no specific law prohibiting antiunion discrimination by employers. Employers regularly fire workers for trade union activity that they see as threatening to employer interests. Reinstatement is sometimes ordered by courts, but legal proceedings can be expensive and time-consuming. Labor complainants are often vindicated in court proceedings, but court decisions awarding damages and back pay can be difficult to enforce. Ministry of Labor inspectors serve as investigators and conciliators in labor disputes; however, the inspectors are not very effective because they are few in number, carry heavy workloads, and do not have the resources to investigate all cases. In addition to pursuing their complaints through the Ministry of Labor's inspectors, unions increasingly are going directly to court with their complaints. ILO committees repeatedly cited the Government in 1993 for failing to respond adequately to union allegations of violations of trade union rights such as dismissing and arresting trade unionists and repressing demonstrations. In May the CFA concluded that protection against antiunion discrimination is not satisfactorily guaranteed by the Government.

Moroccan labor law applies equally to the small Tangier export zone. The proportion of unionized workers there is about the same as in Morocco as a whole.

c. *Prohibition of Forced or Compulsory Labor.*—Apart from its ratification of both ILO conventions against forced labor, Morocco has no legal or constitutional prohibition against forced or compulsory labor, but, as far as is known, it is not practiced.

d. *Minimum Age for Employment of Children.*—Children may not be legally employed or apprenticed before age 12. Special regulations govern the employment of children between the ages of 12 and 16. Those under the age of 16 may not work nights (between 11 p.m. and 5 a.m.) nor more than 10 hours a day. The normal workday is 8 hours; only in a few exceptional professions are any workers permitted to work more than 10 hours per day. In practice, children are often apprenticed before age 12, particularly in handicraft work. The argument is made that they need to acquire skills, such as weaving or rug making, before they reach the age of 12. Five years of primary education is compulsory, starting at age 7, but enforcement in the countryside and poorer urban areas is lax.

Safety and health conditions as well as salaries in enterprises employing children are often substandard. The use of minors is common in the rug-making and tanning trades, many of whose products are exported. Children are also employed informally as domestics and usually receive little or no wages. Poverty and a pervasive cultural acceptance of child labor keep abuse of the child labor laws prevalent nationwide. In 1993 a Casablanca policeman and his wife were arrested for severely beating a 6-year old maid, recruited from poor, rural relatives.

The Ministry of Labor, through its corps of labor inspectors, is responsible for enforcing child labor regulations. Child labor laws are generally well observed in the industrialized, unionized sector of the economy. However, the inspection mandate of labor inspectors does not include domestic employees.

e. *Acceptable Conditions of Work.*—There was no change in 1993 to the minimum wage of about $150 (1,350 dirhams) per month, effective as of May 1992. Despite food, diesel fuel, and public transportation subsidies, a family cannot maintain a decent standard of living on the minimum wage of a single worker. The labor unions have long called for a minimum wage of about $220. In many cases, several members, some of them working in the informal economy, combine their income to support the family. The minimum wage is not enforced effectively in the informal and handicraft sectors. It is enforced fairly effectively in the industrialized, unionized sector, though members complain that employers often, by means of deductions and other techniques, pay their workers less than the law requires.

In an effort to increase employment opportunities for recent graduates, firms are permitted to hire them for a limited period for less than the minimum wage. Firms are not allowed to replace them with other low-paid trainees when the limited em-

ployment period ends. Most workers in the industrial sector of the economy, except for those employed in garment assembly, earn more than minimum wage.

Moreover, workers are customarily paid between 13 and 16 months' salary for every 12-month year. The informal sector provides a safety net for those who would otherwise be unemployed or underemployed. The extensive parallel economy employs directly or indirectly an estimated 50 to 75 percent of the working population, often in part-time jobs.

The law provides a 48-hour maximum workweek and a 24-hour rest period, with not more than 8 hours (with certain exceptions) for any single day, premium pay for overtime, paid public and annual holidays, and minimum conditions for health and safety, including the prohibition of night work for women and minors. As with other regulations and laws, these are observed unevenly, if at all, in the informal sector. Labor inspectors endeavor to monitor working conditions, accidents, and labor disputes, but lack sufficient resources and authority to investigate many complaints and mandate full compliance with the law.

WESTERN SAHARA

The sovereignty of the Western Sahara remains the subject of diplomatic dispute. Morocco assumed administration of the northern three provinces of the Western Sahara after the withdrawal of Spanish forces in 1975 and of the southernmost province of Oued ed Dahab in 1979 when Mauritania renounced its claim to the area. Since unifying the territory, Morocco has undertaken a massive infrastructural and economic development program that has resulted in substantial growth in the region's cities.

Since 1973 the Polisario Front, an organization which Algeria has supported and which seeks independence for the Western Sahara, has challenged successively the claims of Spain and Morocco to the territory. Moroccan and Polisario forces have fought intermittently since 1975, although there have been no significant clashes since 1991.

At the request of the United Nations General Assembly (UNGA), the International Court of Justice issued an advisory opinion in 1975 regarding the status of the Western Sahara. The Court held that Morocco was not entitled to exercise sovereignty over the territory. Rather, according to the Court, the people of the Western Sahara were entitled to self-determination. Morocco agreed in principle in 1981 to hold a referendum to determine the wishes of the population of the Western Sahara. Efforts by the Organization of African Unity (OAU) to resolve the sovereignty question collapsed in 1984 when the Saharan Arab Democratic Republic (SADR), the civilian arm of the Polisario, was recognized at an OAU summit, prompting Morocco to withdraw from the OAU in protest.

In 1986 Morocco asked the United Nations to administer a referendum, and it has attempted to do so since that time. In 1987 a U.N. technical team visited the territory in order to determine the practical arrangements necessary for a referendum. On August 30, 1988, Morocco and the SADR accepted in principle the Secretary General's proposal for a referendum under U.N. and OAU auspices, and the Secretary General named a special representative to work out the details.

In 1991 the Secretary General presented a plan for a referendum in the Western Sahara in which the Sahrawis (Western Sahara natives) would decide between integration with Morocco and independence. The plan called for a cease-fire supervised by a U.N. Monitoring Force (MINURSO) to be followed within 20 weeks by a referendum. The United Nations High Commissioner for Refugees (UNHCR) was to assist Sahrawi refugees living in Algeria to voluntarily repatriate to the Western Sahara. The 1974 Spanish census of the region was to serve as the basis for the voting list. Morocco challenged the accuracy and completeness of the list and presented to the United Nations a supplemental list containing more than 120,000 additional names.

On September 6, 1991, the cease-fire went into effect and initial MINURSO forces were deployed. Simultaneously, the UNHCR sent an international team to assist with the repatriation of Sahrawi refugees. The referendum, originally scheduled to take place in January 1992, was postponed pending attempts to resolve the contentious voter identification issue. The outgoing Secretary General thereupon proposed five voter eligibility criteria to the U.N. Security Council. The Security Council passed a resolution welcoming the proposal without endorsing it, and subsequent U.N. efforts have focused upon obtaining agreement by the parties to the criteria and their application.

In June 1993 the U.N. Secretary General proposed a compromise which would make more rigorous the documentation needed for a person to establish the residence or heredity required to qualify for voter eligibility under the earlier proposal. Neither the Moroccans nor the Polisario rejected the proposed compromise out of hand. Direct talks took place between the two sides in the city of Laayounne during July but no agreement was reached. The Moroccan Government favors broad-based criteria for the referendum which would include many whom they claim left the Western Sahara prior to being counted in the 1974 Spanish census or were born after 1974 to those qualified under the census. Claiming the risk of fraud, the Polisario favors more narrow criteria focused on those enumerated as in the territory during the 1974 census. In his report to the United Nations Security Council of November 24, 1993, the Secretary General stated that "while expressing reservations about the provisions relating to tribal links with the territory, Morocco acquiesced in the compromise." The Polisario is described by the Secretary General in that same report as having ". . . maintained its substantial reservations and proposals for amendments . . ." of the compromise.

Since 1977 the northern provinces of Laayoune, Smara, and Boujdour have participated in Moroccan elections. The southernmost province of Oued ed Dahab has also participated in the elections since 1983. Sahrawis fill all 10 of the seats allotted to the Western Sahara in the new Parliament. Three of the four governors of the region, who are appointed by the King of Morocco, are Sahrawis.

The civilian population in the approximately 85 percent of the Western Sahara under Moroccan control is subject to Moroccan law. U.N. observers and foreign human rights groups have reported that Sahrawis supportive of the Polisario Front often have more difficulty obtaining passports, that their political views are more closely monitored than those of residents of Morocco proper, and that they are more likely to be treated harshly by police and paramilitary authorities.

A number of Sahrawis who have returned to Morocco from Polisario camps near Tindouf, Algeria have complained that they and other Sahrawi's were tortured and mistreated in the camps. Other non-Sahrawi observers who have visited the camps say, however, that they have found no evidence of torture. Ibrahim Hakim, a former Polisario earlier who has defected to Morocco, alleges first-hand knowledge of such mistreatment. The Government of Morocco's Consultative Council on Human Rights established a working group to investigate ongoing allegations of Polisario misconduct in the Tindouf camps. For its part, the Polisario claims that the Moroccans have tortured suspected Polisario supporters.

After years of denying that Sahrawis were imprisoned in Morocco for Polisario-related military or political activity, the Government of Morocco released 300 such prisoners in 1991. Among those released were entire families and Sahrawis who had "disappeared" in the mid-1970's. The Moroccan Government has failed to conduct a public inquiry or to explain how and why these persons were held for up to 16 years in incommunicado detention without charge or trial. The Polisario claims that Morocco continues to hold more than 800 Sahrawis as political prisoners. The Government of Morocco formally denies that any Sahrawi noncombatants remain in Moroccan detention. Amnesty International expressed concern, however, that hundreds of Sahrawis arrested by Moroccan security forces between 1975 and 1988 remain "disappeared." Credible sources estimate that 68 Sahrawis remain in detention in Morocco and that between 2,500 and 3,000 Moroccan prisoners are being held by the Polisario near Tindouf. The Polisario has said it is prepared to release 200 Moroccan prisoners unconditionally, but Morocco, believing that the offer is predicated upon it's according Polisario greater legitimacy, has declined to take up the matter directly with the Polisario Front.

The UNHCR, using figures provided by the Government of Algeria, estimates that approximately 165,000 refugees reside in camps near Tindouf, Algeria. Sahrawis recently returned to Morocco from the camps estimate, however, that no more than 80,000 refugees inhabit the camps. They believe that 40,000 to 50,000 of those are Sahrawis, the remainder coming from other countries in the region. The Government of Morocco alleges that the Sahrawis are held in the Tindouf camps against their will. The Polisario denies this allegation.

Freedom of movement within the Western Sahara is limited in militarily sensitive areas. While travel is nominally unrestricted elsewhere, travelers inside and outside the cities are reportedly subjected to arbitrary questioning, detainment, and, at times, abuse by the security forces.

The same labor laws that apply in Morocco apply in the Moroccan-controlled areas of the Western Sahara, and enforcement is equivalent to that in Morocco proper. Within the Western Sahara there is little organized labor activity. Since salaries in both the private and public sectors are significantly higher than those in Morocco, wage demands are not an issue. Unemployment has also not been a problem be-

cause of the Government's investment in the region and a program of bringing young people voluntarily out of the region to work in Morocco. Outside the territory controlled by Morocco, the Polisario established a labor wing called the Sario Federation of Labor (UGTSARIO), which in the past reportedly enjoyed close relations with a few Arab and African national labor centers. The UGTSARIO does not engage in customary trade union activities in the Polisario-controlled areas.

OMAN

The Sultanate of Oman is a monarchy without popularly elected representative institutions or political parties. Oman has been ruled by a sultan of the Al Bu Sa'id family since the middle of the 18th century. While maintaining the ruling family's long tradition of firm control over all important matters affecting the State, Sultan Qaboos Bin Sa'id Al Sa'id has brought leaders from the tribal system into his Government, and much decisionmaking is consensual in accordance with longstanding tradition. Since his accession in 1970, he has balanced tribal, regional, and ethnic interests in composing the national administration. The Cabinet of Ministers is appointed by and responsible to the Sultan. The State Consultative Council, an advisory body formed in 1980, was replaced in 1991 by the Majlis Ash-Shura or Consultative Council. This body represents the Sultan's measured effort to broaden participation in government. The Consultative Council's mandate is to review new laws pertaining to economic development and social services prior to their promulgation. It may summon Ministers to appear before the Majlis to discuss the Ministries' policies and plans.

Oman is strategically located at the entrance to the Persian Gulf opposite Iran. Oman is concerned with internal stability and security, given the tensions in the region, the proximity of Iran and Iraq, and the potential threat of political Islam. The security apparatus is pervasive but professional and well trained; it is under the direct responsibility of the Ministry of Palace Office Affairs. The police are under the full control of the highest levels of government. Reports of human rights abuses by security personnel are rare.

Almost totally undeveloped when Sultan Qaboos came to power in 1970, Oman has used its modest oil revenues to make impressive economic progress and improve public access to health care, education, and social services. Almost 80 percent of the Government's revenue comes from its oil production, but it is seeking to diversify Oman's free market economy and stimulate private sector activity. Individuals are free to associate with others in pursuing commercial interests, but only Omani citizens may own real property. In 1993 the Government lifted restrictions on foreign ownership of Omani stocks and bonds.

There was no essential change in the human rights situation in 1993. A number of basic rights continued to be restricted or denied, particularly the freedoms of expression, peaceful assembly and association, the right of citizens to change their government, and worker rights. Additionally, various forms of discrimination against women remain, although women have made tangible progress in some areas of public life. Civil and political rights are not formally codified, but in the absence of any challenge to stability and order, the authorities generally respect the integrity of the person. Freedom of religion is generally respected.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There were no reports of torture in 1993. There were a few unconfirmed reports that some prisoners had been beaten during pretrial detention. In particular, there were a few instances of police beating suspects accused of crimes against women and children. One defendant on trial in the Magistrate Court alleged he had been abused but retracted his accusation in court.

d. *Arbitrary Arrest, Detention, or Exile.*—There were no reports of arbitrary arrest in 1993. The police do not require a judicial warrant to make an arrest but must obtain judicial concurrence to hold a suspect. In practice, the police generally obtain warrants prior to making an arrest unless there is some urgency to apprehending a suspect. Under current procedures, the police have 24 hours after an arrest to file charges or submit papers to a magistrate showing the grounds for holding the arrestee. When the police provide the courts with documentary justification for an ar-

rest, the magistrate may exercise his option to order bail or release the detainee into the custody of another or on his own recognizance. Alternatively, the judge may order that the suspect be held up to 14 days. If the police require more time to gather evidence, the judge may grant extensions of the detention period. The police sometimes detain suspects for questioning or for protective custody. Such detentions are usually for less than 24 hours. However, there are indications that illegal detentions have occurred when the police did not seek judicial concurrence for detention for longer periods.

The police do not routinely notify a detainee's family or sponsor (in the case of foreign nationals) of his or her detention; they will often allow a detainee to make a telephone call. In the capital area, the authorities post outside the criminal court building a list of names of persons being held pending trial. While there were no reports of incommunicado detention in 1993, the police did not always permit attorneys and visitors to see detainees. Judges occasionally intercede to ensure access to detainees. A detainee or persons interested in the detainee's case may hire an attorney, but there is no explicit right to an attorney, and the Government will not pay for legal representation for an indigent person.

Although Omani law does not require a prompt judicial determination of the legality of a detention, the period of detention prior to trial is usually short.

The Civil Court publishes a semimonthly schedule assigning a "judge in charge" each day during off-duty hours and weekends. These magistrates are available to review charges or grounds for holding a detainee. The occasional failure of the police to promptly seek judicial approval for detentions has caused tension between the civil judges and the police. There are no known political detainees in Oman.

After his accession in 1970, Sultan Qaboos granted amnesty to all Omanis who were in exile. Oman does not practice exile as a form of punishment.

e. *Denial of Fair Public Trial.*—In addition to civilian courts, which treat misdemeanor and felony criminal cases, the court system includes Shari'a courts, which handle family law, an authority for the settlement of commercial disputes under the Ministry of Commerce and Industry, and a board to hear labor disputes under the Ministry of Social Affairs and Labor. The Magistrate Court is a criminal court and adjudicates violations of the Criminal Code. A rarely used security court system handles internal security cases. Provincial governors arbitrate minor matters in rural areas but do not have the authority to detain persons.

The various judicial systems are subordinate to the Sultan. In most cases they operate independently, but the Sultan may intercede in cases of particular interest, especially those concerning national security.

Judicial practice in Oman conforms in most part to Islamic prescriptions for a fair trial before experienced and impartial judges. Oman's criminal judges, all Omani, are professionals who have trained at legal institutions in various Arab countries after completing their bachelor's degrees. A college graduate may become a judge in the civilian courts at age 28 after 3 years of postgraduate study and 1 to 2 years' apprenticeship as a judge trainee. In the Islamic, or Shari'a, court system, a high school graduate may join the ranks of Shari'a court judges at age 23 after completing a 5-year course at one of Oman's four higher institutes for Islamic studies and an apprenticeship. There were no reports in 1993 that judges were transferred or dismissed for political reasons.

Oman's Criminal Code, enacted in 1974, does not explicitly state the rights of the accused during the criminal process but instead relies heavily on tradition and procedures instituted by the Magistrate Court. There are no written rules for admission of evidence during trials or codified procedures for entering cases into the criminal system.

In a criminal trial, the accused is presumed to be innocent. He may be represented by an attorney, but this is not a legal requirement, and the Government will not pay for counsel. Defendants have the right and are expected to be present at trial; they may present evidence; and they may confront witnesses by asking questions put through the judge, who generally is the only one who may question witnesses. The police have the responsibility to prosecute cases before the Magistrate Court. Trial is before a single judge for misdemeanors and minor felonies and before a panel of three judges for serious felonies. There are no jury trials, and, while there is no explicit right to a public trial, court proceedings are generally open to the public. The accused person, or his lawyer, may read the police "charge sheet," which summarizes the case against him. There is no procedure by which the defense may seek the deletion of elements of the charge sheet prior to trial, but the magistrate may delete charges during the trial. The police or Public Prosecutor (a senior police officer) may add charges after inspection of the file by the defense and during the trial.

During the trial, witnesses may be called by the judge, prosecution, or defense. The prosecution or the defense may cross-examine witnesses through (and with the approval of) the judge, but there is no procedural right to cross-examination. The prosecution and defense may challenge the reliability of statements or authenticity of documents in their closing statements to the judge. Judges frequently pronounce a verdict and sentence within 1 day after a trial's end. Jail sentences of over 3 months and fines of over $1,300 are subject to appeal before a three-judge panel. However, judgments in serious felony cases may not be appealed because they are heard in the first instance before the highest judicial panel; there is no other court of appeal.

The Public Prosecutor's office may also appeal a sentence that it believes to be too light, although it may not appeal an innocent verdict. The President of the Magistrate Court chairs the Court of Appeals, which may opt not to consider an appeal it finds ill-grounded. The Shari'a Court generally allows attorneys representing both parties to appear before the judge. Judgments may be appealed within 30 days to an appeal court within the Shari'a court system, and the appeals are heard by a senior judge.

Commercial matters brought before the authority for the settlement of commercial disputes are heard before a panel consisting of two judges and a member of the Chamber of Commerce. Once a case is filed, the authority may summon the parties to appear and often seeks opinions from auditors and other experts. Cases involving fines of over $26,000 (10,000 Omani rials) may be appealed to a five-member panel and receive a fresh hearing.

There was no evidence that the legal system discriminated against minorities. However, in the case of discrimination against women, the Shari'a courts adhere to Islamic law equating the testimony of one man with that of two women.

A capital sentence requires the Sultan's ratification. There were no reports of political prisoners in 1993.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The police are not required to have a warrant in order to search a private residence, office, or vehicle. There is a widespread belief that the Government eavesdrops on both oral and written communications, and Omanis are guarded in both areas.

A 1986 law banned marriage between Omanis and foreigners (defined as not including citizens from the Gulf Cooperation Council states). However, many prominent Omanis are married to foreigners, and some were married after 1986. Recently, a new marriage law was promulgated which set forth the conditions allowing marriages between Omanis and foreigners. Omanis may now obtain permission from the Ministry of Interior if they can justify their desire to marry a foreigner and can show the financial ability to support the foreign spouse.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—There is no legal protection of free speech or of a free press. Criticism of the Sultan in any form or medium is prohibited by law. Criticism of individual officials, agencies, and their programs is tolerated but rarely receives media coverage. Sessions of the Majlis Ash-Shura, including those featuring questioning of ministers by council members, receive television and print media coverage.

The 1984 Press and Publication Law mandates government control over all printed matter, including newspapers and magazines. The law provides for strict prior censorship of all information in printed form in both domestic and imported publications. Imported printed material is screened by government censors, and Omani publications operate under general, unwritten government guidelines on tone and content. In practice, publishers in Oman censor themselves, avoiding anything that might be construed as an attack on the Government. Editors and reporters usually give government ministries an opportunity to respond before critical stories are printed. Friendly nations are also protected from direct attack. While the law provides for censorship prior to publication, in practice, publications often receive pro forma clearance and are distributed and reviewed concurrently. There were no reports of publishers having been forced to recall any editions in 1993. However, the Information Ministry issued a decree in July delaying for 1 day the distribution of newspapers published outside of Oman.

The Government owns two of the four daily newspapers, and government subsidies to the remaining dailies and several privately owned periodicals provide an effective incentive for self-censorship. Editorials and news coverage largely reflect the Government's views, although some latitude is tolerated on foreign policy issues. One Omani newspaper resumed publishing letters to the editor in 1993.

Publications and video and audio cassettes arriving from foreign countries are censored for politically, culturally, or sexually offensive material and are occasion-

ally banned. There are no formal lists of objectionable material available to the public, but the censors' attention focuses primarily on articles that directly attack or embarrass the Government.

The Government controls all radio and television broadcasting and does not provide for the airing of political debate or nongovernment viewpoints. However, the free market in dish antennae has made a wide range of broadcast information accessible to the public.

Oman has one institution of higher learning, Sultan Qaboos University, established in 1986. Courses in politics and lectures on controversial subjects are prohibited. Access to the campus by persons outside the university community is limited but may be obtained for visitors.

b. *Freedom of Peaceful Assembly and Association.*—Freedom of assembly is not guaranteed by law, and public gatherings may not take place without government sponsorship. However, this requirement is not always enforced in practice, and such gatherings have occurred without official sanction. If the authorities learn of an unauthorized gathering in time, they may order its cancellation. Associations of any kind must register with the Government and submit their by-laws to the concerned ministry for approval. Those that oppose the predominant social or political views of the Sultanate are prohibited. However, informal groupings, such as women's and expatriate clubs, are allowed to operate.

c. *Freedom of Religion.*—Oman is an Islamic State. Most Omanis are Ibadhi or Sunni Muslims; there is also a Shi'a minority. Non-Muslims in the Sultanate are prohibited from proselytizing, and conversion to Islam is encouraged and publicized. Over 100 Saudi school-teachers departed Oman at the end of the school year when the Government declined to renew their contracts. Their departure was attributed, in part, to concern that some of the teachers were attempting to proselytize for their Wahhabi beliefs.

Non-Muslim foreigners are free to worship at churches and temples built on land donated by the Sultan. There are about 20 Christian denominations. A new Catholic church was completed in 1993 on a compound in the city of Sohar (the fourth such compound of church buildings in the country), and plans are under way for a new Protestant church at the same location. Clergymen also conduct services for smaller groups of their congregants throughout Oman. There is no indigenous Jewish community, but Jews are not barred from living and working in Oman. Non-Muslim religious publishing is not allowed, but non-Muslim texts and literature may be brought in to the country for use by non-Muslims.

Members of all religions and sects in Oman are free to maintain links with coreligionists in other countries and with the supranational hierarchies that exist for some denominations. They are also free to undertake religious travel, whether for the Muslim hajj, conferences, or consultations with religious leaders. Religion is not a factor in gaining entry into Oman, nor is it commonly a basis for job discrimination (see also Section 5).

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no restrictions on travel by Omanis within their country, with the exception of a ban on travel to a few military areas and a requirement that passes be obtained from the police to travel to certain areas. While male Omanis may travel abroad freely, a woman must have authorization from her husband, father, or nearest male relative to obtain a passport.

Omanis living abroad before 1970 have returned to Oman in large numbers with official encouragement and without legal obstacles. The returnees include the many Omanis who sought refuge in Yemen during the 1965–75 Dhofar rebellion. Thousands of ethnic Omanis from east Africa, particularly Tanzania, have been resettled and integrated successfully.

Oman does not have a standard policy on refugees and traditionally has not harbored stateless or undocumented aliens. Tight control over the entry of foreigners into the country has effectively screened out would-be refugees. The rare stateless or undocumented person who arrives in Oman may be detained pending a determination that he or she has not violated immigration or other laws. The Government deals with persons seeking resettlement on an ad hoc basis. Oman has assisted some non-Arab, Muslim refugees to be resettled in third countries.

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

Oman has no formal democratic political institutions, and its citizens do not have the ability peacefully to change their leaders or the political system. Oman has an autocratic system in which the Sultan has the final word on all government decisions in theory and in practice. His successor, should a change occur in the near

future, will probably be determined through a consensus of the royal family and leading public figures.

There are no political parties, legal opposition groups, or elections, and there is no written constitution. Citizens have indirect access to senior officials through the traditional practice of petitioning local leaders for redress of grievances. Successful redress depends on the effectiveness of personal contact and the status and influence of the intermediary. People have access to the Government at the level of provincial governor (wali) and to their district representatives in the Majlis Ash-Shura. Provincial and tribal leaders and Majlis members in turn have access to the Sultan, his advisers, and ministry officials to present the views of their constituents and to accept their petitions. Citizens may also call on ministers and lower level officials. The Sultan makes an annual 3-week tour of the country to listen directly to his subjects' problems. Ministers accompany the Sultan and can be asked to respond directly to citizens' complaints. In rural areas, local government reflects the tribal nature of Omani society, as traditional elites dominate the tribal and appointive town councils. Final authority outside Muscat is with the provincial governors, who are appointed by the Sultan.

The Majlis Ash-Shura, established in 1991, is seen as a modest step toward broadening popular participation in the Government. The Sultan chose 59 of its 60 members from among three nominees from each district, selected in caucuses held in the spring of 1991 in which hundreds of leading citizens in each district participated. In contrast to the practice under the predecessor Council, no serving government officials are eligible to sit as members of the new Majlis. In its second full year of existence, the Majlis met four times in full session, as decreed by the Sultan. Its five committees met on virtually a weekly basis, preparing reports on agenda items for the full Council. The Council's stated purposes are to serve as a conduit of information between the people and the government ministries and to provide the citizens' perspective, sometimes local in scope and sometimes national, on issues that previously were the sole preserve of government officials.

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

There are no independent organizations to monitor human rights violations. Under the existing restrictions on freedoms of speech and association, public criticism of the Government's human rights practices would not be permitted. There were no known requests by international human rights organizations to visit Oman in 1993.

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

Women.—There are many forms of discrimination against women in this traditional society, even though some women, primarily in the capital, have attained positions of authority in government, business, and the media. An estimated 14 percent of all civil servants are women. The occupational areas available to women are gradually expanding beyond the traditional field of teaching, as secretarial work, medicine, and communications have become acceptable professional areas for women over the last several years. However, some observers have noted a contraction of opportunities for women as the Government becomes more concerned about employment opportunities for men. In addition, some employers are concerned that female candidates for jobs might leave the work force to marry or have children, further diminishing women's opportunities for employment or for professional training.

Schooling for girls is available to the same extent as for boys in urban areas and increasingly so in rural areas. In general, the level of education that girls attain remains below that of boys; however, the gap appears to be narrowing. Over 90 percent of Oman's children reach grade five of primary education. Women constitute roughly half of the 3,000 students at Sultan Qaboos University. Women students constitute the majority in the colleges of arts, education, and Islamic sciences, and science and business. Over half of the first graduating class of the college of medicine in 1993 were women. Admission of women to faculties in some technical fields, however, has become severely restricted in a reflection of a reluctance both among employers to hire trained females for work in these fields outside the capital area and among trained females to accept work in them.

The gains achieved by a small minority of women are largely irrelevant to the great majority, who live their lives within the confines of the home. Many females in the rural areas are illiterate. The lack of female education in some outlying areas of the country, where poverty is higher, combined with communal and tribal customs that dictate a subsidiary role for women, makes it difficult for most adult women to participate fully in the modern sector.

By law, women are to receive equal pay and benefits for equal work. The Government, by far the largest employer of women in the country, enforces this regulation within its ministries, where women serve in professional and senior managerial positions. Women in the private sector earn salaries equal to those of their male counterparts. Women can sometimes have difficulty in obtaining land grants or subsidized government housing loans because the Government presumes that they will reside with a male relative, be it husband or brother. Legal provisions for female employees, including a provision for liberal maternity leave, are observed in both the public and private sectors. The Labor Law, in some ways very progressive, allows women with infants time off during the day to nurse.

Omani society's interpretation of Islamic precepts on the status of women also results in de jure and de facto discrimination in a number of areas. Islamic inheritance laws are strictly interpreted. A woman may receive only one-eighth of her husband's property when he dies. Daughters receive less than sons. In urban, educated families, many women have property in their own names; less educated women do not usually have that protection. Because of the relative lack of education among older women, many are unaware of their rights. Others are reluctant to use the court system out of fear that they might forfeit family support by bringing a matter before the court.

There is no evidence that there is a pattern of spouse abuse. Because of the closeness of Oman's extended families, battered women often seek family intervention to remove and protect them from violent domestic situations.

Children.—The Government has made the health, education, and general welfare of children a priority in its budget. Medical care for Omani children is free, and a highly effective child immunization program has helped bring about dramatic improvements in child health. Communities in a few towns in the interior and in the Dhofar region still practice female genital mutilation (circumcision). The total number of cases nationwide is small and declining annually.

National/Racial/Ethnic Minorities.—While there are no government restrictions directed against Omanis of east African origin, some of these Omanis appear to face de facto discrimination in employment opportunities. Some public institutions ostensibly favor members of one or another regional, tribal, or religious group in their hiring. Each ethnic or national group has its patrons in certain sectors. No group is banned from employment in the public sector. A regionally based group that is favored in positions in its native region would not have the same advantages in a different area of the country.

Religious Minorities.—Oman's Muslim population includes a small Shi'a minority. Some Shi'as claim they face obstacles in employment and educational opportunities. Although there may be some grounds for these concerns, the main obstacle that the Shi'as face is that their limited number makes it difficult for them to develop an effective patronage group. Non-Muslim religious publishing is not permitted (see Section 2.c.).

People with Disabilities.—The Government has taken some steps to address the public access needs of the handicapped, although compliance has been voluntary and not mandatory. There are handicapped parking spaces and some ramps for wheelchair access in front of private and government office buildings and shopping centers. In October the Government sponsored a handicapped awareness week to increase public knowledge of the problems facing the handicapped. The Government has established a few handicapped centers for children in Muscat and outlying regions. There are a few voluntary associations in Muscat which help people with disabilities, particularly handicapped children. Handicapped people, including the blind, work in government offices. Disabled students in wheelchairs successfully attend Sultan Qaboos University. The free medical assistance offered to all Omanis includes physical therapy for the handicapped.

Section 6. Worker Rights

a. *The Right of Association.*—The Omani Labor Law does not anticipate or address the formation of labor unions. In practice, organizations representing only workers do not exist, and there have been no known efforts to form unions. The Labor Law specifies that "it is absolutely forbidden to provoke a strike for any reason." Labor unrest has been rare during the two decades Oman has been developing a modern economy. Nevertheless, there were at least three reported strikes in 1993. Workers reportedly struck at two garment factories due to labor-management disagreements about terminating workers' contracts. The strikes lasted a few days and were settled without resort to police enforcement of the law prohibiting strikes. The factory owners requested the assistance of the Ministry of Social Affairs and Labor in mediating two of the disputes. There were no reports that workers were forced

to return to work. Oman is a member of the Arab Labor Organization and in 1993 decided to join the International Labor Organization.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining is not provided for in Omani law and is not practiced. However, according to the Labor Law, employers of more than 50 workers are required to form a joint body of labor and management representatives as a forum for communication between the two groups. However, implementation of this provision of the Labor Law appears to be uneven, and it is unclear how often the committees that do exist meet. Generally, these committees discuss such questions, for example, as living conditions in a company housing compound. Wages and hours are not under the purview of these committees; they are agreed upon by workers and employers in individual contracts, within the guidelines delineated by the Ministry of Social Affairs and Labor under the law. The committees are not formed across company lines; membership is confined to management and labor representatives from each individual company.

The 1973 Labor Law (as amended) defines conditions of employment for both Omanis and foreign workers. The Labor Law covers domestic workers and construction workers but does not cover temporary workers (those in Oman for less than three months). Foreign workers constitute at least 50 percent of the work force—if one includes the traditional Omani occupations of fishing, subsistence farming, and herding—and 80 to 90 percent of the work force in the modern sector. In August the Government promulgated a new regulation effective in March 1994, aimed at reducing the number of expatriate shopkeepers. The regulation prohibits the hiring of additional workers after that date. The initial concerns of the Omani business sponsors and the foreign shopkeepers have eased because the Government is allowing unlimited hiring of expatriates before the deadline and may consider amendments to the final regulation.

Citizens of India, Pakistan, the Philippines, Bangladesh, and Sri Lanka continue to seek employment in Oman in large numbers, generally entering into employment contracts prior to their arrival. Work rules must be approved by the Ministry of Social Affairs and Labor and posted conspicuously in the workplace by employers of 10 or more workers. Similarly, any employer with 50 or more workers must establish a grievance procedure. Regardless of the size of the company, any employee, Omani or foreign, may file a grievance with the Labor Welfare Board, which comprises 6 inspectors who arbitrate disputes. Lower paid workers, such as clerks, mechanics, and salesmen, use the Board regularly. Both plaintiff and defendant may retain and be represented by counsel. Worker representatives may present collective grievances, but most cases are filed on behalf of individual workers.

The Board has a docket of about 150 cases per month, about 80 percent of which involve foreign nationals. Sessions convene daily; procedures are informal and summary in nature. The Board operates impartially and generally gives workers the benefit of the doubt in grievance hearings. Disputes that the Board cannot resolve are referred to the Minister of Social Affairs and Labor for decision. Complaints involving employer-employee relations should be brought before the magistrate court if there is an allegation of criminal wrongdoing.

There are no export processing zones in Oman.

c. *Prohibition of Forced or Compulsory Labor.*—Although prohibited by law, a form of compulsory labor occurs occasionally. Some employers withhold the letters of release that foreign workers require in order to transfer employment and residency sponsorship from one employer to another. Failing to secure a letter of release and legal transfer to another firm in Oman, a foreign national must either continue working at his current workplace or become technically unemployed. To avoid that status and the possibility of being forced to leave the country, some employees submit to their employers' coercion.

Some employers demand that foreign workers perform overtime or remain at a firm for several months against their wishes, in some cases without compensation, in exchange for the promise of a release letter. This practice is proscribed by law. However, labor inspections in the workplace are rare, and it generally falls to the worker to approach the Labor Welfare Board to report a violation. Many foreign workers are not aware of their right to a hearing on a labor dispute before the Labor Welfare Board. Workers may engage attorneys to argue cases before the Board, and in most cases the Board releases the employee immediately from service with back compensation for the time worked under compulsion. The employer faces no penal sanction if the Board decides in the worker's favor. The only penalty against an employer is the loss of the worker and the compensation payment made to him.

d. *Minimum Age for Employment of Children.*—Under the law, children, defined as those under the age of 13, are prohibited from working. This prohibition is effectively enforced by the Directorate of Labor under the Ministry of Social Affairs and Labor. Juveniles, defined as those over 13 years and under 16 years of age, are pro-

hibited from performing evening or night work or strenuous labor. Juveniles are also forbidden to work overtime or on weekends or holidays without the permission of the Ministry of Social Affairs and Labor. There are no export industries in which child labor is used. Omani children are sometimes employed as riders in camel races, but they generally ride under the auspices of their families. Their involvement in the races does not preclude them from access to education and medical care. There were no instances in which child camel jockeys suffered serious injury.

e. *Acceptable Conditions of Work.*—Using its legal authority to determine the minimum wage and make adjustments according to economic circumstances, the Government issues minimum wage guidelines for various categories of workers. The current minimum wage for nonprofessional workers, set in 1979, is approximately $156 per month (60 Omani rials). Minimum wage guidelines do not cover domestic servants, farmers, government employees, or workers in small businesses—a considerable segment of the total work force. In some public sector jobs requiring a high degree of specialization, foreign workers earn a higher wage than Omani counterparts. However, many foreign workers are in categories exempt from the minimum wage statute. For menial work that is subject to the minimum wage, lax enforcement by the Directorate of Labor usually permits employers to pay less than the legal standard. The minimum wage is sufficient to provide an Omani worker in the capital area with a decent subsistence, with something left over to send to family members living in rural areas, as is the custom. The compensation for foreign manual laborers and clerks (mainly south Asians) is sufficient to cover living expenses and to permit a portion of the income to be sent home.

The private sector workweek is 40 to 45 hours (less for Muslims during Ramadan) and includes a rest period from Thursday afternoon through Friday, which many shopkeepers and their employees opt not to observe. While the law does not designate the number of days in a workweek, it requires at least one 24-hour rest period per week and mandates overtime pay for hours in excess of 48 per week. In practice, the workweek is 5 days in the public sector and generally 5½ days in the private sector. Some menial laborers not protected by the Labor Law are required by a few employers to work longer hours under substandard working conditions. Supplemental income through compensated overtime work is common for lower level employees.

Every worker has the right to 15 days of annual leave during the first 3 years of employment and 30 days per year thereafter. Employers provide many foreign nationals, including maids, with annual or biennual round-trip tickets to their countries of origin. Employers commonly hold foreign workers' passports, as they are legally responsible for the workers' actions while they are in Oman.

The Labor Law and regulations cover in detail issues of occupational safety and access to medical treatment. For example, all employers must provide first aid facilities, and those with over 100 employees in one location must also employ a nurse at that location. Employees covered under the Labor Law may recover compensation for industrial injury or illness through medical insurance, which the employer must provide. The health and safety standard codes are enforced by inspectors from the Department of Health and Safety of the Directorate of Labor. They make frequent on-site inspections, as required by law.

QATAR

Qatar, an Arab state on the Persian Gulf, is a monarchy without democratically elected institutions or political parties. It is ruled by an Amir from the Al Thani family. The 1970 Basic Law institutionalizes the customs and mores of the country's conservative Islamic heritage. These include respect for the sanctity of private property, freedom from arbitrary arrest and imprisonment, and punishment of transgressions against Islamic law. The Amir holds absolute power, the exercise of which is influenced by continuing traditions of consultation, rule by consensus, and the citizen's right to appeal personally to the Amir. In practice, the Amir must consider the opinions of leading citizens, whose influence is institutionalized in the Advisory Council, an appointed body that assists the Amir in formulating policy.

The Government operates an efficient security apparatus. The civilian security apparatus, controlled by the Interior Ministry, has two sections, the police and the General Administration of Public Security. A second branch of the Interior Ministry, the Investigatory Police (Mubahathat), deals with sedition and espionage. The Mubahathat is nearly independent of the regular civil security forces and has been known to use severe force in its investigations. It can incarcerate suspects without charge but reportedly does this infrequently. The armed forces have under their ju-

risdiction another enforcement organization, known as the Intelligence Service (Muithabarat), whose function is to intercept and arrest terrorists and to monitor political dissidents.

Qatar's economy is mixed. The State owns and operates most basic industries and services, while retail trade and the construction industry remain in private hands. Oil is the principal product, accounting for about 70 percent of the gross national product. However the country's extensive natural gas resources are expected to play an increasingly important role in the economy. The rapid development of Qatar's infrastructure in the 1970's and early 1980's led to the creation of a ratio of expatriates (mostly south Asian and Arab) to nationals of four to one. The Government has continued efforts, begun during the economic downturn of the 1980's, to reduce this ratio by offering many positions in the Government to Qatari citizens only.

Human rights remain closely restricted. The main human rights problems include the denial of the right of citizens to change their government, arbitrary detentions in security cases, and restrictions on worker rights and the freedoms of speech, press, assembly, and association. Constraints on women's rights continued, as did the systematic discrimination faced by non-Qatari workers.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There were no reports of torture. Instances of torture have been reported in the past, usually by the security forces during the investigative phase following detention. Improved standards of conduct were introduced in 1989. The Government administers most corporal punishment prescribed by Shari'a law but does not allow amputation.

d. *Arbitrary Arrest, Detention, or Exile.*—The authorities generally charge suspects within 48 hours. In most cases involving foreigners, the police promptly notify the appropriate consular representative. Suspects detained in security cases, however, are generally not afforded access to counsel and may be detained indefinitely while under investigation.

Involuntary exile is rare. There were no reported cases in 1993.

e. *Denial of Fair Public Trial.*—There are two types of courts: the civil courts, which have jurisdiction in civil and commercial matters, and the Shari'a Court, which has jurisdiction in family and criminal cases. There are no permanent security courts; security cases, which are extremely rare, are tried by ad hoc military courts. Defendants tried by all types of courts may submit their cases to an appeals court. However, in cases tried by the Shari'a Court, it is possible that the same judges will hear both the original case and the appeal.

The judiciary is nominally independent, but most judges are foreign nationals who hold residence permits granted by the civil authorities and thus hold their positions at the Government's pleasure. Qatar's legal system is biased in favor of Qataris and the Government.

The Shari'a Court may assume jurisdiction in commercial or civil cases if requested to do so by a Muslim litigant. Non-Muslims are not allowed to bring suits as plaintiffs in the Shari'a Court. This practice prevents non-Muslim residents from obtaining full legal recourse when being sued by, or trying to sue, a Qatari national.

In the Shari'a Court, only the disputing parties, their relatives, associates, and witnesses are allowed in the courtroom. Lawyers do not play a formal role except to prepare litigants for their cases. Although non-Arabic speakers are provided with translators, foreigners are disadvantaged, especially in cases involving the performance of contracts.

Shari'a trials are normally brief. After both parties have stated their cases and examined witnesses, judges are likely to deliver a verdict after only a short deliberation. Criminal cases are normally tried 2 to 3 months after suspects are detained. There is no provision for release on bail in criminal cases. However, foreigners charged with minor crimes may be released to a Qatari sponsor. They are required to deposit their passport with the police and are prohibited from leaving Qatar until the case is resolved.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Traditional attitudes of respect for the sanctity of the home provide a great deal of protection against arbitrary intrusions for most citizens and residents of Qatar. A warrant must normally be obtained before police may search a residence or business, except in cases involving national security or emergencies. However, warrants are issued

by police officials themselves, rather than by judicial authorities. There were no reports of unauthorized searches of homes in 1993. The police and security forces are believed to monitor the communications of suspected criminals, those considered to be security risks, and selected foreigners.

With prior permission, which is usually granted, Qataris may marry foreigners of any nationality and apply for residence permits for their spouses.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Foreigners and Qataris can and do express political opinions in private. However, public criticism of the ruling family or of Islam is not tolerated. The Government also discourages public criticism of other Arab governments. This policy also applies to the government-owned electronic media and the privately owned press.

Since December 1989, the Government has permitted a modest degree of freedom of the press, although still within limits. Arrayah, the country's official newspaper, was suspended for3 days during the summer. This decision followed an official protest by the Embassy of Kuwait regarding the paper's overt support for the acquisition of Iraqi players by a local soccer team. Non-Qatari journalists generally avoid challenging press restrictions because of the risk of having residence permits canceled. Cable television service was introduced in 1993, although it is subject to government censorship. The Customs Division of the Ministry of Finance and Petroleum routinely screens incoming video cassettes, audio tapes, books, and periodicals for politically objectionable or pornographic content. Locally published books and other materials and all dramatic productions must be cleared by a board of censors before release.

There are no legal provisions for academic freedom. Most instructors at the University of Qatar are believed to exercise self-censorship.

b. *Freedom of Peaceful Assembly and Association.*—These rights are severely limited. The Government does not allow political parties or political demonstrations or membership in international professional organizations critical of the Government or any other Arab government. The Government allows private social, sports, trade, professional, and cultural societies to operate, but they must register with the Government, and their activities are closely watched. Membership in international professional organizations critical of the Government, or any other Arab government, is not permitted. The Government does not allow political parties or political demonstrations.

c. *Freedom of Religion.*—Qatar's state religion is Islam, as interpreted by the puritanical Wahabbi branch of the Sunni tradition. Adherents of religions other than Islam are prohibited from public worship and may not proselytize. In 1993 two leaders of a Christian group known as the Indian Brethren were arrested and subsequently deported, allegedly for converting a Hindu to Christianity. Apostasy from Islam is a capital offense, although no one is known to have been executed for it. The Government tolerates the private practice of non-Muslim religions, and non-Muslim parents may raise their children in their own faiths. Private gatherings of non-Muslims are tolerated but are closely monitored for political content. The Government allows Shi'a Muslims to practice their faith. However, the latter have tacitly agreed to refrain from the more public aspects of their rituals, such as self-flagellation.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no restrictions on internal travel, except around sensitive military and oil installations. Generally, women do not require permission from male guardians to travel. However, Qatari men may prevent female relatives from leaving the country by placing their names with immigration officers at ports of departure. Technically, Qatari women employed by the Government must obtain official permission to travel abroad when requesting leave, but it is not known to what extent this regulation is enforced.

All Qatari citizens have the right to return. Foreigners are subject to immigration restrictions designed to control the size of the local labor pool. Foreigners who work in Qatar must have a sponsor (usually an employer) in order to enter the country. They must also obtain the sponsor's permission to leave.

The Government has no formal refugee policy. Those attempting to enter illegally, including officials seeking to defect from nearby countries, are refused entry. Asylum seekers who can obtain local sponsorship or employment are allowed to enter and may remain as long as they keep their employment. Foreign women married to Qataris are granted residence permits and may apply for Qatari citizenship. However, they are expected to give up their foreign citizenship in exchange.

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

Citizens do not have the legal right to change their government or the political system peacefully. Qatar has no formal democratic institutions. There were reports that some of the 19 signers of a December 1991 petition calling for greater political freedom and constitutional reform continued to be subject to travel restrictions. Qatar's political institutions blend the characteristics of a traditional Bedouin tribal state and a modern bureaucracy. There are no political parties, elections, or organized opposition groups.

The Amir exercises most executive and legislative powers, including appointment of Cabinet members. His rule, however, is tempered by local custom. Interlocking family networks and the recognized right of citizens to submit appeals or petitions directly to the Amir provide informal avenues for the redress of many grievances. The custom of rule by consensus leads to extensive consultations among the Amir, leading merchant families, religious leaders, and other notables on important policies.

Under Qatar's Basic Law of 1970, the Amir must be chosen from and by the adult males of the Al Thani family. The current Amir, Khalifa bin Hamad, has designated his son, Hamad bin Khalifa, as the heir apparent. This designation was made with the consent of the notables and religious leaders in accordance with local custom.

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

Local human rights organizations are not permitted to exist, and no international human rights organization is known to have asked to investigate conditions in Qatar.

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

Women.—The activities of Qatari women are closely restricted both by law and by traditional customs. For example, Qatari women are prohibited from applying for drivers' licenses unless they have permission from a male guardian. This restriction does not apply to non-Qatari women. Qatar adheres to Shari'a law in matters of inheritance and child custody. While Muslim wives have the right to inherit from their husbands, non-Muslim wives do not, unless a special legacy is arranged. In cases of divorce, it is rare for wives to obtain custody of children and impossible if the father is Muslim and the wife is not. Women may attend court proceedings but are generally represented by a male relative.

Qatari women are largely relegated to the roles of mother and homemaker, but some women are now finding jobs in education, medicine, and the news media. However, the number of professional women is too small to indicate whether they are receiving equal pay for equal work. Increasingly, Qatari women are receiving government scholarships to pursue degrees at universities overseas. Although Qatari women are legally able to travel abroad alone (see Section 2.d.), traditions and social pressures cause most to travel with male escorts.

Violence against women, primarily foreign domestic workers, occurs in Qatar but is not believed to be widespread. However, some foreign domestics working in Qatar (especially those from south Asia and the Philippines) have suffered severe mistreatment. In keeping with Islamic law, all forms of physical abuse are illegal, and the maximum penalty for rape is death. The police actively investigate reports of violence against women. In 1992 and 1993, the Government demonstrated an increased willingness to arrest and punish offenders, both Qatari and non-Qatari. However, most domestic worker victims do not press charges for fear of losing their jobs and being deported. The law is applied unevenly, with Qataris facing lighter punishment than foreigners.

Children.—Great importance is placed upon children in Qatari society. The Government provides most medical care for free to all residents, including children. Qatari children and the children of expatriates employed by the Government are allowed to enroll in public schools without charge.

National/Racial/Ethnic Minorities.—The Government discriminates against some citizens of non-Qatari origin. In the private sector, many Qataris of Iranian extraction occupy positions of the highest importance. However, in government they are rarely found in senior decisionmaking positions.

Religious Minorities.—Non-Muslims experience discrimination in employment, particularly in sensitive areas such as security and education.

People with Disabilities.—The Government has not enacted legislation or otherwise mandated provision of accessibility for the handicapped, who also face social

discrimination. However, the Government maintains a hospital and schools that provide free services to the mentally and physically handicapped.

Section 6. Worker Rights

a. *The Right of Association.*—The right of association is strictly limited, and all workers, including foreigners, are prohibited from forming labor unions. Despite this, almost all workers have the right to strike after their case has been presented to the Labor Conciliation Board and ruled upon. Employers may close a place of work or dismiss employees once the Conciliation Board has heard the case. The right to strike does not exist for government employees, domestic workers, or members of the employer's family. No worker in a public utility or health or security service may strike if such a strike would harm the public or lead to property damage. Strikes are rare, and there were none in 1993.

Qatar's labor law provides for the establishment of joint consultative committees composed of representatives of the employer and workers. The committees may consider issues including work organization and productivity, conditions of employment, training of workers, and safety measures and their implementation.

b. *The Right to Organize and Bargain Collectively.*—Workers are prohibited from engaging in collective bargaining. Generally, wages are set unilaterally by employers without government involvement. Local courts handle disputes between workers and employers. There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—There have been no reports of forced or compulsory labor, which are prohibited by law. However, employers must give consent before exit permits are issued to any foreigner seeking to leave the country. There have been instances of employers withholding this consent in retribution against departing employees.

d. *Minimum Age for Employment of Children.*—Minors between the ages of 15 and 18 may be employed with the approval of their parents or guardians. However, younger non-Qatari children sometimes work in small family-owned businesses. Education is compulsory through age 15. While the laws governing the minimum age for employment of children are not strictly enforced, child labor, either Qatari or foreign, is rare. Very young children, usually of African or south Asian background, have been employed as riders in camel racing. While little information is available on wages and working conditions for these children, accidents involving serious injury or death have been known to occur.

e. *Acceptable Conditions of Work.*—There is no minimum wage in Qatar, although a 1962 law gives the Amir authority to set one. The 48-hour workweek with a 24-hour rest period is prescribed by law, although most government offices follow a schedule of 36 hours a week. Employees who work more than 48 hours a week, or 36 hours a week during the Muslim month of Ramadan, are entitled to overtime. This law is adhered to in government offices and major private sector companies. It is not observed in the case of domestic and personal employees. Domestic servants frequently work 7 days a week, more than 12 hours a day, with few or no holidays, and have no effective way to redress grievances against their employers.

Qatar has enacted regulations concerning worker safety and health, but enforcement, which is the responsibility of the Ministry of Industry and Public Works, is lax. The Department of Public Safety oversees safety training and conditions, and the state-run petroleum company has its own set of safety standards and procedures. The Labor Law of 1964, as amended in 1984, lists partial and permanent disabilities for which compensation may be awarded, some connected with handling chemicals and petroleum products or construction injuries. The law does not specifically set rates of payment and compensation.

Foreign workers must be sponsored by a legally recognized organization or a Qatari citizen. Foreign workers need a sponsor to receive a visa to enter Qatar as well as the sponsor's permission to leave. Theoretically, any worker may seek legal relief from onerous work conditions. However, domestic workers, who experience the most difficulties, generally accept their situations in order to avoid repatriation.

SAUDI ARABIA

Saudi Arabia is a monarchy without democratically elected institutions or political parties. It is ruled by descendants of its founder, King Abdulaziz Al Saud, known in the West as Ibn Saud, who unified the country in the early part of the 20th century. The concept of separation of religion and state is foreign to Saudi society and governance. The legitimacy of the royal regime depends to a large degree on its perceived adherence to the precepts of a puritanically conservative form of Islam.

There is no written constitution. The legal system is based on Islamic religious law. Traditional practice calls for consensus in government, internal social cohesion, respect for private property, and private economic enterprise. Since the death of King Abdulaziz, the King and Crown Prince have been chosen from among his sons, who themselves have had preponderant influence in the choice. Legislative changes announced in March 1992, however, granted the King the exclusive power to name the Crown Prince. They also called for establishment of an appointed Consultative Council (Majlis Ash-Shura) and for similar provincial assemblies. A 60-member Council has been formed and was formally inaugurated on secember 29. Political parties are not permitted in Saudi Arabia. Political expression that is unfavorable to the regime is forbidden. There are no elected assemblies.

Police and border forces under the Interior Ministry are responsible for internal security. Security personnel committed human rights abuses during the year.

Massive oil revenues have transformed Saudi Arabia's centuries-old pastoral, agricultural, and commercial economy. Agriculture accounts for only about 5 percent of the gross domestic product. This transformation has been marked by rapid urbanization, large-scale development of economic and social infrastructure, the emergence of a welfare state and technocratic middle class, and the importation of millions of foreign workers for skilled and menial labor. It has also been marked by widespread expenditure of public funds in ways that improved the quality of life for most Saudis but have also enriched members of the royal family and their associates. With some important exceptions, mainly the hydrocarbon sector which accounted for one-third of the gross national product and three-fourths of the government budget, the economy remains largely in private hands.

Human rights continued to be pervasively abused. Principal human rights problems include torture and other abuse of prisoners and incommunicado detention; prohibitions or severe restrictions on the freedoms of speech and press, peaceful assembly and association, and religion; the denial of the right of citizens to change their government, and systematic discrimination against women and ethnic and religious minorities and suppression of workers' rights. The Mutawwa'in, Saudi Arabia's official proctors of proper moral behavior, and other religious zealots acting as vigilantes continued to harass and abuse Saudis and foreigners of both sexes.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no confirmed reports of political killings. Relatives of a Saudi citizen under investigation in connection with a bank robbery reported that he was tortured to death. According to one human rights group, the suspect, Hussain Ali Al-Shuwaikhat, died while in police custody on January 18. He reportedly died after being transferred to a hospital near the Awamia western prison. The Government did not acknowledge his death.

b. *Disappearance.*—There were no known disappearances.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—As in 1992, there continued to be reports that Saudi authorities tortured and abused detainees, both Saudi citizens and foreigners. Abuse included the practice of fallaqa, beating the soles of the feet to cause intense pain, and sleep deprivation. A foreign journalist was arrested in a business dispute, subjected to fallaqa, and deported. Allegations appeared in the international Arabic-language media in August that detained members and sympathizers of the Committee for the Defense of Legitimate Rights, which announced its formation in May, were subjected to torture while in detention. In keeping with their customary practice, Saudi officials made no comment on these allegations.

Following a March 9 riot at the Rafha refugee camp in which eight people were killed, including four Saudis, there were reports that some refugees had been beaten during the investigation into the cause of the riot. Responding to the United Nations High Commissioner for Refugees (UNHCR), Saudi authorities promptly relieved the responsible guards from duty at the camp, but there was no indication the guards were otherwise reprimanded. The UNHCR reported that Saudi soldiers responding to the riot did so with minimum force and that documented cases of torture and abuse of refugees by Saudi guards had dropped significantly.

Agents of the Interior Ministry were alleged to be responsible for most incidents of torture. The Government's failure to punish human rights abusers is a salient factor in the climate of impunity that prevails. While it is general government practice not to respond to reports of abuse, the Saudi Government has been responsive to diplomatic inquiries in some specific cases. The Mutawwa'in sometimes physically abused detainees while seeking to elicit confessions for supposed social misconduct. They often used switchlike sticks to harass those they perceived as violating reli-

giously mandated standards of behavior and sometimes hit or slapped persons for alleged infractions of proper behavior. One of the 49 women who were arrested in 1990 for driving cars to protest the ban on women driving reportedly had the car in which she was riding run off the road in June while returning from visiting friends and was detained by Mutawwa'in. She was held for 3 days and beaten while in custody because she had been at a family gathering in which men who were not close relatives were present. In another instance, an American woman and her Saudi female companion were picked up by the Mutawwa'in and held incommunicado; the Saudi woman was struck by the Mutawwa'in and injured herself in trying to run away. In most areas, Mutawwa'in are seldom punished for such acts; so far as is known, none of those involved in the instances cited were punished.

Representatives of the International Committee for the Red Cross (ICRC) and the UNHCR both visited Saudi detention facilities where Iraqi refugees were jailed in 1993. Officials from the UNHCR, officially recognized by the Government in June, regularly visit detained refugees in the Kingdom. Recognized international human rights organizations like the UNHCR reported that the Saudi Government improved conditions and treatment for some detainees in specific cases.

The Saudis rigorously observe criminal punishments prescribed in their interpretation of Islamic law, including execution by beheading and stoning, and amputation for reported theft. In the absence of two witnesses (four witnesses in the case of adultery), confessions before a judge are almost always required for conviction—resulting in credible charges that this induces many forced confessions. Defendants are tried in closed chambers, without benefit of defense counsel being present.

All 85 capital sentences in 1993 were carried out by beheading, sometimes followed by gibetting, which was confirmed in two of the cases. An Amnesty International report noted the increased number of executions in Saudi Arabia in 1993, which government officials explain is due to the rise in drug trafficking, a capital offense in the Kingdom. Death by firing squad is imposed for capital sentences for women instead of beheading. Repeated thievery is punishable by amputation of the right hand as prescribed by Shari'a law. For less severe crimes, such as drunkenness or publicly flouting Islamic precepts, the Shari'a punishment of flogging with a cane is often imposed. Egyptian Mikhail Cornelius Michail received 500 of the 1,000 lashes to which he was sentenced for blasphemy before being released from prison and deported.

d. *Arbitrary Arrest, Detention, or Exile.*—Saudi law prohibits arbitrary arrest. A person may be arrested and charged with a crime or on the basis of an investigation of a crime. When a person is arrested, the time of his arrest and the charges are to be written in the police log book at the jail. Actual charges or the charges being investigated are listed for every detainee. Investigations often take weeks or months to complete.

Criminal procedure and the grounds for arrest have generally been determined at the discretion of the arresting officer, which has led, despite the law, to arbitrary arrest and detention. In October King Fahd issued a decree providing for a new office of investigation and public prosecution. According to its provisions, the public prosecutor is to receive all evidence and investigate all alleged criminal activity prior to any decision to prosecute, thereby assuming the limited prosecutorial powers currently enjoyed by a number of agencies. Despite regulations issued by the Ministry of Interior in 1985 to eliminate lengthy pretrial detention without charge, prisoners have been held for long periods before they are charged or released. The Mutawwa'in sometimes exceeded their legal mandate by detaining suspects for periods exceeding 24 hours before turning them over to the civil authorities. Most arrestees have been held no longer than 3 days before being formally charged.

In one of many reported cases, a Filipino man was held in prison for 4 years before he was released without charge. The paperwork concerning his arrest had been misplaced by the arresting officer. Forty Shi'a were held since 1988 without charge in prison near Riyadh; several sources have confirmed that all were released in July. Saudi law makes no provision for bail or habeas corpus; prisoners are, however, sometimes released on the recognizance of a patron or employer.

There is no automatic procedure for contacting a detainee's family or employer when an arrest occurs. In cases involving foreigners, however, Saudi authorities, if asked, usually confirm an arrest promptly. Embassies usually hear about arrests of their nationals through informal channels; notification often comes after the arrested person has already been deported. A formal diplomatic note is required before consular officials may visit prisoners.

Human rights groups from outside Saudi Arabia continued in 1993 to report cases of long-term incommunicado detention of political prisoners. Problems may arise particularly when persons are arrested by the General Intelligence Directorate (GID), the Ministry of Interior's security service, commonly called the "Mubahith"

or investigative police. The GID regularly holds prisoners incommunicado during the initial phase of an investigation, which may last weeks or months. It has held at least four suspects incommunicado in Jeddah since February 1991 while investigating their suspected connection with a terrorist incident against U.S. soldiers during the Gulf war and has denied relatives permission to visit the prisoners.

The Government does not use exile as a form of punishment.

e. *Denial of Fair Public Trial.*—The judicial system is based on Islamic jurisprudence (the Shari'a). Regular Shari'a courts exercise jurisdiction over common criminal cases and civil suits regarding marriage, divorce, child custody, and inheritance of real or personal property. In Saudi courts, the defendant appears before a judge who determines guilt or innocence in accordance with Shari'a standards and, if warranted, imposes sentence. Although Saudi law requires that trials be public, almost all trials are closed and are held without legal counsel present. The advice of lawyers is available before trial, and lawyers may act as court interpreters for those unfamiliar with Arabic. However, trials occur in which the defendant does not understand Arabic and does not have a translator. Sentencing is not uniform and may vary according to the nationality of the defendant. Iraqi refugees and third-country nationals regularly receive longer sentences for the same offense than do Saudi citizens. A sentence may be changed at any stage of review.

Appeals against judges' decisions are automatically reviewed by the Justice Ministry or, in more serious cases, by the Court of Cassation and the Supreme Judicial Council to ensure that court procedures were correct and that judges applied appropriate legal principles and punishments. Cases involving capital punishment must also be reviewed by the King. The Shi'a community is permitted to adjudicate exclusively noncriminal intra-Shi'a disputes according to their own legal tradition.

Although the independence of the judiciary is prescribed by law, jurists are nevertheless aware of, and reportedly have on occasion acceded to, the power and influence of royal family members and their associates. At the provincial level, governors have reportedly threatened, and even detained, judges with whom they disagreed. In one reported case, for example, a domestic servant from another country was raped repeatedly by her employer, who videotaped and photographed the act. Despite the graphic evidence, the employer, a prominent doctor, was not prosecuted because of his connections with government officials. The servant was charged with prostitution and deported. Members of the royal family and of other powerful families are not subject to the same legal constraints as other Saudis. Judges do not, for example, have the power to issue a warrant summoning any member of the royal family.

The Justice Ministry is responsible for the appointment, transfer, and promotion of judges. Judges may be disciplined or removed only by the Supreme Judicial Council, a body of senior jurists, or by royal decree.

The military justice system has jurisdiction over uniformed personnel and civilian government employees charged with violations of military regulations. Court-martial decisions are reviewed by the Minister of Defense and Aviation and the King.

Under Shari'a law as applied in Saudi Arabia, crimes directed against Muslims receive harsher penalties than those against non-Muslims. In the case of accidental death, the amount of indemnity or "blood money" paid to relatives varies with the religion and sex of the victim.

The number of political prisoners being held at year's end was unknown owing to the Government's policy of not providing data or responding to inquiries about such persons, conducting closed trials, and detaining persons incommunicado for long periods while under investigation. (See Section 1.d. concerning the release of Shi'a "political" prisoners.)

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The sanctity of family life and the inviolability of the home are among the most fundamental of Islamic precepts, and legislative changes announced in March 1992 included provisions calling for the Government to maintain the sanctity of the home from unlawful incursions. However, Saudi religious police (Mutawwa'in) continued to enter homes to search for evidence of un-Islamic behavior and to harass and abuse perceived transgressors. Saudi police must generally demonstrate reasonable cause and obtain permission from the Provincial Governor before searching a private home, but warrants are not required.

Saudi customs officials routinely open mail coming into the Kingdom to look for forbidden items, including material deemed pornographic and non-Muslim religious material. Materials deemed offensive are seized. Wiretaps and mail surveillance may be carried out on the authority of officials of the Interior Ministry or the GID. To buttress claims that the Government had incriminating evidence against Mohamed Al-Masari of the Committee for the Defense of Legitimate Rights, one high-ranking government official reportedly made reference to and played tapes

made of Al-Masari's telephone conversations with foreign media journalists and human rights organizations. Informants are reliably reported to be regularly used for internal security matters.

Most social and Islamic religious norms and strictures affecting personal life are matters of law and are enforced by the Government. Saudi women may not marry non-Saudis without government permission, which is rarely given. According to Islamic strictures, Saudi women are prohibited from marrying any non-Muslim, while Saudi men may marry Christians and Jews. Saudi men must obtain approval to marry women originally from countries other than the six members of the Gulf Cooperation Council (GCC). During Ramadan, the Islamic month of fasting and abstinence, the prohibition against public eating, drinking, or smoking during daylight hours is enforced on Muslims and non-Muslims alike. Prohibitions against alcohol, pork products, and material deemed pornographic are strictly enforced and apply as well to foreign residents.

Both Saudis and foreigners were targets of harassment by members of the Mutawwa'in or by religious zealots acting as vigilantes. The Mutawwa'in sought to enforce their increasingly strict standards of social behavior, from observance of prayer time closings of commercial establishments to appropriate dress in public and patronage of videotape rental shops. In August cassette tape stores in Riyadh were closed for 3 weeks due to pressure from the Mutawwa'in. Cassette tape sections in variety stores, however, remained open.

In addition to the Mutawwa'in harassment of non-Muslims attempting to conduct religious services (see Section 2.c.), the number and seriousness of incidents in which Saudi and foreign women were harassed, rose still further in 1993. Women were most often harassed for failure to observe Mutawwa'in-enforced dress codes and for being in the company of males who are not close relatives. Since December 1992, 48 incidents involving the Mutawwa'in were reported by American citizens. Such abuses have become so common that most incidents are not even reported to the authorities.

In some cases, the Mutawwa'in or their sympathizers took unilateral action against individuals without the knowledge of the civil police. The U.S. Government protested to the Saudi Government the instances involving American citizens; the Saudi Government took no action in most areas to prevent recurrences and did not issue specific guidance for dress that would preclude Mutawwa'in harassment. In several of the cases involving Westerners, the authorities justified Mutawwa'in action by claiming there was credible evidence of transgressions of Saudi law involving alcohol or drugs.

Government reforms announced in July created a Ministry of Islamic Affairs; the Mutawwa'in have been incorporated into this Ministry and will be under its supervision.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and press is severely limited by law (Article 39 of the Basic Law) and in practice. Criticism of Islam, the ruling family, or the Government is not allowed. The potential presence of informers renders criticism of the regime rare.

In May a group of six Saudis, including some signers of earlier petitions, announced the formation of the Committee for the Defense of Legitimate Rights (CDLR). Although the organizers described their group as a human rights organization, they also expressed concern that the Government was not adhering closely enough to Islamic precepts. When the CDLR criticized the Government in the international press, several of its members, including the son of one of the founding members, Mohamed Bin Abdullah Al-Masari, were detained. The Government dismissed all six of the CDLR founders from their government jobs. The CDLR was denounced by the Senior Council of Ulema for overstepping the bounds of legitimate Islamic behavior and expression. One of the six signers withdrew from the Committee. In August a group of 38 professors was detained for a period of several weeks because of their public efforts to obtain the release of Al-Masari. He was released from custody in November.

Since 1991 clandestine audio tapes and petitions signed by dozens of religious figures calling for closer government adherence to Islam have been circulated widely through informal channels. King Fahd, in a public speech in December 1992, stressed the right of all Saudis to approach senior officials directly to offer advice but criticized the authors of the petitions for what he called their improper use of the pulpit.

The press is privately owned. It is effectively controlled by a 1982 media policy statement and a 1965 national security law which expressly prohibits the dissemination of public criticism of the Government in any print or broadcast medium. The

media policy statement enjoins the press to uphold Islam, oppose atheism, promote Arab interests, and preserve the cultural heritage of Saudi Arabia. Editors in chief are appointed with the explicit approval of the Ministry of Information, and the Government has the power to have them removed. Newspapers receive guidelines issued by the Information Ministry on government positions on sensitive issues, and the government-owned Saudi Press Agency (SPA) expresses the official viewpoint on such issues.

In 1993 a newspaper editor was fired and later reinstated for an editorial lauding the King's position on opposing Islamic extremism. The editorial was said to be too strident in its criticism of Islamic extremism. The editor in chief of another newspaper was transferred to another position, and one of his editors was deported because of a comic strip to which religious authorities objected.

Domestic news concerning sensitive subjects, such as crime or terrorism, is often published only after the perpetrators have been arrested, convicted, and sentenced. Most foreign news that does not directly concern Saudi Arabia is presented objectively. Foreign press access to Saudi Arabia is tightly restricted.

Saudi television and radio are state owned and operated. Foreign programs and songs are heavily censored, with references to politics, religions other than Islam, pork or pigs, alcohol, or sexual innuendo removed. In 1993 a television producer was fired for allowing a scene to be shown on Saudi television in which a man kissed a woman on the cheek. Although foreign news is generally presented on television and radio in an objective manner, news about subjects affecting Saudi Arabia is tightly controlled, and conflicting viewpoints are usually not offered.

There are an estimated 100,000 to 200,000 private satellite dishes operating in the Kingdom which receive foreign broadcasts. Despite widespread installation of satellite dishes, the status of these devices remains ambiguous. Importation and sale of the dishes were resumed after their prohibition in the summer of 1992 at the behest of religious leaders who objected to television programming available on satellite channels. Mutawwa'in were reported to have damaged satellite dishes on private residences with air rifles and sling shots to prevent their use.

Foreign publications circulate but may be censored for materials deemed immoral or critical of Saudi policies and actions. Entire publications are sometimes withheld from distribution. In 1993 the issues of the International Herald Tribune containing articles from U.S. newspapers critical of the Saudi Government's economic policies, as well as issues of another newspaper that discussed the articles, were not distributed in Saudi Arabia.

Academic freedom is also constrained; for example, the study of evolution, Freud, Marx, and Western philosophy is proscribed. Some professors believe that classroom comments that could be taken as antiregime will be reported to the authorities. There continues to be an injunction against the study of music in educational institutions through the university level. There are, however, some private organizations for the study of Western classical music.

Artistic activities in schools and universities and in society in general continue to be limited and subjected to arbitrary closure. There are a few private art galleries, principally in Jeddah and Dhahran. Abstract and representational artists as well as photographers in general are allowed to work. However, in 1993 an exhibit of photographs prepared by a Saudi woman and sponsored by the French Embassy was closed hours before the opening, allegedly because the invitation card depicted the image of a woman, although she was completely veiled. Cinemas and public musical or theatrical performances, other than those that are strictly folkloric, are prohibited.

b. *Freedom of Peaceful Assembly and Association.*—These rights are strictly limited. The Government prohibits public demonstrations as a means of political expression or presenting grievances. Tribal, familial, and economic interest groups informally aggregate public opinion, which their leaders express to high officials. Political parties are prohibited (see Section 3), but nonpolitical clubs and professional groups may be organized with the permission of the authorities. The few existing professional groups are permitted to maintain contacts with their recognized international counterparts. Public meetings are segregated by sex. Foreign members of groups seeking to hold unsegregated meetings risk arrest, incarceration, and deportation unless these meetings are sponsored by diplomatic missions.

A children's winter concert at the Yanbu International School attended by 200 people was raided by four Mutawwa'in and two policemen. The intruders grabbed children performing in the concert and pulled them from the stage. The Mutawwa'in tried to confiscate cameras and video equipment from members of the audience. U.S. and British officials formally protested the matter with senior Saudi officials, who reported that the incident was being given high-level attention and that an official investigation was being conducted. The officials gave assurances that the matter

was taken very seriously by the Government and that such an incident would not recur. On December 30, the Ministry of Foreign Affairs in a diplomatic note stated that the Government neither approves nor agrees with this behavior by members of the (Mutawwa'in) organization and that the necessary measures have been taken to ensure that what they have done will not be repeated in the future.

c. *Freedom of Religion.*—Freedom of religion does not exist. Islam is the official religion, and all Saudi citizens must be Muslims. An injunction against the practice of other religions in Arabia, attributed to the Prophet Mohammed, is enforced in the Kingdom. Public apostasy is a crime under Shari'a law, punishable by death. There were no executions in 1993 for the crime of apostasy.

Islamic practice in Saudi Arabia is generally limited to that sanctioned by the Wahhabi sect's interpretation of the Hanbali jurisprudential school of Islam. Practices contrary to this interpretation, such as the visiting of graves of famous Muslims by pilgrims to Mecca or Medina or public Shi'a prayer practices, are discouraged.

The Shi'a Muslims, mostly in the Eastern Province, usually estimated at up to 500,000 persons, constitute a religious minority subject to officially sanctioned forms of social and economic discrimination (see Section 5). Historically, the Government has prohibited Shi'a public processions during the Islamic month of Muharram and restricted public processions and congregations to specially designated areas within major Shi'a cities. However, since 1990, authorities have permitted marches on the Shi'a holiday of Ashura, provided they take place without banners or public self-flagellation. King Fahd has quietly invited dissident Shi'a residents abroad to return to the Kingdom without regard for their past political activities. A number of Shi'a dissidents, including some who had spent many years abroad, have returned.

The Government occasionally offers to provide financial support for the Shi'a religious establishment, which is generally refused. The Government seldom permits private construction of Shi'a mosques, and the Shi'a have refused government offers to build state-supported mosques, in which Shi'a motifs would be prohibited.

Public or private non-Muslim religious activities are not permitted. Persons wearing non-Islamic religious symbols in public may be arrested or publicly harassed by the Mutawwa'in. There are no public non-Muslim places of worship, and non-Muslim foreign nationals must practice their religions in secret.

Proselytizing, large gatherings, or elaborate organizational structures are likely to attract official attention and lead to the imprisonment or expulsion of those involved. Following the destruction of the Babri mosque in India in December 1992, many Hindus working for the Government were fired from their jobs and deported. In May the home of an American woman and her Filipino husband was raided by the Mutawwa'in, who acted without a search warrant, after they were reported to be hosting a clandestine prayer group in their home. The man was arrested and held in jail without being formally charged until his deportation in November.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Travel for women, Saudi and non-Saudi, is restricted; they must obtain written permission from their closest male relative before being allowed to travel on public transportation between different parts of the country or to leave the country. Male Saudis may travel freely within the country. A regulation promulgated in 1990 requires most single Saudi men under the age of 18 to obtain permission before traveling abroad; such permission may be easily obtained. In the case of government officials, the permission of the royal court is required but appears to be routinely granted.

All foreigners living in Saudi Arabia are required to carry identification cards. Officially, foreigners are not permitted to travel outside the city of their employment or change their workplace without their sponsor's permission. Officials at internal checkpoints within the Kingdom enforce travel restrictions on foreigners, checking for letters of permission from employers.

Foreign employees are prevented from traveling abroad without their sponsor's permission, since sponsors generally hold their passports and are responsible for obtaining exit visas for them. Foreign diplomats are ordered by the Government not to travel outside the major cities without notifying the Government, but this order is rarely enforced. Foreigners involved in commercial disputes are sometimes not allowed to leave the country until the dispute has been resolved. Some sponsors have taken advantage of this arrangement to exert pressure to resolve commercial disputes in their favor. Occasionally, Saudi sponsors or business partners have been able to prevent foreign nationals from departing Saudi Arabia for years or to have them arrested or deported. In criminal cases, Saudi regulations require that the passports of all potential suspects and witnesses be seized, which sometimes forces foreign nationals to remain in Saudi Arabia for lengthy periods against their will. Denial of exit visas is a fairly common form of punishment, and passports of sus-

pected subversives have occasionally been seized. Shi'a believed to have pro-Iranian sympathies may be prevented from traveling abroad.

Saudis are permitted to emigrate, but those who assume foreign nationalities come into conflict with Saudi law, which prohibits dual citizenship. Citizens do not have the right to relinquish their Saudi citizenship. Saudis born in the United States who have U.S. passports may have their U.S. passports confiscated by Saudi immigration authorities.

There is no explicit formal policy regarding refugees or the granting of asylum. Refugees and displaced persons are often dealt with like other foreign workers who must meet strictly enforced requirements of sponsorship and employment or risk being turned back at the border. Saudi authorities are responsive, however, in some cases where deportation of refugees to their home country would jeopardize their safety.

In the aftermath of the Gulf war, 22,000 Iraqi citizens, primarily Shi'a, fled Iraq and were granted refuge in camps in Saudi Arabia near the city of Rafha. Similarly, 13,000 Iraqi deserters declined repatriation to Iraq and were housed in the Kingdom under government custody near the city of Artawiyah. In December 1992, the refugee camp at Artawiyah was consolidated with the camp at Rafha. The decision to close the Artawiyah camp, scene of earlier human rights problems, was in part a response to advice from the UNHCR. The approximately 25,000 Iraqi refugees remaining in Saudi Arabia are, with a few exceptions, restricted to the refugee camp. (See Section 1.c. on the March riot.) Saudi officials have worked with international humanitarian organizations to provide care for these Iraqis but have stressed that Islamic principles rather than international humanitarian law are the basis for this policy. In January the U.N. High Commissioner for Refugees, Sadako Ogata, paid an official visit to Saudi Arabia, and the UNHCR office in the Kingdom received official status in June. UNHCR officials have been informed that a few Somali refugees are on one of the Farasan Islands but have not been asked to provide assistance and have not been able to visit these refugees.

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

Citizens cannot change their government peacefully. There are no formal democratic institutions, and only a few Saudi citizens have a voice in the choice of leaders or in changing the political system. The King rules the country in matters civil and religious, within limits established by religious law, tradition, and the need to maintain consensus among the ruling family and religious leaders. The King's legitimacy is based upon his adherence to the tenets of Islam, his descent, his selection by consensus of the royal family, his ability to govern, and his perceived concern for the welfare of the nation. The King is also the Prime Minister, and the Crown Prince serves as deputy Prime Minister. The King appoints all other ministers, who in turn appoint subordinate officials with Cabinet concurrence. Ministers may retire only with the King's permission. In August the King announced that Cabinet ministers would have 4-year terms, with the possibility of reappointment.

In 1992 King Fahd announced the formation of a Consultative Council, or Majlis Ash-Shura, which is to be an advisory body to the King and the Council of Ministers. In August the King announced a constitution for the Majlis Ash-Shura and the names of the 60 Majlis Ash-Shura members. The Majlis was formally inaugurated on December 29. In September the King announced rules and regulations for the provincial assemblies and their memberships.

There are no popularly elected officials in Saudi Arabia. Political parties are not permitted, and there are no publicly organized opposition groups.

Traditionally, public opinion has been expressed through client-patron relationships and affinity groups such as tribes, families, and professional hierarchies. The open-door audience (majlis) remains the primary forum for expression of opinion or grievance. Any male citizen or male foreign national may attend these sessions held by the King, princes, or important national and local officials. Occasionally, women without male relatives present petitions in some majlis sessions. Since the assassination of King Faisal in 1975, Saudi kings have reduced the frequency of their personal contacts with the public. Access to King Fahd, to whom decisions even on some apparently minor matters are referred, is considered by ordinary Saudis to be quite difficult, in part due to strict security measures.

Typical topics raised in a majlis are complaints about bureaucratic delay or insensitivity, requests for redress or assistance, and criticism of particular acts of government affecting personal or family welfare. Broader "political" concerns—Saudi social, economic, or foreign policy—are raised only occasionally. As governmental functions have become increasingly complex, time consuming, and centralized in Riyadh, direct public access to senior officials has become more difficult. Either the King or

the Crown Prince meets with Sunni religious officials at least once a week. This institutionalized but indirect means of ascertaining public opinion through consultation falls short of internationally accepted democratic practice.

Participation by women in the process is severely restricted, although there are reports that women may seek redress through female members of the royal family.

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

There are no human rights groups in the usual sense publicly active in Saudi Arabia, and none critical of Saudi policies would be permitted. In May a group of six Saudis, including some signers of earlier petitions, announced the formation of the Committee for the Defense of Legitimate Rights (CDLR). When the CDLR criticized the Government in the international press, the Government took a number of punitive actions, closing the group's office and detaining several of its members, including the son of one of the founding members, Mohamed Bin Abdullah Al-Masari, who was released in November.

Some U.N. agencies concerned with humanitarian issues, including the UNHCR, maintain offices in Saudi Arabia and have regular contact with Saudi authorities. The Saudis have generally facilitated the work of the ICRC and UNHCR with Iraqi deserters, refugees, and displaced persons from the Gulf war. Cooperation between the UNHCR and the Saudi Government has expanded, with a corresponding improvement in the living conditions for Iraqi refugees living in Saudi camps. This cooperation is based on a June 22 memorandum of understanding between the UNHCR and the Saudi Government.

Saudi Arabia has not signed major human rights treaties and conventions.

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

Women.—The lives of women in Saudi Arabia are rigidly circumscribed. They have few political and social rights and are not equal members of society.

Violence against women is known to occur in Saudi Arabia. Although the Government does not keep statistics on such abuse, hospital workers report that it is not uncommon that women are admitted for treatment of injuries that appear to be the result of domestic violence. "Islamic advice" columns in the Saudi press sometimes recommend the "strict disciplining" of women, which is understood to encompass some degree of physical force, as part of a proper marriage.

Foreign embassies receive frequent reports of the physical and sexual abuse of female domestics by Saudi employers. The Government, in general, considers cases involving domestic servants to be private family matters and will not intervene unless clear-cut charges of severe abuse are brought to its attention. It is almost impossible for abused women to obtain redress in the courts due to the court's strict evidentiary rules and the women's own fears of reprisals. Few employers have been punished for such abuses. There are no private support groups or religious associations to which abused women could turn for assistance.

In 1993 women experienced an increased number of restrictions on their public activities. Many restaurants closed their family sections or refused to serve women unaccompanied by a male relative. Some restaurant managers who attempted to ignore this restriction were arrested and detained by the Mutawwa'in. In public, Muslim women are required to wear the abaya, headscarf, and face veil (lightweight, black garments covering the entire body, head, and face). Saudi authorities have repeatedly said that non-Muslim women need not wear the abaya and headscarf, but should maintain decorum and modesty in appearance. However, the Mutawwa'in have increasingly tried to force all foreign women to wear the abaya and cover their hair.

Women, including foreign women, may not legally drive motor vehicles or ride bicycles. Women are restricted to specially designated sections in the rear of urban buses with separate entrances. Of the 49 women who were arrested in 1990 for driving cars to protest the ban on female drivers, all have had their passports returned and received compensation for some of the wages lost while in disfavor. Most have returned to work, although some continue to be harassed by the Mutawwa'in (see Section 1.c.).

In addition to customary and legal restrictions, Saudi women are subject to discrimination inherent in the Islamic legal system. Under Islamic law, a daughter's share of an inheritance is half that of her brother's, under the presumption that the brother has financial obligations to his mother and sisters. Women must demonstrate legally specified grounds for divorce, but men may divorce without grounds. If divorced or widowed, a woman normally may keep her children until they attain the age of 7, but then they revert to the husband's family, to which they belong

under Islamic law. Foreign women married to Saudis have frequently been barred from visiting their children after divorce.

In a Shari'a court, the testimony of one man equals that of two women. Although Islamic law permits polygyny, it is becoming less common, especially in cities and among younger Saudis. Islamic legal precepts limit the number of wives to four and require a husband who has more than one wife to treat each of his wives equally. In practice, this norm is not always achieved.

Employment opportunities for Saudi women are extremely limited. This fact, along with the ease of divorce for males, creates a situation of great economic vulnerability and a sense of insecurity for many women. Insecurity is reported to be greatest among married women who fear their lack of legal protection if their husbands decide to divorce them. Some women join together to form clandestine savings clubs as insurance against the possibility of divorce. The younger generation of educated Saudis, men and women, tend to express a greater interest in having women work, and the number of employed women in Riyadh has increased in the last few years. However, there is evidence that the influence of religious extremists has increased in various government institutions and that female employees are increasingly segregated and subjected to various forms of harassment. Women remain excluded from the vast majority of occupations.

Free, but segregated, education through the university level is available to Saudi women. Women constitute 55 percent of all university graduates but are excluded from studying certain subjects such as engineering, journalism, and architecture. Saudi men are able to study overseas; Saudi women generally can do so only if accompanied by a spouse or an immediate male relative. Despite the high percentage of university graduates, women make up only 5 percent of the work force. In practice, most employment opportunities are in the field of education, with some available in health care and a relative few in business, philanthropy, banking, retail sales, and the media. Women wishing to enter nontraditional fields are subject to arbitrary discrimination. In August the Ministry of Commerce announced that it had stopped issuing licenses to women and students who wished to undertake maintenance, contracting, or janitorial services. When asked for clarification, a Ministry official said the ban would be temporary.

Children.—The Government provides all Saudi children with free education and medical care. Reports of societal abuse directed against children are rare, except for the practice of female circumcision which is thought to persist among African nationals, especially in the southwestern Tihama region.

National/Racial/Ethnic Minorities.—Although racial discrimination is illegal in Saudi Arabia, substantial societal prejudice based on ethnic or national origin exists. Foreign workers from Africa and Asia are subject to various forms of informal discrimination and have difficulty in attempting to enforce their rights under Saudi law. In 1993 there continued to be credible reports of informal discrimination, including wage discrimination, against Jordanians, Palestinians, and Yemenis, primarily because of positions their governments or the Palestine Liberation Organization took in the Gulf crisis.

Religious Minorities.—Saudi Shi'a, in addition to being subject to stringent religious repression (see Section 2.c.), also face discrimination in government and industrial employment, especially in jobs with national security implications, broadly defined. Employment restrictions at Aramco, traditionally an important employer for the Shi'a, were imposed on them several years ago and have not been relaxed. Shi'a also face limitations on their access to social services, despite efforts by the Government to improve the social service infrastructure in predominantly Shi'a areas of the country. Since the Iranian revolution, some Shi'a have been subjected periodically to surveillance and limitations on travel abroad. Among 60 members appointed to the Consultative Council in August, only 1 was a Shi'a.

People with Disabilities.—The Saudi Government and charitable organizations cooperate to provide education, employment opportunities, and other needed services for the disabled. While there is no legislation or otherwise mandated provision of accessibility for the disabled, new construction for public and business uses often includes access for them.

Section 6. Worker Rights

a. *The Right of Association.*—Government decrees prohibit the formation of labor unions and strike activity, and there have been no attempts to defy these restrictions.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining is forbidden, and there are no special economic zones in the country. Foreign workers comprise approximately half of the work force. Wages are set by the employers on the basis of market factors.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor has been prohibited since 1962 by a royal decree that abolished slavery, and Saudi ratification of International Labor Organization (ILO) Conventions 29 and 105 have the force of law. Nonetheless, vestiges of the master-slave relationship remain; a great number of former slaves chose to remain in the princely households where many now enjoy a quasi-familial status as household supernumeraries. Additionally, since employers generally exercise control over the movements of foreign employees, situations that could be described as forced labor can occur, especially in remote areas where workers are unable to leave their place of employment. Diplomats desiring to visit work sites to check on the welfare and conditions of citizens of their countries were sometimes denied access. There also have been reports that female domestic workers sometimes have been prevented from leaving the homes of their employers and forced to work 12 to 16 hours a day, 7 days a week. Maids who run away from their employers are often returned to the employers by Saudi authorities against the maids' wishes. In addition, there have been reports of workers whose employers refused to pay several months or even years of accumulated salary or other promised benefits. Domestic workers, i.e., maids and family drivers, are not covered under Saudi labor law. However, nondomestic workers have recourse to the labor courts. Foreign workers have reported, however, considerable difficulty in attempting to enforce their rights under Saudi law.

d. *Minimum Age for Employment of Children.*—There is no minimum age for workers employed in family-oporated businesses or in other situations that are construed as extensions of the household, e.g., farmers, herdsmen, and domestic servants, since they are not covered by Saudi Arabia's labor regulations. In other cases, the labor regulations provide for a minimum age of 13, which may be waived by the Labor Ministry with the consent of the juvenile's guardian. Children aged 13 to 18 are prohibited from working more than 6 hours per day. Children under age 18 and women may not be employed in hazardous or harmful industries, such as mines or industries employing power-operated machinery. While there is no formal government entity charged with enforcing the minimum age for employment of children, the Justice Ministry has jurisdiction and has acted as plaintiff in the few cases that have arisen against alleged violators.

e. *Acceptable Conditions of Work.*—There is no legal minimum wage. A provision providing for the Council of Ministers to set a minimum wage has not been implemented. Saudi labor regulations establish a standard 48-hour workweek at regular pay and allow employers to require up to 12 additional hours of overtime at time-and-a-half pay. Saudi labor law provides for a 24-hour rest period, normally on Fridays, although the employer may grant it on another day.

There continue to be numerous reports of foreign nationals coming to Saudi Arabia on promises by private contractors of a certain level of pay and benefits, only to find that the contract they sign upon arrival specifies lower levels of both. Other reports suggest that some workers sign contracts in their home countries and are then asked to sign ones less favorable to them upon arrival. Reliable reports indicate that the length of service called for in the original contract is sometimes increased upon arrival by as much as 3 years and that employees reaching the end of their term of service in a contract have been refused permission to return home by their employer, effectively extending the workers' term of employment involuntarily. There are reports as well of workers who are indentured to Saudi sponsors for a set amount each month and who must then find their own employment upon arrival in the Kingdom. To solve these problems, some foreign governments have begun utilizing employment organizations that negotiate salary and benefits in advance for their nationals. These organizations periodically check on the results of their efforts through their embassies and the Saudi labor courts.

Occupational health and safety standards are outlined in the Kingdom's Labor Law. In general, the law requires employers to protect "workmen from hazards and diseases" in the workplace. The Labor Ministry enforces these standards more effectively against large enterprises due to their higher profile and to limited Ministry resources. The law does not apply to enterprises with fewer than five employees, family businesses, and domestic employees. The Labor Law allows employees to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, provided the employer has been notified of the dangerous conditions and has not taken corrective action. Labor law protects workers reporting health and safety violations from reprisal by their employers, but there have been instances of sanctions against foreign workers making such complaints.

SYRIA

Syria is ruled by an authoritarian regime which, although it maintains some of the trappings of democratic government, places virtual absolute authority in the hands of President Hafiz Al-Asad. Key decisions regarding foreign policy, national security, and the economy are made by President Asad with counsel from his ministers and principal advisers. Although the Parliament is elected every 4 years, the Ba'th Party is guaranteed a majority. The Parliament generally does not initiate laws but only passes judgment on those proposed by the executive. All three branches of government are guided by the views of the Ba'th Party, whose primacy in state institutions is mandated by the Constitution.

Except for a hiatus in 1973–74, Syria has been under a state of emergency since 1963. The Government has justified martial law by the state of war with Israel and continuing threats posed by terrorist groups (Islamic extremist, Iraqi, and Lebanese). However, the regime's suppression of all opposition has been so effective that antiregime manifestations have been very limited in recent years.

The Government maintains an extensive security apparatus. The state of emergency allows this apparatus wide latitude in dealing with suspects, detainees, and prisoners. The several main branches of the security services operate independently of each other and outside of the legal system. Each continues to be responsible for severe human rights violations.

Syria's mixed economy, based on commerce and agriculture, is dominated by an inefficient public sector, but includes growing private and mixed sectors. Oil is a major export. The regime is trying to promote growth in the private sector through statutory changes providing incentives, but excessive bureaucracy and endemic corruption discourage domestic and foreign investment. Most agricultural land is privately owned. In the 1990's, real economic growth has been about 7 percent per year. Annual per capita gross domestic product is about $900.

Although the Government released some political prisoners, responded to some international inquiries regarding detainees and prisoners, loosened exit permit issuance to Syrian Jews, and brought hundreds of other cases to trial, thereby ending long periods of indefinite detention, there was no basic change in the human rights situation in 1993. Basic human rights remain tightly restricted. It is widely accepted that several thousand persons remain imprisoned without trial. The major human rights problems include arbitrary arrest and detention, systematic torture, lack of a fair trial in security cases, and the denial of the right of citizens to change their government as well as the freedoms of speech, press, association, and certain worker rights. Syrian government resistance to human rights monitoring makes it difficult to know precisely the details and numbers of such abuses.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of executions for political beliefs in 1993 and no confirmed instances of the Government's extrajudicial killing of detainees. However, given past practice and the secrecy that still surround those held at various security facilities, the regime may still engage in summary executions at such facilities.

There were credible reports of at least three people dying while in detention. The exact cause of death was not determined, and families were not allowed to view the remains. Human rights groups have received reports questioning whether the death in custody of long-time political prisoner and former President Salah Jadid was due to natural causes, as claimed by the Government, or whether Jadid was killed. Shakar Tabban, a lawyer, reportedly died in December 1992 due to torture and ill-treatment.

b. *Disappearance.*—There were no reports of disappearances in 1993, but the welfare and whereabouts of hundreds of persons held incommunicado from previous years remain largely unknown (see Section 1.d.). The Government has provided information on a small number of those held incommunicado.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the Constitution prohibits torture and the Penal Code provides severe penalties for government officials who engage in it, the practice of torture and abuse remains widespread and systematic in criminal, political, and security-related cases. Released detainees or prisoners have credibly reported that the Government maintains facilities specially equipped to inflict physical harm on those being held. Detainees are subjected to both physical and psychological abuse. Torture is used to extract information from suspects; in some cases relatives or acquaintances of the suspect have been tortured in order to obtain information about the suspect. Among

the forms of physical abuse practiced by government-employed torturers are application of electrical shocks on sensitive parts of the body and beatings (sometimes while the victim is bent over and suspended from the ceiling in a tire or a chair). There are no known instances of the Government investigating or punishing those alleged to have committed torture or abuse. (See also Lebanon report.)

Fifteen members of the Committee for the Defense of Democratic Freedoms and Human Rights in Syria (CDF) reportedly went on a 3-week hunger strike in August to protest their imprisonment and alleged torture.

Prison conditions continue to be poor, particularly in older, more overcrowded facilities; security prisons are markedly worse than civilian prisons. Medical treatment and facilities are inadequate in both types, and injuries and chronic ailments from torture, overcrowding, and grossly inadequate sanitation and health facilities are either not treated or are treated unsatisfactorily.

d. *Arbitrary Arrest, Detention, or Exile.*—While the Civil Law Code generally provides for due process, these provisions do not apply to security and political offenses, which are treated under the State of Emergency Law. Under provisions of the state of emergency, the Government continues to suspend normal safeguards and engage in what the law calls "preventive arrest." Persons are arrested secretly without warrant, held indefinitely without charge or trial, and denied the right to a judicial determination of the basis for pretrial detention. Detainees have no redress for false arrest and usually cannot be contacted by family or friends, who most often do not know where the detainee is being held. Some have been held without trial for more than 20 years. Under the state of emergency, those suspected of economic-related crimes may also be detained without trial or access to counsel or to relatives. Many people who have disappeared are believed to be held in the security prisons. Frequently, the detained person is eventually released without being charged.

Even with the reported release of more than 4,000 detainees and prisoners (including security detainees and some 60 women detainees) in 1991 and 1992, it is still believed that there are thousands of political detainees. The Syrian Government has not responded to requests by the U.S. Government and human rights organizations for a list of names of those amnestied or otherwise released. Members of Ba'thist organizations and the banned Party for Communist Action (PCA) were reportedly among those released in recent years.

The Government released at least eight political prisoners in June-July 1993. In addition, of the six women taken into custody in late 1992 and early-to-mid 1993, three were released in late 1993. According to the Government, the other three were released earlier, although human rights groups contend that these three still remain in detention. Releases in 1993 included alleged members of the Kurdish Workers Party as well as members of the Party for Communist Action. One alleged PCA member had been detained previously for 5 years, released, and rearrested in June. There were also unconfirmed reports that the Government released in November at least 20 members of the banned Muslim Brotherhood after long periods of detention. It is possible that some of those released had been tried and found guilty by the State Security Court and then released because they had already served the periods of incarceration imposed in their sentences.

The majority of detainees still held are reputed members of the Muslim Brotherhood. Other detainees are connected with factions of the Ba'th Party, the Iraqi wing of the Party, or are allegedly associated with the following banned groups: the Party for Communist Action, the Syrian Communist Party Political Bureau, the Arab Socialist Union Party in Syria, and the Nasserist Democratic Popular Organization. A group known as the Islamic Unification Movement claimed that 120 of its members were being detained. The Government has used the possession of material from banned political organizations as a frequent pretext for detention.

The Government is known to have detained the relatives of suspects in both criminal and security cases as a means of compelling individuals being sought by authorities to surrender.

Although the Government has exiled persons in the past, there have been no reported instances of exile for several years.

e. *Denial of Fair Public Trial.*—The court system comprises separate civil courts; penal and criminal courts, whose jurisdiction includes economic crimes; and religious, military, security, and constitutional courts. There are major differences between the types of Syrian courts in terms of respect for human rights.

Persons charged with security or political offenses fall under the jurisdiction of the military-controlled State Security Court, established in 1968. Defendants in this Court have few safeguards of their rights; court sessions are generally closed (although an international observer was allowed to attend the sentencing portion of a prominent trial in 1992, and Amnesty International representatives attended sessions of some trials in May 1993); defendants have no say in the selection of a law-

yer, who is chosen by the court; defense attorneys are unable to consult with their clients outside the courtroom or to call witnesses to refute prosecution charges; and the Government does not allow for independent medical examinations of the defendants to determine whether physical abuse has occurred during pretrial detention. The Government does not generally release information on the trial or sentencing, but relatives with influence in the Government sometimes succeed in obtaining information and even effecting the release of the accused. The sentences are not subject to appeal, but the President may nullify, alter, or confirm State Security Court sentences.

A special military Field Court, created during the period of the Muslim Brotherhood rebellion in the early 1980's, reportedly still exists to deal with serious security offenses. As part of the Government's general crackdown on smuggling, the Field Court reportedly tried cases involving arms trafficking in 1993. The accused is not permitted legal representation at Field Court proceedings, which are held in secret.

Regular civil and criminal courts are under the jurisdiction of the Ministry of Justice. The accused in a criminal case is detained provisionally upon the accusation of the public prosecutor, then remanded to a judge for arraignment. The judge may either dismiss the charges on the basis of insufficient evidence or refer the case to a criminal court. Defendants in civil and criminal courts are entitled to legal representation of their choice. If they cannot afford a lawyer, one will be appointed by the court. These courts impose no restrictions on lawyers representing their clients and allow the right of appeal to criminal or civil appellate courts found in each province. Criminal courts also provide for bail. In noncontroversial cases, courts are normally free of governmental coercion, although the Government can bring pressure to bear if it wishes to do so. Defendants in criminal cases are allowed to present evidence and confront their accusers. Trials are public, except for cases involving juveniles or for crimes such as rape. Cases are tried before a judge; there is no jury system. The slow and cumbersome legal system can leave suspects languishing in prison for months. Following the fire in Hassakeh prison in May, the alleged perpetrators were rapidly executed, raising questions as to whether they had been afforded due process.

According to the Constitution, the High Constitutional Court investigates and rules on petitions submitted by the President or at least one-fourth of the members of the People's Assembly challenging the constitutionality of laws or legislative decrees. It has no appellate jurisdiction over cases from the civil or criminal courts.

Human rights groups estimated that in 1993 some 330 to 500 cases of political detainees were brought before the State Security Court. Many of those tried in 1993 reportedly had been imprisoned for 10 or more years before trial. One human rights group estimated that the State Security Court handed down about 60 sentences between July 1992 and May 1993.

The defendants in many of these trials were reportedly accused of membership or participation in the activities of banned political organizations whose activities the Government claims include the forcing of political change through violence. Some of the alleged activities do not include violence but rather opposition to the objectives of the Ba'th Party or the dissemination of false information which could weaken the people's confidence in the objectives of the Ba'th revolution. At least 34 defendants were found guilty of disseminating false information, receiving money from abroad, or withholding information from the authorities. Those tried in 1993 included members of a Syrian human rights group, the Committee for the Defense of Democratic Freedoms and Human Rights in Syria (CDF), and those accused of membership in the banned Party for Communist Action.

While the defendants in the 5 CDF cases tried in 1993 had not yet been sentenced at year's end, the 10 CDF members found guilty in 1992 received sentences ranging from 5 to 10 years. Some sentences specified the "deprivation of civil liberties" after prison sentences are completed; such deprivations reportedly include prohibitions on foreign travel and holding government positions. Twenty-four members of the PCA were also found guilty and sentenced to between 10 and 15 years in prison, some with forced labor. The Government charged that the PCA sought to change the government by violence and opposed the objectives of the Ba'thist Revolution. One CDF defendant, the writer Nizar Nayyuf, was convicted for his alleged activities in the CDF and for having circulated a leaflet reportedly questioning the legitimacy of the 1991 presidential referendum. The court found him guilty of disseminating false information that would undermine public confidence in the Ba'th revolution. Nayyuf was awarded one of the Pen Freedom to Write awards in May 1993. Another trial involved an engineer, Sayih Khayr Bek, who had been detained since 1980 when the regime cracked down on professional associations that had organized a national strike to protest the state of emergency.

The Government does not release information on the number of persons detained or imprisoned for political or security offenses, but credible estimates run from 3,800 to 9,000 (including persons held in Syrian detention facilities in Lebanon). The Government continues to contend that persons are detained not because of their political beliefs but because of criminal acts or actions that violate the state of emergency. It is clear, however, that many persons have been jailed without charge or as a result of unfair trials for nonviolent opposition to the regime.

In June and July the Government released at least eight political prisoners, several of them prominent figures. These included four former ministers and at least three Jordanian members of the Ba'th Party-February 23 Movement (supporters of former Syrian Leader Salah Jadid, who was imprisoned after the coup that brought Hafiz Al-Asad to power in 1970). The Jordanians, Maj. Nasrawin, Hakim Al-Fayez, and Yusuf Al-Burji, had spent 23 years in prison. One human rights group says that seven Ba'th Party political prisoners remain in a special wing of Mezze prison. All reportedly continue to be allowed monthly family visits under guard in government rest houses in Damascus. (See Section 1.a. on the death of Salah Al-Jadid in custody.) Of six female political prisoners taken into custody in late 1992 and 1993, three were reportedly released in late 1993. Although human rights organizations contend that the other three were still being held in Dumia women's prison at the end of 1993, the Syrian Government claims that these three were released earlier.

The Government does not permit access to prisoners by international humanitarian organizations.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Although the legal system provides nominal safeguards, including the requirement of an arrest or search warrant before police are allowed to enter private homes, regulations under the state of emergency suspend these protections in security-related cases. Domestic intelligence organizations maintain a network of guards to protect officials and important buildings, as well as to monitor the activity of people living in the neighborhoods of protected officials. The presence of police and security officials is pervasive, especially in Damascus, although some observers say it is less pronounced than it was several years ago.

Security checkpoints can be set up anywhere by government authorities. Security personnel require no warrant for search or arrest in dealing with persons stopped at such locations. Security forces at the checkpoints are mostly concerned with clandestine shipments of weapons and subversive literature but also search for smuggled goods, including drugs.

It is generally accepted that telephone conversations and facsimile transmissions are selectively monitored and that conversations are sometimes recorded. The Government-run postal system selectively censors the mail, including foreign publications.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—This freedom is sharply limited. The Government does not permit criticism of the President and the regime's legitimacy. Some controlled criticism of the Party and the performance of government ministries is allowed.

In 1992 and 1993 trials, the Government accused CDF members of "committing acts against the goals of the March 8, 1963, revolution." The group had distributed leaflets critical of the handling of the 1991 referendum which granted President Asad his fourth 7-year term. Approximately 200 Kurds were reportedly arrested in October 1992 for distributing a pamphlet which marked the 30th anniversary of the Government's never completed effort to move the Kurds out of the northeastern part of Syria and which purportedly depicted an idealized Kurdish state extending southward into Syria; 30 of these Kurds were said to remain in detention in 1993. Several journalists have been in detention for long periods, some for more than 10 years.

The Government or the Ba'th Party wholly owns and operates all newspaper publishing houses and strictly controls the dissemination of information. Censorship of foreign and domestic news is exercised through offices in the Ministries of Information and Culture and National Guidance. Subjects deemed by the Government contrary to its interests are not permitted to be discussed in the press. In 1993 censored subjects included Syria's human rights record, allegations of Syria's involvement in the Lebanese drug trade, and various aspects of Syria's continuing political and security role in Lebanon. Any criticism of government policies or performance usually has received official approval, and officials above the middle rank are rarely criticized. There was slightly more openness in the media's coverage of the Middle East peace process than in the past.

The Government also owns the broadcast media. Reports on sensitive subjects are not broadcast, and new television programs scheduled for broadcast must be ap-

proved by the Minister of Information. Radio broadcasts from neighboring countries, including Israel and Iraq, may be received in Syria. Foreign television may be received, although only with special equipment in many areas. Syria prohibits the reception of Jordanian television in Syria by technical means. Imported printed material and films are subject to censorship. Articles critical of Syria or Syria's role in Lebanon are occasionally deleted from foreign magazines and newspapers before distribution. Fiction and nonfiction literature is censored if it is considered overly critical of Syria, offensive to one of Syria's religious groups, or too graphic in its description of sex. Control is particularly strict on materials in Arabic. Films are censored for a variety of reasons, such as unfavorable interpretations of the Middle East conflict, sectarianism, or the use of actors or production companies targeted by the Arab boycott of Israel.

The Government closely controls public schools at all levels. The Education Ministry dictates the curriculum followed by the primary and secondary schools run by the United Nations Relief and Works Agency (UNRWA) for the Palestinian refugees, as well as those operated by minority religious groups, and these schools are subject to regular inspection. In all schools, an hour each day is devoted to instruction on Syrian patriotism. Teachers are not permitted to express ideas contrary to government policy, although some freedom of expression is tolerated at the university level.

b. *Freedom of Peaceful Assembly and Association.*—Public meetings, assemblies, or demonstrations may be held only with official permission and are usually held at the instigation of the Government or the Ba'th Party. This policy is also applied in the 13 Palestinian refugee camps in Syria. Private societies, including religious groups, are allowed to meet if they have received government permission to organize. Such permission is usually granted, but only for nonpolitical activities.

The Government closely controls the activities of professional associations. The Ba'th Party must be notified in advance of association meetings. In 1980 several professional associations (doctors, lawyers, and engineers) were dissolved after striking and calling for an end to the state of emergency; numerous professionals were detained at the time. Although the associations have been reconstituted with government appointees, and some of the detainees have been released, others remain in detention without trial. At least one of these detainees had his case brought before the State Security Court at the turn of the year.

c. *Freedom of Religion.*—There is no state religion, but nearly two-thirds of Syrians are Sunni Muslim. As a concession to Muslims who object to Ba'thi secularism, the 1973 Constitution requires that the President be Muslim. Moreover, the Constitution refers to Islamic jurisprudence as a principal source of legislation. Otherwise, no official preference is given to one religion over another, and the Government officially observes all major Christian and Muslim holidays. Ba'thi secular ideology and modernizing influences have had some impact in diminishing the importance attached to religion and ethnicity, but individual Syrians continue to identify themselves by their communal associations. Most religious groups, including Syria's small Jewish community, are largely free to practice their religions. The Government closely controls fund raising, the construction of worship sites, and the holding of all meetings except for worship but generally permits such activities under restrictive conditions. Religious training in the language of the religion is permitted within the curriculum for Jews and Christians in Jewish and Armenian schools. Non-Muslim groups maintain links with coreligionists outside Syria. Interreligious groups visit Syria periodically and meet Syrians of all faiths. One such group met with Foreign Minister Shara in 1993.

One exception to the official policy of religious tolerance is the treatment of Jehovah's Witnesses and Seventh-Day Adventists, who are forbidden to organize formally or own church property. Despite these prohibitions, individual followers of these religions are allowed to practice their religion privately.

Foreign missionaries are permitted to preach and minister. While proselytizing and conversion are not legally proscribed, in practice, the Government discourages such activities aimed at Muslims. The publication of religious material is subject to the same controls as secular material.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Internal travel is restricted in the security zone of theGolan Heights and occasionally near the borders with Lebanon, Jordan, and Iraq. Syrian women over the age of 18 have the legal right to travel without the prior approval of male relatives, but in practice the husband may file a request with the Ministry of Interior to prohibit his wife's departure from Syria. Similarly, a father may request that the Ministry prohibit travel abroad by unmarried daughters, even if they are over 18 years of age.

In general, the Government restricts foreign travel for citizens liable for military service and for certain categories of professionals trained at public expense who have not completed required government service. Students traveling abroad for higher education must obtain permission from the Foreign Ministry and, like all Syrians, are subject to recall by the Government. Travel to Israel, with which Syria remains in a state of war, is illegal for all Syrian citizens. Druze inhabitants of the Israeli-occupied Golan Heights may visit relatives in Syria under a system operated by the International Committee of the Red Cross (ICRC); Syria has set an annual quota of 120 adult visitors per year. In October the Government denied the Druze permission to attend the funeral of a Druze spiritual leader in the Golan Heights. Thereafter, however, between late October and the end of the year, the Government allowed some 300 Golan Heights Druze to enter Syria at al Qunaitra, according to the press, although it continued to refuse to let Druze living in Syria cross into the Golan Heights.

In April 1992, President Asad issued a decision permitting Syrian Jews freedom of travel; by the end of 1993, the Government had granted exit permits to more than 85 percent of the Jewish community. Between October 1992 and mid-December 1993, exit permits were issued at a substantially lower rate than in the period from April to October 1992. By mid-December, the Government had again accelerated the issuance rate. There were 500–600 Syrian Jews who had applied for exit permits but had not received responses to their applications at the end of 1993. Syrian Jews no longer need to post a bond to ensure their return.

Palestinians sometimes encounter difficulties obtaining the requisite travel document. Moreover, travel restrictions are sometimes imposed on them. For example, one young Palestinian married to a Syrian was not allowed to return to Syria to rejoin his wife after a trip to a neighboring Arab country. Any Syrian caught trying to emigrate or travel abroad without permission, or suspected of having visited Israel illegally, may be arrested and prosecuted.

There is a credible estimate that the Syrian Government has withdrawn Syrian nationality from between 90,000 and 120,000 Kurds since the 1960's.

In addition to 330,000 Palestinian refugees, many of whom have been born in Syria, there are also at least 4,700 Iraqi nationals, half of them Iraqi Christians, currently registered at a refugee camp in northeastern Syria operated under the auspices of the United Nations High Commissioner for Refugees (UNHCR). There are over 500 Somali refugees at the same camp. Residents of the camp have been allowed to leave the camp freely and seek employment in neighboring areas.

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

Syrians do not have the ability to change their government legally and peacefully. President Asad and his senior advisers effectively control all aspects of political and economic life. The ruling Ba'th Party, which emphasizes socialism and secular Arabism, is dominated by the military. In recent years, the Party has served principally to legitimize President Asad's rule.

Although the Government seeks to build national rather than ethnic identity, ethnic, religious, and regional allegiances remain important. Members of President Asad's own sect, the Alawis, hold most of the important military and security positions. President Asad's fourth 7-year term will expire in March 1999. Women play a significant but not a leading role in government. Two of the 29 ministers in the present Cabinet are women; 21 of 250 parliamentarians are women. Women are also active in Ba'th party "popular organizations."

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

There are no human rights groups legally operating inside Syria, and the Government actively discourages the formation of any such organizations. Most Syrians are afraid to criticize their government publicly for human rights violations, and several members of a now banned human rights group, the CDF, have been imprisoned (see Section 1.c.).

The Government continues to deny charges of human rights violations, often ignoring them or calling them an intrusion into its internal affairs. However, in a departure from past practice, the Government responded in 1993 to some written inquiries on detainees and prisoners. An ad hoc government committee on human rights determined whether and, if so, how to respond to inquiries regarding individual cases. In some cases, the Government claimed that the people in question were no longer being held or that they were never held. It responded to some inquiries from foreign governments on specific cases, although it has not provided a list of those released in the 1991 and 1992 amnesties.

Two representatives from Amnesty International (AI) were allowed to visit Damascus in December 1992. The AI team focused, in part, on ongoing State Security Court proceedings; the team met with judges hearing a variety of these trials and with defense attorneys and relatives of the defendants. One of the trials the delegation had planned to attend was postponed. The team also met with Syrian officials on other human rights matters. Another AI delegation visited Syria again in May 1993 to observe sessions of State Security Court trials of some defendants arrested between 1980 and 1992 in connection with banned political groups.

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

The Constitution in principle provides for equal rights and equal opportunity for all Syrian citizens. In practice, membership in the Ba'th Party or close familial relations with a prominent Ba'th Party member can be important to prospering in Syria. Party connections can pave the way for entrance into better elementary and secondary schools, access to more lucrative employment, and greater power in the Government.

Women.—Syrian law stipulates that the State is to provide equal opportunity to women and is to remove impediments that hinder the development of women and their full participation in society. Government policies include equal pay for similar work and encourage the enrollment of women at all levels of education.

Nonetheless, traditional concepts of male guardianship of women continue to prevail in many segments of the society. These concepts often limit a woman's rights in matters of marriage, divorce, child custody, inheritance, and personal decisions. Moreover, the Government accords religious authorities or courts the right to rule on the majority of matters involving social and interpersonal relations. Under Islamic laws of inheritance, the male offspring receive a disproportionate share of the inheritance.

Wife beating and other physical abuse of women are known to occur, but conservative social mores in Syrian society discourage public discussion of the issue, making it difficult to estimate the extent of the problem. There are no official or unofficial statistics on domestic abuse. Under the legal system, women have access through the courts to redress any grievance caused by violent acts against them. There has been an indeterminate, although almost certainly small, number of court actions involving spousal abuse. The vast majority of incidents involving abuse probably go unreported because of the social stigma attached to legal proceedings in such cases. Incidents are usually handled within the family where a husband's physical abuse of his wife is criticized and viewed with shame. Outside the family and the courts, the Syrian Women's Federation also offers a mechanism to help solve individual family problems.

Children.—Syrian law stresses the need to protect children and ensure conditions favorable to the development of their faculties. The Government mandates education through the sixth grade and provides optional but tuition-free education at higher levels. Although the quality of health care varies among regions and facilities, children are provided treatment free or at relatively nominal charge. The Government attempts to enforce legislation restricting child labor and to protect the institution of the family, although violations of these laws still occur. Violence against children warrants tough legal penalties as well as social stigma.

National/Racial/Ethnic Minorities.—Syria's Palestinian population, estimated at 330,000 (296,000 of whom were registered with UNRWA as of mid-1992), occasionally suffers some forms of discrimination. Although Palestinians enjoy many of the same rights as Syrian nationals, they are considered to be temporary residents, pending resolution of the Arab-Israeli conflict. While generally free of socioeconomic restrictions, they may not vote in Syrian elections or obtain Syrian citizenship except through marriage to a Syrian male. For the most part, Palestinians are integrated into Syrian society. The largest Palestinian camp is, in fact, a neighborhood of Damascus.

The Government has placed limits on the use and teaching of the Kurdish language, on Kurdish cultural expression and, at times, on the celebration of Kurdish festivals.

Religious Minorities.—Although the Constitution stipulates respect for all religions, there are various forms of discrimination against religious minorities. Under the Constitution, the President must be Muslim. Religion is also a factor in determining the opportunities available to Syrian citizens. For example, members of the Alawi sect, President Asad's religious group, generally enjoy job preference in the Government.

Though Jews hold some low-level government jobs, such as clerks and teachers, they are generally barred from government service. They are also prohibited from

joining the military, and Jewish professionals are exempt from the requirement to give the 5 years of government service expected of other Syrians trained at public expense. Jews are the only minority whose passports note their religion. They are under more thorough surveillance by the intelligence services than is the general population.

Although all Syrians—regardless of religion—are theoretically required to follow Islamic laws of inheritance, in practice non-Muslims are usually able to arrange their own distribution of inheritances.

People with Disabilities.—Syrian law is intended to assure the integration of handicapped persons into the public sector work force, although practical problems hinder its implementation. The Government has not enacted special legislation to benefit the disabled. However, it allows the disabled to import specially equipped cars with none of the normal vehicle import restrictions except the mandatory payment of customs fees.

Section 6. Worker Rights

a. *The Right of Association.*—Although the 1973 Constitution provides for the right of the "popular sectors" of society to form trade unions, and the General Federation of Trade Unions (GFTU) is purportedly an independent organization, in practice the Government uses it as a framework for controlling nearly all aspects of union activity. Effectively, workers are not free to form labor unions independent of the government-prescribed structure. All public sector employees join the GFTU union as a condition of employment. Approximately half of all private sector workers belong to unions. Agricultural workers are not unionized.

As with other organizations dominated by the Ba'th Party, the GFTU is charged with providing opinions on legislation, devising rules for workers, and organizing labor. The elected president of the GFTU is a senior member of the ruling Ba'th Party and a member of the Regional Command. With his Deputy, he participates in all meetings of the Cabinet's ministerial committees on economic affairs. According to GFTU officials, the secretaries general of the eight professional unions, some of whom are not Ba'th Party members, are each elected by the respective union's membership. While the unions are used primarily to transmit instructions and information to the labor force from the Syrian leadership, elected union leaders also act as a conduit through which workers' dissatisfaction is transmitted to the leadership.

Strikes are not legislatively prohibited (except in the agricultural sector), but in practice they are actively and effectively discouraged. While the right to strike exists, there does not appear to be specific legal protection from antistrike retribution. Since there is labor participation on all public sector boards of directors, public sector strikes do not occur. There were occasional work stoppages in the private sector, but wage disputes were usually settled informally through negotiations between employers and employees or through resort to legal action based on wage laws. Private sector employers may fire any employee at any time, although they are required to pay severance and prescribed social security benefits. There were no reported strikes in 1993, as was also the case in 1991 and 1992. A number of workers who attempted to strike in 1980 remain in prison. One worker, who had been in detention for 13 years for involvement in a strike in 1980, was brought to trial at the end of 1992 and found guilty and sentenced to prison in 1993. According to an April 1993 International Confederation of Free Trade Unions report, some of the 68 members of the Syrian Engineers' Association, who were arrested along with members of the Doctors' Association because of a 1980 strike action, were released under the 1991 and 1992 amnesties. Others reportedly remained in detention in 1993.

While noting that the Government has under consideration a draft legislative decree containing some improvements, the International Labor Organization's Committee of Experts reiterated its regret in its annual report that there are no plans to move away from the single trade union system or to repeal the ban on strikes in the agricultural sector.

The GFTU is affiliated with the International Confederation of Arab Trade Unions.

b. *The Right to Organize and Bargain Collectively.*—In the public sector, unions do not normally bargain collectively on wage issues, but union representatives participate with the representatives of the employers and the respective ministry to establish sectoral minimum wages according to legally prescribed cost-of-living levels. Workers make up the majority of each board of directors in public enterprises, and union representation is always included on the boards, although the boards are firmly under government control. Unions also monitor and enforce compliance with the Labor Law.

Under the law, the unions in the private sector may engage in negotiations for collective contracts with employers. The Ministry of Social Affairs and Labor sets minimum wages in consultation with the GFTU. Unions have the right to litigate contracts with employers and the right to litigate in defense of their own interests or those of their members (individually or collectively) in cases involving labor relations. Union organizations may also claim a right to arbitration.

Most workers are protected by law from antiunion discrimination, and there were no reports of its being practiced (see also Section 6.e.). However, there is no union representation in Syria's seven free trade zones, and firms in the zones are exempt from Syrian laws and regulations governing the hiring and firing of workers, though some provisions concerning occupational health and safety, hours, and sick and annual leave apply.

c. *Prohibition of Forced or Compulsory Labor.*—There is no law banning forced or compulsory labor; such practices may be imposed in punishment, usually in connection with prison sentences for criminal offenses, under the Economic Penal Code, the Penal Code, the Agricultural Labor Code, and the Press Act. Such compulsory labor is usually in the handicraft industry.

d. *Minimum Age for Employment of Children.*—The minimum age in the public sector is 14, though it is higher in certain industries. The minimum age varies more widely in the private sector. The absolute minimum is 12, with parental permission required for children under age 16 to work. Children are forbidden to work at night.

The Ministry of Social Affairs and Labor is responsible for enforcing minimum age requirements but lacks an adequate number of labor investigators. In February a Syrian newspaper reported frankly on the widespread use of child labor in several factories in one of Syria's largest cities. The report noted that Syrian law prohibited such practices and called for Ministry of Social Affairs officials to investigate. Work hours of young employees are limited, compared to those of the regular work force.

e. *Acceptable Conditions of Work.*—As mandated in the Constitution, the Government legislatively establishes minimum and maximum wage limits in the public sector and sets limits on maximum allowable overtime for public sector employees. The minimum wage, as set most recently in 1989, was $40 a month plus subsidies for staples and bonuses depending on rank and type of job. The minimum wage is not adequate to support a worker and his family, and, as a result, many workers take additional jobs, open businesses, or rely on extended families for support. There is no single minimum wage in the private sector for permanent employees. According to the 1959 Labor Law, minimum wage levels in the private sector are set by sector and are fixed by the Minister of Social Affairs and Labor. Recommendations are put to the Minister by a committee that includes representatives of the Ministries of Industry and Economy, as well as representatives of the Employers' Association and the Employees' Unions. In practice, private sector monthly minimums are not less than those in the public sector. In both sectors, the Ministry of Social Affairs and Labor is responsible for enforcing minimum wage levels and does so effectively. The courts are also available to settle wage dispute cases, although the adjudication process can take months or even years. In the private sector, wage disputes are settled by union/worker negotiations with management or by resort to the courts.

The statutory workweek consists of six 6-hour days, although in certain fields in which workers are not continuously busy, a 9-hour day is permitted. Labor laws also mandate a full 24-hour rest day per week.

The Labor Law extensively regulates conditions of work. There are rules and regulations that severely limit the ability of an employer to fire an employee without due cause, an issue that the employer may take to a labor committee. Labor committees are composed of representatives of the municipality, the Ministry of Social Affairs and Labor, and the union, as well as a judge and the employer. In the majority of cases, labor committees have decided in favor of the employee. Workers, once hired, cannot easily be fired. In practice, workers also have exercised their right to contest planned dismissals in the labor committees. One exception in the heavily regulated labor field relates to day laborers. They are not subject to minimum wage regulations and receive disability compensation only for job-related injuries. Small private firms and businesses commonly employ day laborers in order to avoid the costs of permanent employees.

Public laws mandate safety standards in all sectors, and managers are expected to implement them fully. A special department of the Social Security establishment works at the provincial level with inspectors from the Ministries of Health and Labor to ensure compliance with safety standards. In the private sector, unions are active in monitoring compliance with the laws and ensuring workers' health and safety. Workers have occasionally brought employers before judicially empowered labor committees to seek improvements in working conditions that affect their health. Workers have the right to remove themselves from dangerous situations

without jeopardy to their continued employment. However, there is no statutory language defining "dangerous situations."

Foreign workers theoretically receive the same benefits but are often reluctant to press claims because their workers' permits may be withdrawn at any time. Moreover, many work illegally and are not covered by the government system. In the latter half of 1993, the Government began denying extensions of domestic workers' temporary residency permits, thereby forcing them to leave the country. However, the Government soon rescinded this policy.

TUNISIA

Tunisia is a republic in which the Constitution provides for a parliamentary democracy with separation of the executive, legislative, and judicial powers. In practice, the President and his party dominate decisionmaking at all levels. The President appoints the Prime Minister, the Cabinet, and the 23 regional governors. His Constitutional Democratic Rally Party (RCD) holds all 141 seats in the Chamber of Deputies. The banned Islamist party, An-Nahda, was dealt a severe blow in 1992 when 265 of its senior members were sentenced to prison terms for plotting to assassinate the President and overthrow the Government. Arrests of Islamists and some extreme leftists continued in 1993.

Tunisia's internal security is maintained by civilian services which include a paramilitary national guard. These services continued to be responsible for widespread human rights abuses, including torture, although not on the scale of previous years. Police presence, while not as oppressive as in 1991 or 1992, remained heavy in urban areas and on university campuses.

Tunisia has a mixed economy dependent principally on revenues from agricultural products, tourism, petroleum, textile, clothing and other manufactured exports, and remittances from workers abroad. It is now in the 7th year of a structural adjustment program designed to make the economy more market oriented, reduce staple food subsidies, and increase the role of the private sector. Average annual real growth over the past 6 years has been approximately 4.9 percent, but unemployment has been high and now stands at about 13 percent.

In 1993 Tunisia enacted a number of legal reforms to enhance the protection of human rights. Nevertheless, many of the reforms have not yet been translated into real improvement, and many basic rights continued to be restricted. The Government continued to seek out and arrest suspected members of the banned Islamist party, An-Nahda, and the banned Communist Workers' Party (POCT) and to harass their relatives and persons suspected of involvement with their organizations. The prosecution of leading members of organizations critical of the Government, as well as the Government's harsh reaction to the circulation of a petition protesting human rights abuses, had a chilling effect on freedom of speech. Despite amendments to the Press Code, press freedom also remained restricted. Other significant problems include: incommunicado detention, police abuse of detainees, the Government's refusal to publish detailed and specific information on the punishment of abusers, interference with the right to privacy, and the inability of citizens to change their government. Amendments to the Personal Status Code, including an amendment granting women the right to transmit Tunisian nationality even when married to a foreigner and living abroad, further enhanced women's rights in 1993. A new electoral code will ensure limited opposition representation in the Chamber of Deputies to be selected in March 1994 elections. The legal length of pretrial detention was reduced, forced prison labor was abolished, and some prisoners detained for membership in an illegal organization were pardoned.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of political or extrajudicial killing. The Government did not release any information concerning the progress of its investigation into the death of Faisal Barakat or the judicial investigation into the deaths "under suspicious circumstances" of six others named in the 1992 Driss Report.

b. *Disappearance.*—One case of disappearance came to light in 1993. Relatives and coworkers of Kamel Ben Ali Matmati reported he was taken by police from his place of work in late 1991 and has not been seen since. Family members believe he was taken to the Gabes police station, tortured, and died in custody. Responding to inquiries, the Government stated that Matmati was convicted in absentia in May 1992 and remains a fugitive.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Tunisian law forbids ill-treatment of detainees. However, there continued to be credible reports that security forces sometimes mistreated detainees, particularly Islamists and extreme leftists suspected of antigovernment activities. The beating of detainees is believed to remain widespread. Many of the defendants in Islamist trials alleged their confessions were extracted through torture. Human rights monitors in Tunisia, including those appointed by the Government, and oppositionists abroad generally agree that the practice of torture persists but not on a systematic and regular basis as was alleged during widespread roundups of Islamists in late 1991 and early 1992.

Amnesty International (AI) reported in June that women relatives of imprisoned Islamists were harassed, tortured, and sexually abused in substantial numbers by security forces. The Government immediately denounced the report as false, as did several opposition parties and government-affiliated women's groups.

The Government denies that torture is practiced as a matter of state policy, but acknowledges that unsanctioned abuses have occurred. However, it continued to refuse to identify offending officers by name and provide information on sentences imposed, causing human rights monitors to question its professed desire to put an end to abuses. In early 1993, the press reported that nine police and national guard officers were convicted and sentenced to prison terms of 6 months to 5 years in cases that date back several years. Government officials claimed that other officers have been punished as well. A 1992 report by Presidential Human Rights Commissioner Rashid Driss reported that 116 police officers had been implicated in 105 cases of abuse and that 55 officers were subject to disciplinary procedures. The Government released no further information on those cases.

As part of a campaign, initiated in 1992, to halt such abuses, the Government provides special human rights training for police, who are now required to sign a statement that they are aware of Tunisian and international human rights standards and will abide by them. Police officers are provided with a manual including the texts of human rights documents, and human rights directives are posted in police stations. In December the Justice Minister added a two-semester human rights training course on the scope and applicability of international treaties and conventions to the curriculum of the Magistrates' Institute, which trains all judges and prosecutors. The Interior Minister in December also distributed human rights training material to nonpolice personnel.

Prison conditions were generally adequate and did not threaten life or health. Human Rights Commissioner Driss was given authority to conduct unannounced prison inspections and reported that conditions were improving, though very few visits actually were made. In July the President ordered the abolition of forced labor for prison inmates as punishment for misconduct.

d. *Arbitrary Arrest, Detention, or Exile.*—Under Tunisian law, arrests may be made without a warrant in cases of felonies or crimes-in-progress. These arrests must be reported immediately to the court, which determines if a detainee should be held or released. Under a law adopted in 1987, prearraignment detention is limited to no more than 10 days (4 days initially, followed by an additional 4, and then an additional 2 if authorized by the prosecutor). Attorneys, human rights monitors (including those appointed by the Government), and former detainees charged that this limit was frequently circumvented simply by delaying registration of the arrestee. International human rights groups report falsification of arrest records is widespread. Legally, an accused person must be informed of the grounds for arrest before questioning. A detainee may request an examination by a medical doctor but may otherwise be held incommunicado.

During prearraignment detention, detainees do not have the right to a lawyer. They do have a right to a lawyer at their arraignment, and the Government provides legal representation to indigents. In certain instances, such as cases involving national security or felony indictments, pretrial detention may be for 6 months, renewable by an arraignment judge for up to two additional 4-month periods. Prior to penal code reforms enacted in November, preventive detention for a total of 18 months was allowed (an initial period of 6 months, renewable for two 6-month periods). The examining magistrate at the preliminary hearing, which is supposed to occur within 10 days of arrest, decides whether to invoke pretrial detention. While the law provides for bail, in practice it is very rarely granted. In May and June, trials were held for at least 76 Islamist defendants who had been in custody since December 1991.

Tunisian law specifies that no citizen shall be exiled from the country, and there were no reports of government-imposed exile in 1993.

e. *Denial of Fair Public Trial.*—Tunisia's court system, modeled on the French system, is composed of regular (civil and criminal) courts, with appellate and su-

preme courts, and a Military Tribunal. A state security court was abolished in 1987. The Constitution provides for the presumption of innocence and states that the accused will be accorded "necessary guarantees" (not further specified in the Constitution) for his defense.

The regular court system is highly centralized under the Justice Ministry. An elected Supreme Council of the Magistrature, representing the judges, decides on matters of transfer and judicial discipline. However, in practice, the executive branch retains control in naming, assigning, granting tenure, and transferring judges, thus making them susceptible to pressure in politically sensitive cases.

Police, prosecutors, and judges work closely together, and trials, rather than an adversarial proceeding, are dominated by the presiding judge. Defendants have the right to be present and to be represented by counsel, at public expense if necessary. Witnesses may be confronted. However, the role of the defense attorney in such examinations is usually minimal. Although the court system is overloaded, in normal criminal cases the rights of the accused are generally respected. There were again complaints in 1993, however, that the rights of those accused of involvement in cases of a political or security nature were not always observed or that their lawyers were given insufficient time to prepare for trial.

Civilian trials are theoretically open to the public and both domestic and foreign observers are permitted to attend. However, access to trials involving Islamists or leftists is strictly controlled. Family members and other interested parties must seek advance police approval to attend such trials.

The Military Tribunal is presided over by a civilian judge from the Court of Cassation (the highest court) and four military judges. In addition to hearing cases involving the military, the Tribunal also may hear cases against civilians when national security is deemed to be involved. As with the civilian courts, decisions of the Military Tribunal may be appealed to the Court of Cassation, the country's highest court, which, however, limits its review to matters of law and procedure, not facts.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of the person and the home and privacy in correspondence, "except in exceptional cases defined by law." Police must have a search warrant, but this requirement is sometimes ignored in cases in which the authorities consider that state security is involved or in which a "flagrant crime" is deemed to have been committed. Tunisian law specifies that, except in exceptional circumstances, arrests are to be made between 6 a.m. and 8 p.m.

The authorities continued to surveil Islamists, leftists, and others believed to associate with them, detaining their visitors for questioning and searching their homes without warrants. Several human rights monitors and oppositionists accused the Government of harassment through acts of vandalism, theft, and burglary during the year.

There were reports of mail being opened and telephone conversations monitored, and the Government is believed to record some telephone conversations.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of thought, expression, and the press. In practice, however, these freedoms are limited. Tunisians are reluctant to discuss politics and sensitive issues in public. The Press Code includes limitations on subversion and defamation based on broad internal and external security concerns, which are neither defined nor subject to judicial review. These laws have been used against opposition members, particularly for alleged possession or circulation of illegal political tracts or correspondence. Such charges were filed against some defendants in Islamist and leftist trials.

In February the Government reacted harshly to the circulation of a petition critical of its human rights record. The organizer was jailed for 2 weeks, a foreign national was dismissed from his government job and threatened with deportation, and the remaining 16 signers were called in by the police for interrogation. In contrast, the Government took no action in April against over 200 signers after another petition critical of its policies was published. In 1993 a student leader was arrested on drug charges, the head of a journalists' association was prosecuted on bad check charges, and a journalist who wrote an article deemed critical of the Government for a French publication faced formal disciplinary proceedings at work. Questions remain regarding the validity of these charges, and these actions have had a chilling effect on freedom of speech and the press.

Freedom of the press is limited both by restrictive laws and practices and by self-censorship arising from a fear of government sanctions. Amendments to the Press Code in 1993 suggested that restrictions were being eased. Nevertheless, many of the changes so far have been largely cosmetic, and press freedom remained controlled. The Press Code prohibits defamation of government officials. The 1993

amendments make proof that the published material in question is true a valid defense against a libel charge brought by a minister or a deputy, as long as it is related to their official duties. Proof is still not a valid defense, however, in cases of libel brought by the President. In the past, charges of libel and spreading false information have been the two main bases for suits against the media. No new charges were filed in 1993.

In 1993 the Press Code also was amended to expand the definition of libel to include the expression of opinions based on racism or religious extremism. Journalists express concern that the vague language of the amendment gives the Government another tool that can be used against the press.

In practice, the Government exerted considerable control over the editorial content of newspapers, providing extensive advance guidance on important issues and reprimanding editors when guidelines were crossed, further encouraging self-censorship. There was, however, some increase in press coverage of the activities of opposition parties, and several opposition party newspapers resumed publication with the help of government subsidies.

Government advertising and subscriptions, an important source of revenue for some newspapers, is one of the means used to exert pressure on the press. In January the Government withdrew its advertising and canceled all its subscriptions to a weekly news magazine, urging private subscribers and advertisers to do the same, after the magazine published an article that was deemed to cast Tunisia in a negative light. In July, after the Journal appealed to the President, the Government resumed buying some advertising on a very limited basis but, at year's end, had yet to renew its subscriptions.

Prepublication censorship under the 1988 Press Code, which is still valid, requires the printer to deposit copies of all publications prepared in Tunisia with the Secretary of State for Information and the Interior and Justice Ministries prior to public release. The Interior Minister may order seizure of all copies of a single issue of a publication if the Ministry deems the issue would "disturb public order." The ruling on the publication has to be made within 3 days from the time of submission and may be appealed to an administrative court. Political tracts must also be submitted for approval. In 1991 the Government announced the President's decision not to enforce prepublication censorship, but it has retained the right to do so.

Although publications are no longer routinely censored prior to publication, the possibility of seizure without compensation after publication significantly increases the financial risk to publishers. In 1993 there was a reduction in the censorship of foreign newspapers, although the Government at times delayed circulation of papers containing negative articles for 1 or 2 days, lessening the demand for them and thus their readership. The Government also banned the sale of a French magazine containing an article, written by two Tunisians, considered critical of the Government.

The Government controls television and radio, and media coverage of the Government is consistently favorable. The Italian state television channel Rai Uno is available to viewers in much of the country, as is a French state channel, France 2, on which Tunisian news was substituted for French news. Some French newscasts were resumed in July after having been replaced with local programs since December 1992. Licenses for satellite dishes are freely granted, and more than 10,000 homes and multifamily dwellings had them in 1993.

While there are no official limitations on academic freedom, professors often practiced a form of self-censorship, avoiding classroom discussions that were either critical of the Government or supportive of An-Nahda. Police presence on campus was heavy at times. However, the police did not interfere when small-scale student strikes were held in March to protest academic reforms. The president of the Tunisian General Student Association was later arrested and convicted on a drug charge. While some described the charge as "trumped up," the Government claimed it was unrelated to his political role. After appeals on his behalf, the court permitted him to remain free pending his appeal, which had not been heard by year's end.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, but any group wishing to hold a public meeting, rally, or march must apply to the Government for a permit 3 days in advance. The Government normally approves such permits, except in cases involving proscribed political parties or associations.

The Law on Political Parties stipulates that every political party must reject all forms of violence, including fanaticism and racism and other discrimination. No party may claim to represent a religion, race, sex, or region. No party may receive funds from a foreign party or material aid directly or indirectly from foreign countries or foreigners. All party members must have been Tunisian citizens for at least 5 years. There are seven legal parties. No new parties registered in 1993, but the Tunisian Communist Party transformed itself into a leftist grouping under a new

name, the Renewal Movement Party. In addition, there are several unrecognized parties, including the Islamist An-Nahda Party, which claims a large membership and aspires to recognition, and the extreme left Tunisian Communist Workers' Party ("POCT"), a smaller organization which remains underground. An-Nahda is ineligible for recognition because it is a party that claims to represent a religion.

In March 1992, the Government amended the Law on Associations making it illegal for an officer in a political party to serve as an officer of a private "general" association and also for such an association to reject membership applications. The result of this amendment was the closure for several months of the Tunisian Human Rights League from June 1992 to March 1993. The League was permitted to resume its operations pending a judicial ruling on its status. The law is not known to have been applied against any other organization. (See also Section 4.) Human rights monitors claim that this amendment is one of the means by which the Government seeks to control all associations. Other means include the threat of arrest or prosecution of association leaders and the provision of subsidies which make organizations financially beholden to the Government.

c. *Freedom of Religion.*—The Constitution establishes Islam as the state religion but allows the practice of most other religions. Since 1984 there has been a ban on public Baha'i religious activities because the Government considers this faith a heretical sect of Islam. Moreover, proselytizing for religions other than Islam is prohibited, although no specific sanctions are prescribed. Foreigners caught proselytizing have been threatened with expulsion. The Constitution calls on all political parties to respect and defend Tunisia's Arab-Muslim identity, and the President as well as the parents and grandparents of the President must be Muslim. The Government controls the mosques and pays the salaries of the prayer leaders. According to the 1988 Law on Mosques, only government-appointed personnel may lead activities in the mosques, except with permission from the Prime Minister's office.

Jews comprise the largest religious minority, with a population of as many as 2,500. The Government assures freedom of worship for the Jewish community, safeguards its safety, and pays the salary of the Grand Rabbi of the community. Tunisia encourages Jewish tourism and gave widespread media coverage to the annual Jewish pilgrimage to the Tunisian island of Jerba in May. Tunisia's very small community of Christians is composed mainly of foreign nationals, who freely attend church services.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There is freedom of movement within Tunisia, and people are free to change their place of residence or work at will.

In 1993 there were an increasing number of credible complaints that the Government withheld passports in certain cases, and Islamists continued to complain of difficulties in obtaining international travel documents. The Government stated it denies passports only to persons with legal problems at home or abroad and to those persons who are not likely to use them for tourist purposes. However, lawyers who have defended Islamist clients and persons associated with leftist or opposition causes also reported they and their family members were unable to obtain or renew passports.

There is no arbitrary restriction on emigration or repatriation. Approximately 570,000 Tunisians are living abroad. Tunisia does not accept refugees for permanent resettlement and is not a country of first asylum. There were no cases of forced repatriation. There are approximately 50 refugees with resident status and approximately 4,000 Palestinians residing in Tunisia. A growing number of Algerians moved to Tunisia in 1993 as the security situation in Algeria deteriorated.

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

The ability of the citizens of Tunisia to change their government through democratic means has yet to be demonstrated. The ruling RCD and its direct predecessor parties have controlled the political arena since independence. The largest opposition party, the proscribed Islamist An-Nahda party, received 18 percent of the vote in the legislative elections in 1989, when its candidates were permitted by the Government to run as independents. However, the party remains illegal and is in disarray following the conviction in 1992 of nearly all its leaders for plotting to overthrow the Government. Rachid Ghannouchi, the nominal head of the party, was sentenced in absentia to life in prison in 1992. In 1993 he was granted political asylum in Great Britain.

The Constitution provides for a parliamentary democracy with separation of the executive, legislative, and judicial powers. The all-RCD legislature remains subordinate to the executive branch. Portions of the plenary sessions are sometimes televised. Media representatives, diplomats, and other visitors are permitted to attend

plenary sessions, but committee debates are in closed sessions and receive little media coverage.

The President appoints the Prime Minister, the Cabinet, and the 23 governors. The executive is dominated at the national, regional, and local levels by the President and his party. Government and RCD mechanisms are hardly distinguishable; the President of the Republic is also the President of the party, and the Secretary-General of the party holds the rank of Minister of State.

At the time of the last legislative elections in 1989, the Tunisian Electoral Code provided for a majority winner-take-all system. As a result, the dominant RCD was allotted all parliamentary seats after winning 80 percent of the popular vote. In 1993 the Electoral Code was amended to ensure representation of opposition parties. The winner-take-all system remains in place, but some 19 additional "national" seats were added to the chamber which will be reserved proportionally for parties that do not otherwise win representation in the chamber. Opposition parties that participate in the March 20, 1994, elections are assured of at least token representation in the chamber. Elections for the Presidency and the Chamber of Deputies are held every 5 years. Voting is by secret ballot. All legal parties are free to present candidates. However, to run for president a candidate must gather the signatures of at least 30 members of the Chamber of Deputies or presidents of municipalities. In 1993 there was only one person among the authorized opposition parties who was not a member of the President's RCD. By the end of 1993, all the legal opposition parties and many professional organizations and associations had endorsed President Ben Ali for reelection.

While there are no legal impediments to women's participation in government and politics, they are underrepresented and hold very few senior leadership positions. In 1993 the President promoted one woman to ministerial rank and one to the 13-member ruling party RCD Politburo There are 6 female members in the 141-seat Chamber of Deputies, and a woman is the second Vice President of the Chamber. In municipal councils, 11 percent of the members are women. Ten percent of the members of the Economic and Social Council are women.

There is a small Berber minority, constituting about 3 percent of the population, which is able to participate freely in the political process.

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

Several human rights organizations are active in Tunisia and are recognized by the Government, but they are subject to a variety of restrictions. The Tunisian Human Rights League was forced to suspend its operations in 1992 following amendments to the Associations Law (see Section 2.b.), but was permitted to resume its activities in March pending a judicial interpretation of the law. Despite the League's resumption, it has yet to recover fully from its period of suspension. The League is scheduled to hold its first congress since 1989 in early 1994. The Arab Institute of Human Rights, founded in 1989, is a collaborative effort of the Tunisian Human Rights League, the Arab Organization for Human Rights, and the Union of Arab Lawyers. The International Committee of the Red Cross (ICRC) operates a regional office in Tunis. The Maghreb Human Rights League is headquartered in Tunis.

In 1993 the Higher Committee for Human Rights and Basic Freedoms, formed by President Ben Ali in 1991, released a report "Human Rights in Tunisia: 1991–1993." The report does not address specific problems or cases but merely lists the accomplishment claimed by the Government. Human rights monitors are skeptical of the independence and effectiveness of offices created in 1992 to coordinate human rights concerns in the Interior, Justice, Social Affairs, and Foreign Ministries.

In 1993 AI officials, including its secretary general, met with the Foreign Minister and other Tunisian officials. Another AI representative visited Tunisia and issued a report alleging that security forces were responsible for torture, widespread harassment, and sexual abuse against women relatives of incarcerated Islamists. The Government strenuously disputed the report's findings, as did several of the opposition parties and prominent women activists.

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

Women.—In 1993 the Chamber of Deputies adopted major changes to the 1956 Personal Status Code, which established equal rights for men and women in most fields. The Chamber also amended the Penal, Labor, and Nationality Codes to further enhance and protect women's rights. These changes increased the legal rights and protection enjoyed by women and children, including allowing women to transmit Tunisian nationality even though married to a foreigner and living abroad.

Criminal penalties for wife beating were strengthened; labor laws were amended to further reduce job discrimination based on sex; and a fund was established to pay child support until delinquent fathers can be found and made to pay. Inheritance laws are still governed by Islamic law, which favors male descendants. The husband is still recognized as the head of the household, even though maintenance of the family is a joint effort and the wife's wishes are to be respected.

According to the 1989 census, 48.1 percent of females over the age of 10 were illiterate, compared with 26.3 percent of males. There is a significant trend, however, toward greater educational and professional opportunities for women, and the number of women in the medical, legal, and other professions continued to grow steadily. Twenty-five percent of Tunisian magistrates are women. In 1992 women comprised an estimated 25 percent of the work force, a figure that probably understates their presence as many women were employed in the informal sector and seasonally in agriculture. According to figures released in 1992, 21 percent of civil service employees were women, who were predominantly found in the fields of education, health, and social affairs at the lower or middle levels.

Violence against women does occur, but there are no official statistics or studies on the subject. In 1993 the Government initiated a survey on violence against women. The media has begun to break its silence on this issue, which had seldom been raised publicly given the importance attached to family privacy in this traditional society. A woman deputy called on the Religious Affairs Minister to instruct religious leaders to address the problem in mosques to emphasize that Islam does not condone violence against women. The Tunisian Association of Democratic Women (ATFD) operates a small office which provides counseling services to battered and abused women 6 days a week. An attorney and psychologist are on duty 2 days a week. However, very few women have used the organization's services. No other support groups or shelters are known to exist. A battered woman was still most likely to seek shelter with her extended family.

There are several active women's rights groups in Tunisia, the most influential being the RCD-affiliated National Union of Tunisian Women (UNFT), the Tunisian Association of Democratic Women (ATFD), and the Tunisian section of the Worldwide Movement of Mothers (MMM).

Children.—Laws protecting the rights of children are included in statutes governing education, health, inheritance, adoption, and child custody. The Personal Status Code, in particular, provides important guarantees for children in cases of adoption and the right to custody of minor children in the case of death or incapacitation of the father. Education is mandatory to age 16. The Government has an ambitious plan to reduce mortality rates by reducing malnutrition, reducing the incidence of low-weight births, and reducing iron and vitamin deficiencies in women.

Indigenous People.—The small Berber minority constitutes approximately 3 percent of the population. Less than half of them have retained their native language.

People with Disabilities.—The rights of the people with disabilities are protected by a law enacted in 1981 that prohibits discrimination based on disabilities and mandates that at least 1 percent of public agency and private sector employees be disabled persons. There are approximately 10 nongovernmental organizations that address the rights of disabled persons. These organizations receive government financing administered by the Ministry of Social Affairs and operate schools and other social programs for the benefit of the disabled. They also bring pressure on the Government to show sensitivity to the problems and rights of the disabled. The Ministry of Education operates one school for the deaf and two for the blind. All public buildings constructed since 1991 must guarantee accessibility to physically disabled persons. Many cities, including Tunis, have begun to install wheelchair access ramps on city sidewalks, and there is a general trend toward making public transportation more accessible to disabled people. Disabled persons also receive special cards from the Government which entitle them to such benefits as unrestricted parking, priority in receiving medical services, priority on public transportation, and some discounts. Vehicles purchased to transport disabled people are exempt from taxes and customs duties.

Section 6. Worker Rights

a. *The Right of Association.*—The Tunisian Constitution and the Labor Code stipulate the right of workers to form unions. The central labor federation, the Tunisian General Federation of Labor (UGTT), claims about 15 percent of the work force as members, including civil servants and employees of state owned enterprises. The UGTT and its member unions are legally independent of the Government, the ruling party, and other political forces but operate under government regulations which have to some extent restricted their freedom of action. The UGTT's membership and officers include persons associated with all political tendencies. The current leader-

ship follows a policy of cooperation with the Government, and there are credible reports that the UGTT receives substantial subsidies from the Government to supplement the officially mandated monthly union contributions from UGTT members. Most incumbent UGTT officials on the national, regional, and federation levels were reelected in 1993 in voting which some observers claimed was influenced by the Government.

Dissolution of a union requires action by the courts. There is no requirement for a single trade union structure; the fact that Tunisia has a single labor central (the UGTT) is a result of historical circumstances, not government action. However, the Government has decreed that UGTT member federations are the labor negotiators for collective bargaining agreements which cover 80 percent of the private sector work force, whether unionized or not (see Section 6.b.).

Unions, including those for civil servants, have the right to strike, provided 10 days' advance notice is given and the UGTT approves. The 1993 report of the International Labor Organization's (ILO) Committee of Experts (COE) cited the Labor Code provision that the UGTT approve strikes as being inconsistent with ILO Convention 87 on freedom of association. However, these restrictions on strikes are rarely observed in practice. In recent years, the majority of strikes were illegal because they were not approved in advance. In the first 6 months of 1993, there were 23 legal strikes and 245 illegal strikes. The Government did not prosecute workers involved in illegal strike activity. Tunisian law prohibits retribution against strikers, but some employers punish strikers who are then forced to pursue costly and time-consuming legal remedies to protect their rights. Labor disputes are settled through conciliation panels on which labor and management are equally represented. If conciliation fails, arbitration may be pursued, provided both sides agree on an arbitrator. The need for agreement, however, has meant that the latter mechanism is rarely used. Nearly all strikes in 1993 were settled through conciliation.

Unions in Tunisia are free to join federations and international bodies. The UGTT is a member of the International Confederation of Free Trade Unions and various regional groupings.

b. *The Right to Organize and Bargain Collectively.*—The right to organize and bargain collectively is protected by law and practiced throughout the country. Wages and working conditions in Tunisia are set through the negotiation by the UGTT member federations and employer representatives of approximately 47 collective bargaining agreements which set standards applicable to entire industries in the private sector. The UGTT is by law the labor negotiator for these agreements, which cover 80 percent of the private sector work force, whether unionized or not. The Government's role in concluding these agreements is minimal. It has, however, lent its good offices if talks appear to be stalled. The Government must approve the collective bargaining agreements (although it cannot modify them) and publish them in the official journal before these agreements acquire legal validity. No agreement between a union and an individual firm may be concluded unless there already exists an agreement applicable to that firm's economic sector.

The UGTT also negotiates with the various ministries and 208 state-run enterprises in the public sector. In 1993 the UGTT concluded 3-year public and private sector collective bargaining agreements calling for an average 5 percent annual wage increase.

Antiunion discrimination by employers against union members and organizers is prohibited by law, and there are mechanisms for resolving such disputes. However, the UGTT has complained about what it claims are increasingly vigorous antiunion activities by private sector employers, particularly the firing of union activists and employers' use of temporary workers as a pretext to avoid unions, which in certain factories, especially in the textile sector, account for up to 80 percent of the work force. The Labor Code extends the same worker rights protection to temporary workers as to permanent workers, but its enforcement in the case of the former is much more difficult.

Two export processing zones, authorized by a 1992 law, have not yet begun operations. Workers in export firms have the same right to organize, bargain collectively, and strike as those in nonexport firms. The unionization rate is about the same, even though export firms are more likely to be antiunion. The State pays the employer contribution to the social security system if the firm produces primarily for export.

c. *Prohibition of Forced or Compulsory Labor.*—Compulsory labor is not specifically prohibited by Tunisian law, but there have been no reports of its practice in recent years.

d. *Minimum Age for Employment of Children.*—For manufacturing, the minimum age for employment is 15 years; in agriculture it is 13. Tunisian children are required to attend school until age 16. Inspectors from the Social Affairs Ministry

check the records of employees to verify that the employer complies with the minimum age law. Despite this law, young children often perform agricultural work in rural areas and sell food and other items in urban areas. Small enterprises in the informal sector (which employs approximately 20 percent of the work force) reportedly violate the minimum age law frequently. The UGTT has expressed concern that child labor—frequently disguised as apprenticeship—still exists, principally in the traditional craft sectors such as ceramics and stone carving. Young girls from rural areas are sometimes placed as domestics in urban homes by their fathers, who collect the child's wages. Workers between the ages of 14 and 18 are prohibited from working from 10 p.m. to 6 a.m. Children over 14 may work a maximum of 4.5 hours a day. The combination of school and work may not exceed 7 hours.

e. *Acceptable Conditions of Work.*—The Labor Code provides for a range of administratively determined minimum wages. Two increases in both the agricultural and industrial minimum wage in 1993 followed the rise in the cost of living. Even supplemented by transportation and family allowances, the minimum wage is barely adequate to provide a decent living for a worker and his family. Effective in August 1993, the minimum monthly industrial wage is roughly $127 (127 Tunisian dinars) for a 40-hour workweek and $145 for a 48-hour week. The minimum agricultural wage was set at $4.36 per day.

Tunisia's Labor Code sets a standard 48-hour workweek for most sectors and requires one 24-hour rest period. The workweek is 40 hours for those employed in the energy, transportation, petrochemical, and metallurgy sectors.

Regional labor inspectors are responsible for enforcing standards. Most firms are inspected about once every 2 years. However, the Government often encounters difficulty in enforcing the minimum wage law, particularly in nonunionized sectors of the economy. Moreover, a considerable amount of labor takes place in the informal sector, which falls outside the purview of labor legislation.

The Social Affairs Ministry has an office with responsibility for improving health and safety standards in the workplace. There are special government regulations covering many hazardous jobs—e.g., mining, petroleum engineering, and construction. Although the Ministry maintains offices throughout the country, these regulations are enforced more strictly in Tunis than in other regions, where much work, especially in construction, is performed in the informal sector. Working conditions and standards tend to be better in firms that are export-oriented than in those producing for the domestic market. Industrial accidents rose 19 percent to an annual rate of 36,693 in 1992, despite an intensive public awareness campaign in the media. Workers are free to remove themselves from dangerous situations without jeopardizing their employment. Workers may take legal action against employers who retaliate for taking such action.

UNITED ARAB EMIRATES

The United Arab Emirates (UAE) is a federation of seven emirates established in 1971. None have democratically elected institutions or political parties. Each emirate retains extensive control over mineral wealth (including oil) and some aspects of defense and internal security. Most emirates are governed through traditional tribal mechanisms, relying heavily on the open majlis or meeting wherein citizens may express their concerns directly to their leaders. In accordance with the 1971 Constitution, the seven emirate rulers comprise a Federal Supreme Council, the UAE's highest legislative and executive body. The Supreme Council selects a President and Vice President from its membership; the President in turn appoints the Prime Minister and Cabinet. The Supreme Council meets officially only occasionally, although the leaders meet frequently in more traditional settings. The Council of Ministers (Cabinet) manages the federation on a day-to-day basis.

In February the Federal Supreme Council revived the Federal National Council (FNC), a 40-member body of prominent citizens appointed by the leaders of the seven emirates in ratios reflecting the size of each emirate. The FNC had been inactive since the Gulf war. It has no legislative authority but can question Cabinet ministers and make recommendations to the Supreme National Council. Each emirate maintains its own police force, but only the Federal Government and the Emirate of Dubai have independent internal security organizations.

The UAE has a largely free market economy based on oil and gas production, trade, and light manufacturing. The Government owns the majority share of the oil enterprise in the largest Emirate, Abu Dhabi, with the other shares held by various private oil company equity partners. The four emirates with small or nonexistent petroleum resources are dependent on federal government subsidies for such essen-

tial services as health, electricity, water, and education. The economy, which provides the UAE with one of the world's highest per capita incomes, is heavily dependent on foreign labor, which makes up 80 percent of the population. These workers, primarily from Asian or other Arab countries, perform most manual and technical labor.

A number of human rights remained closely restricted in 1993. The principal problems continued to be the denial of the right of citizens to change their government, incommunicado detention, and restrictions on the freedoms of speech, press, assembly, association, and worker rights. Women continue to make progress in education and in the work force, but certain types of discrimination persist. Although there had been a trend toward somewhat freer expression in 1991 and 1992, there was no significant progress in 1993. The press continued to avoid direct criticism of the Government and exercised self-censorship on topics sensitive to the Government.

RESPECT FOR HUMAN RIGHTS

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

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

b. *Disappearance.*—No political disappearances were reported.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture or degrading treatment, and there were no reports of such abuse in 1993. In the past, Shari'a courts were known to sentence Muslims and non-Muslims to flogging for crimes related to alcohol abuse and adultery. The Federal Supreme Court ruled in 1993 that Shari'a punishments may not be imposed on non-Muslims.

In 1993 there was a trend toward harsher sentencing. In March a UAE national and a foreign national convicted of piracy were each sentenced to the amputation of a hand and a foot; this followed the sentencing of another foreign national to the amputation of his hand for stealing. However, in both of these cases higher authorities are said to have ordered lighter sentences. No amputation sentences were known to have been carried out.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arrest, search, detention, or imprisonment except in accordance with the law, and the laws of each emirate prohibit arrest or search without probable cause.

Under the Criminal Procedure Code, the police must report any arrest to the Attorney General within 48 hours, and he must determine within the next 24 hours whether to charge, release, or, with sufficient police justification, allow limited, further detention pending an investigation. Once charged, detainees are brought to trial reasonably expeditiously, although the Code includes no specific right to a speedy trial. There is no formal system of bail, but detainees sometimes are released upon the deposit of money or an important document such as a passport. The laws of the UAE allow incommunicado detention until the accused has been formally charged, and it is practiced.

Exile of citizens is prohibited by the Constitution and is not practiced.

e. *Denial of Fair Public Trial.*—The UAE has a dual system of Shari'a (clerical) and civil courts, each of which deals with both criminal and civil cases. The civil courts are usually part of the federal system and are answerable to the Federal Supreme Court in Abu Dhabi. The Shari'a courts are administered by each individual emirate, though they are ultimately answerable to the Federal Supreme Court. The court systems in the Emirates of Dubai and Ras al-Khaimah are independent of the federal system, although they do apply the Civil Procedure Code. Each court system has a multilevel appeals process, and verdicts in all capital cases are appealable to the President. The nature of the case determines which court system hears a particular case, but most cases fall under the jurisdiction of the civil courts. Due process rights are uniform under both Shari'a and civil court procedure. There is a presumption of innocence unless guilt is proven.

Legal counsel is readily available and permitted to represent a defendant in both court systems. The court may appoint legal counsel if counsel agrees to provide services free; only Dubai has an office of public defender. The losing party may be required to pay the winner's legal fees. The judge is responsible for looking after the interests of a person not represented by counsel. Under the new Criminal Procedures Code, the accused has a right to defense counsel at trial in cases that involve a capital crime or possible life imprisonment. If the defendant is indigent, the Government will provide counsel. The Federal Supreme Court ruled in 1993 that a defendant in an appeal case has a "fundamental right" to select his attorney and that this right supersedes a judge's power to appoint an attorney for the defendant.

There are no jury trials. All cases, except national security cases and those deemed by the judge likely to harm public morality, are open to the public. Most judges are foreign nationals, primarily from other Arab countries. In 1993 the Ministry of Justice initiated a program to train and develop UAE national judges and prosecutors.

There is no separate national security court system. The military has its own court system based on Western military judicial practice. Military tribunals try only military personnel.

There are no known political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits entry into homes without the owner's permission, except in accordance with the law. Although the police may enter homes without a warrant and without demonstrating probable cause, an officer's actions in searching premises are subject to review, and he is subject to discipline if he acts irresponsibly. Anyone other than a police officer must have a court order to enter a private home. Local custom and practice place a high value on privacy, and entry into private homes without the owner's permission is rare. There is no surveillance of private correspondence.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Although UAE citizens are constitutionally assured freedom of speech, in practice there is censorship, and most inhabitants, especially foreign nationals, are circumspect in public discussions of sensitive political topics or in criticizing the Government. In 1993 an American citizen was detained briefly, but not arrested, for allegedly profaning the President in conversation with a third party.

Many of the local English- and Arabic-language newspapers are privately owned, but all receive government subsidies. All foreign publications are routinely subjected to censorship reviews before distribution. Domestic publications practice self-censorship, making formal censorship rare. Journalists also practice self-censorship in articles concerning the UAE destined for publication abroad.

In 1993 members of the newly revived FNC were often quite critical of government policies in their discussions during FNC sessions. Their criticisms were covered in the press.

The UAE press continues to be cautious in reporting on government policy, the ruling families, national security, religious matters, and relationships with neighboring states. A trend toward more open expression of opinion on subjects sensitive to the Government that began during the Gulf war did not continue in 1993. There were credible reports that the Government temporarily revoked the passport of an intellectual who published a newspaper article advocating democratic election of the Federal National Council members. Yet the Arabic press also carried articles written by non-UAE Arabs calling for greater democracy in the region.

All television and radio stations are government owned and conform to government reporting guidelines. However, television stations in Abu Dhabi and Dubai continue to broadcast the programs of the Cable News Network (CNN), with no apparent censorship.

The Censorship Department of the Ministry of Information and Culture reviews all imported newspapers, periodicals, books, films, and videos, and bans items considered pornographic, violent, derogatory to Islam, favorable to Israel, unduly critical of friendly countries, or critical of the Government or the ruling family. Widespread legal ownership of satellite dishes has undermined the Government's censorship efforts. Authorities confiscate material written in Hebrew. The small publishing industry is subject to government censorship in accordance with the above criteria.

In 1993, after an appeal, 2 of the 10 Indian expatriates convicted in 1992 of blasphemy for producing and performing in a play that was critical of Islam and Christianity had their sentences extended from 6 to 10 years. Six of the convictions were upheld and six were overturned.

The unwritten but widely accepted ban on criticism of the Government also restricts academic freedom. However, the trend observable over the last several years toward more overt criticism of the Government by academics continued to be evident in 1993. In December 1992, a seminar entitled "Human Rights in the World and in the Arab World" was held by the UAE Bar Association and the UAE Association of Sociologists in Dubai. The participants presented papers containing recommendations on monitoring human rights both inside and outside the UAE. Though the Government did not allow the publication of a key paper on human rights in the UAE, the seminar received extensive coverage in the press.

b. *Freedom of Peaceful Assembly and Association.*—These freedoms are tightly restricted. Political organizations are prohibited. Organized public gatherings require

a government permit. Each emirate determines its own practice on public gatherings, with some emirates taking a more liberal approach to seminars and conferences on sensitive subjects (see Section 2.a.). Citizens normally confine their political discussion and debate to the numerous "assemblies" (majlises), held in private homes, which are a local tradition. There are no restrictions on the formation of private associations.

c. *Freedom of Religion.*—Islam is the official religion. UAE citizens are predominately Sunni Muslims, but Shi'a Muslims are also free to worship and maintain mosques throughout most of the UAE. However, Shi'as are not permitted mosques in the Emirate of Ras al Khaimah. According to a press report, the Emirate of Dubai has placed private mosques under the control of its Department of Islamic Affairs and Endowments. This move gives the Government greater control over the appointment of preachers and was reportedly taken by the Government to prevent the spread of what it considers religious extremism. By tradition and social custom, non-Muslims are free to practice their religion but may not publicly proselytize or distribute religious literature. A British Christian was recently arrested and sentenced to 6 months in prison for proselytizing. There are Christian churches and Hindu and Sikh temples, some built on land donated by the ruling families, in the major cities. Foreign clergymen are allowed to minister to expatriate congregations. Christian teaching is permitted in private schools for Christian children. Religious groups are allowed to engage in private charitable activities.

(See Section 2.a. on the appeal of Indian nationals charged with blasphemy.)

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no restrictions on freedom of movement or relocation within the country, except for security areas such as defense and oil installations. Unrestricted foreign travel and emigration are permitted to male citizens except those involved in financial disputes under adjudication. However, a husband may bar his wife and children from leaving the country without his permission. All citizens have the right to return. There is a small population of stateless residents, many of whom have lived in the UAE for more than one generation. They are Bedouins or the descendants of Bedouins who are unable to prove that they are of UAE origin. Since they do not hold passports, they may not travel abroad.

During and immediately after the Gulf war, the authorities revoked the residence permits and employment visas of some long-term residents of Palestinian, Iraqi, Yemeni, Jordanian, and Sudanese origin. In 1993 fewer of these residents had their residence permits or visas revoked, particularly those in highly technical professions. The Government reportedly asked known dissidents of Syrian and Egyptian nationality to leave the country; they were not forcibly repatriated but were told to find another country of residence.

UAE nationals are not restricted in seeking or changing employment. However, only foreign nationals in specific occupations, primarily professional, may change employers without first leaving the country for 6 months. This law is often not enforced.

There are no formal procedures for accepting refugees, and persons who seek refugee status are routinely jailed or detained while awaiting resettlement in a third country. Although one may acquire a UAE passport through marriage or presidential fiat, there is no formalized procedure for naturalization. Noncitizens are expected to leave the country at retirement age but may remain if sponsored by their children.

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

The UAE has no formal democratically elected institutions, and citizens do not have the right to change their government or even to form political parties. Although there are consultative councils at the federal and national levels, most executive and legislative power is in the hands of the seven emirate rulers, their extended families, and those persons and families to whom they are allied by historical ties, marriage, or common interest. These emirate political leaders constitute the dominant political force at the national level.

Members of the Federal National Council (FNC) are appointed by the rulers of each emirate in a ratio depending on the size and wealth of the emirate. The FNC has no legislative authority but may summon ministers, criticize government policies, and make recommendations to the Cabinet. Its sessions are open to the public.

Decisionmaking at the federal level is through consensus of the seven emirates and their leading families. This need for consensus tends to slow decisionmaking at the federal level. Citizens have the opportunity to make their views and grievances heard through attendance at majlises held by the rulers of each emirate. Women may attend women's majlises presided over by the wives of the rulers.

Although the rulers and ruling families by tradition are presumed to have the right to rule, their incumbency ultimately depends on the quality of their leadership and their responsiveness to their subjects' needs. Emirate rulers are accessible, in varying degrees, to citizens who have a problem or a request. The choice of a new emirate ruler falls to the ruling family in consultation with other prominent tribal rulers.

Women are free to hold government positions, but there are few women in senior positions because they are relatively new to government service and because there continues to be strong family pressure against women entering the workplace. Although the UAE's Shi'a minority has enjoyed commercial success, few of their members manage to reach top positions in the Federal Government.

The political dominance of the ruling families is intertwined with their substantial involvement and influence in economic life. The ruling families and their close allies control and profit from petroleum production and, with important merchant families, have a major stake in the UAE's commercial life. A complex system of distribution of wealth, including through the federal and emirate governments, ensures generous subsidies and a high standard of living for most UAE citizens.

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

The UAE does not have any internal groups that monitor human rights. Government prohibitions on freedom of press and association would make it very difficult for a private group to investigate and publicly criticize the Government's human rights restrictions. The Human Rights Seminar held in December 1992, which was covered by the UAE press, has led to a small increase in public awareness of human rights issues. There were reports that a group of citizens has begun to meet irregularly to discuss human rights and democracy in the UAE. In December the Abu Dhabi Government sponsored a human rights symposium attended by foreign and domestic academics, jurists, and government officials. A representative of an international human rights organization attended and delivered a paper at the seminar.

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

Women.—Most women play a family-centered, subordinate role in UAE society because of the frequency of early marriage and traditional attitudes about women's activities. As noted earlier, husbands may bar their wives and children from leaving the country without their consent, and married women may not take employment without their husbands' written consent. In cases of divorce, Islamic law is observed. The woman receives custody of children until they are 7 years of age. After that, a child usually lives with his or her father unless there are circumstances that convince judicial authorities that custody should be given to the mother. In divorce cases in which the mother is a non-Muslim or a foreigner, the court usually grants custody to the father regardless of the child's age. A woman who remarries forfeits her right to the custody of children from a previous marriage. Polygyny, in accordance with Islamic law, is permitted for men. In practice, few UAE men have more than one wife. Women are restricted from holding majority shares in most major types of businesses. UAE women employed outside the home generally receive equal pay for equal work. A woman's property is not commingled with that of her husband.

Women's education continues to advance rapidly. Female enrollment at the UAE University, for example, now constitutes 70 percent of the student body, though this is partially attributable to the fact that UAE women rarely study abroad, as many UAE men do. Opportunities for women are also growing in government service and in traditional occupations such as education and health. Women are officially encouraged to continue their education, and government-sponsored women's centers provide adult education and technical training courses. The UAE military service accepts women volunteers in the officer corps and as enlisted personnel. A special military training course for women, started after the Gulf war, continues.

Spouse abuse is rarely reported in the UAE. Knowledgeable sources report a low incidence of medical cases resulting from spouse abuse. However, when reported, the local police authorities take action to protect women from abuse. UAE laws also protect women from verbal abuse or harassment from men, and violators are subject to criminal action. There continue to be credible reports of abuse of female domestic servants by both UAE and foreign employers, but the authorities do take action against the offender when an incident is reported.

Children.—The Government is committed to the welfare of children. Figures on federal and emirate expenditures on children are not available, but UAE children receive free health care, free education, guaranteed housing, and the other per-

quisites of UAE citizenship. Expatriate workers are not permitted to bring their families to the UAE unless they make a sufficient wage to provide for them. They must pay for the schooling of their children, but health care charges are negligible.

National/Racial/Ethnic Minorities.—Discrimination based on national origin, while not legally sanctioned, is prevalent in the UAE (see Section 2.d.). Employment, immigration, and security policy as well as cultural attitudes towards foreign workers are conditioned by national origin. There is some discrimination against the Shi'a minority, based on their national origins rather than on their religious affiliation.

People with Disabilities.—The UAE has no federal legislation requiring accessibility for the disabled. However, the Ministry of Labor and Social Affairs sponsors the UAE Handicapped Centers, which provide facilities and services to the disabled. Services range from special education and transportation assistance to sending a team to the Special Olympics.

Section 6. Worker Rights

a. *The Right of Association.*—UAE law does not grant workers the right to organize unions and to strike. It is a criminal offense for public sector workers to strike. In practice, there are no unions and no strikes. Foreign workers who might attempt to organize a union risk deportation.

b. *The Right to Organize and Bargain Collectively.*—UAE law does not grant workers the right to engage in collective bargaining, and it is not practiced. Most of the work force is composed of foreign nationals. Workers in the industrial and service sectors are normally employed under contracts that are subject to review by the Ministry of Labor and Social Affairs. The purpose of the review is to ensure that the pay offered is enough for the employee's basic needs and to secure a means of living. For the resolution of work-related disputes, workers must rely on conciliation committees organized by the Ministry of Labor and Social Affairs or on special labor courts. Domestic servants and agricultural workers are not covered by UAE labor laws and thus have great difficulty in obtaining any assistance in resolving labor disputes. In the free port where manufacturing takes place, the same laws and regulations apply as in the rest of the country.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is illegal and not practiced. However, foreign workers are often recruited in their own countries by unscrupulous agents who bring them into the UAE under conditions approaching indenture.

d. *Minimum Age for Employment of Children.*—Labor regulations prohibit employment of persons under age 15 and have special provisions for employing those aged 15 to 18. Laws prohibiting the employment of children are enforced by the Department of Labor. Labor regulations allow contracts only for adult foreign workers. In January the Government announced new regulations prohibiting the employment of young children as camel jockeys and decreed that camel jockeys should weigh no less than 45 kilograms. It also created a Camel Racing Association which has effectively enforced the new rules during the 1993 racing season. Small children who were employed as jockeys were returned to their parents.

e. *Acceptable Conditions of Work.*—There is no legislated or administrative minimum wage. Supply and demand determine compensation. However, according to the Ministry of Labor and Social Affairs, there is an unofficial, unwritten minimum wage rate which would afford a worker and family a minimal standard of living. As noted in Section 6.b., the Labor and Social Affairs Ministry reviews labor contracts and does not approve any contract that stipulates a clearly unacceptable wage.

The standard workday and workweek are set at 8 hours per day, 6 days per week, but these standards are not strictly enforced. The law provides for a minimum of 24 days per year of annual leave plus 10 national and religious holidays.

Most foreign workers receive either employer-provided housing or a housing allowance, medical care, and homeward passage through their employers. The vast majority of such workers, however, do not earn the minimum salary ($1,000 per month) required for them to sponsor their families for a UAE residence visa. Employers have the option to petition for a ban from the work force of 1 year for any foreign employee who leaves his job without fulfilling the terms of his contract.

The Government sets health and safety standards, which are enforced by the Ministry of Health, the Ministry of Labor and Social Affairs, municipalities, and Civil Defense. Every large industrial concern is required to employ an occupational safety officer certified by the Ministry of Labor. If an accident occurs, a worker is entitled to fair compensation. Health standards are not uniformly observed in the housing camps provided by employers. Workers' jobs are not protected if they remove themselves from what they consider to be unsafe working conditions. However, the Min-

istry of Labor may require employers to reinstate workers following an investigation of the alleged unsafe working conditions. All workers have the right to complain to the Labor Ministry, whose officials are accessible to any grievant, and an effort is made to investigate all complaints. The Ministry, which oversees worker compensation, is, however, chronically understaffed and underbudgeted so that complaints and compensation claims are backlogged.

Foreign nationals from India, Pakistan, the Philippines, Bangladesh, and Sri Lanka continue to seek work in the UAE in large numbers. There are many complaints that recruiters in the country of origin use unscrupulous tactics to entice manual laborers and domestics to come to the UAE, promising unrealistically high salaries and benefits and at times bring them in illegally. The workers must promise the recruiters several months of future wages to secure their passage. When they come there are often no jobs waiting for them so they must find jobs as undocumented workers, accepting wages far below the accepted minimum wage. Such cases may be appealed to the Labor Ministry and, if this does not resolve the issue, to the courts. However, many laborers choose not to protest or to engage in such a lengthy process for fear of reprisals by their employers. Moreover, since the UAE tends to view foreign workers through the prism of their various nationalities, employment policies, like immigration and security policies, have at times been conditioned upon national origin.

YEMEN

The Republic of Yemen was proclaimed in 1990 with the unification of the Yemen Arab Republic (YAR) and the People's Democratic Republic of Yemen (PDRY). The Constitution provides for a Parliament elected by universal suffrage and a five-member Presidential Council elected by the Parliament whose chairman serves as Head of State. Yemen held its first parliamentary elections on April 27. They were monitored by domestic and foreign observers and were generally held to be free and open. They resulted in a 301-member Parliament, with the General People's Congress (GPC), the party of President Ali Abdullah Saleh, forming a coalition government with the Yemeni Socialist Party (YSP) and Islaah, the Tribal/Islamic Grouping for Reform. Tribal leaders in the north and east continue to hold considerable power over large amounts of territory based on their traditional prerogatives. Yemen has been in the midst of a political crisis since August 1993 which has paralyzed many government activities and all policymaking.

An extensive state-security apparatus, the Political Security Organization (PSO), has replaced the National Security Organization (NSO). Unlike the NSO, the PSO is independent of the Interior Ministry and reports directly to the President. Its officers retain broad discretion over perceived national security issues and, despite constitutional prohibitions, routinely detain citizens for questioning, frequently mistreat detainees, monitor personal activities, and search homes.

Yemen is a poor country in which agriculture and oil dominate the economy. Remittances from Yemeni workers in Saudi Arabia and the Gulf states, formerly an important source of hard currency, declined significantly in the aftermath of the Gulf war, and aid from the Gulf states has almost ended. After unification, the Marxist economy in the south was liberalized, but former PDRY state institutions remain significant.

With the holding of free parliamentary elections and less repression of civil liberties such as freedom of the press, there were some gains in the human rights situation in 1993. Nevetheless, significant restrictions remained. Major problems included arbitrary detention, torture and abuse of prisoners, and widespread discrimination based on sex, race, and religion.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Political and extrajudicial violence remains part of the Yemeni political scene. Although there were a number of allegations of political killings in 1993, none has so far been substantiated.

b. *Disappearance.*—As in 1992, there were occasional reports of Yemenis disappearing following detention by the security forces. Most such detainees were eventually released. Most reports about disappeared persons were related to former members of the National Democratic Front (NDF), which waged a guerrilla war against the YAR from the mid-1970's through the early 1980's. Families of an estimated 200 to 300 persons who disappeared in the former PDRY prior to unification in 1990 have been unable to obtain any information from the Government about the

fate of their relatives. The vast majority of these persons are thought to have been killed while in the custody of PDRY state security officials.

In a separate case, a credible source reported eight suspects in the Aden bombing of the Gold Mohur Hotel, in which two tourists died, were abducted and possibly killed by the YSP. The Government reported the eight men had escaped.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution proscribes "physical punishment and degrading treatment." It is widely believed, however, that security officials resort with impunity to force or the threat of force to extract information from detainees. There continued to be reports in the Yemeni press alleging torture and mistreatment by prison officials. Amnesty International reports that at the beginning of 1993 at least 50 of the 1,000 persons arrested in antigovernment riots in December 1992 remained in detention. Some detainees were reportedly subjected to torture, including beatings and electric shocks. Credible reports indicate that Mansur Muhammad Ahmad Rajih, a writer and NDF activist, who remains imprisoned, has been subjected to torture throughout his incarceration. There was a credible report that a European tourist was detained and tortured in July.

There were no reported instances of amputation in 1993. In seven out of eight cases in which amputation penalties were imposed, the Yemeni Supreme Court refused to confirm the sentences and in several cases ordered the prisoners released upon a finding that their periods of incarceration, which ranged up to 10 years, were adequate punishment. The eighth case was still pending.

Substandard conditions in Yemeni prisons represent a threat to the health of inmates. Visitors from human rights organizations and local press reports have described inadequate food, medical, and sanitary facilities, and severe overcrowding. In the women's section of Sanaa central prison, prisoners were in some instances unable to obtain milk for their children who were incarcerated with them.

Although they are theoretically banned, shackles are still used in a number of Yemeni prisons. Mentally ill persons are occasionally shackled, as are those involved in "blood-money" cases, i.e., prisoners held until they can pay a specified amount of compensation to the family of someone they have killed, usually in a traffic accident.

d. *Arbitrary Arrest, Detention, or Exile.*—Despite constitutional and other legal guarantees, there continued to be reports of arbitrary arrest and prolonged detention without charge. Moreover, relatives of accused persons are sometimes held while, in accordance with customary law, compensation for the victim or victim's relatives is negotiated. Under the law, persons arrested may not be detained for more than 24 hours without being brought before a court and formally charged. Upon arrest, a detainee has the right in theory to notify a person of his or her choice, but this right is seldom honored or is observed only upon payment of a bribe, especially in cases of arrests by security officials. While there are provisions for release on bail, arrested Yemenis more commonly have a close family member pledge surety for them. The accused has the right to hear the charges being brought and an opportunity to respond to those charges. A judge then decides whether the accused is to be held for trial or released. A detainee may not be required to answer questions without an attorney present.

Credible sources report that as many as 4,000 prisoners are held in Yemeni jails without documentation concerning their imprisonment. Most of these prisoners were moved to state prisons from outlying jails following unification and are held without a record of their sentences or why they were arrested. However, it has become customary for the Government to pardon between 500 and 700 prisoners each year at Eid Al Fitr, a religious holiday marking the end of the holy month of fasting, Ramadan; many of these are believed to be those held without charge.

A common ploy of Yemeni employers is to hire third-country nationals, often from the horn of Africa, and then, upon the expiration of their term of service, accuse them of theft and have them imprisoned in order to avoid paying their salary or ticket home.

e. *Denial of Fair Public Trial.*—In accordance with an August 1991 decree, judicial systems have been unified at the Supreme Court level. The lower courts have not yet been merged and continue to function in their respective halves of the country. In the former YAR, there are two court systems: Shari'a (criminal and family) and commercial. The Shari'a courts are based on Islamic law and, viewed within their traditional Islamic context (e.g., no jury trials), are considered generally to be impartial. The judge actively questions witnesses. Attorneys are allowed to counsel their clients and may also address the court and examine witnesses.

In the commercial courts, defendants enjoy the right of appeal, and court sessions are generally open, although the Constitution permits the courts to hold closed sessions "for reasons of security or general morals." Foreign litigants in the commercial

courts have frequently complained of biased rulings, and both Yemeni and non-Yemeni litigants maintain that tribal ties as well as outright bribery are often decisive in obtaining a favorable verdict. Former YAR state security courts were formally abolished after unification.

In the former PDRY there are three court systems: magistrate or divisional courts, provincial courts, and military courts. Magistrate's courts have jurisdiction over most criminal and traffic offenses, juvenile cases, family cases, housing and agrarian disputes, and minor civil matters. Provincial courts have jurisdiction over serious criminal cases involving the death sentence or long prison terms, inheritance cases, major civil claims, and appeals from magistrates' courts. Military courts have jurisdiction over crimes by members of the armed forces.

Yemen's judiciary is not fully independent. There are some "government" judges, i.e., judges who will return whatever verdict the Government desires. They operate generally at the lower court level. The Appellate and Supreme Courts are independent from the executive branch of government, though they are not free of corruption, even at the highest levels. Although the Shari'a and commercial courts in the former YAR are largely independent of the executive, judicial authorities have complained of executive branch interference in sensitive cases and of the continued existence of extrajudicial prisons maintained by some ministries.

The Government denies that it holds any political prisoners, although credible Yemeni sources dispute this. Amnesty International and other human rights organizations have expressed concern about political opponents of the Government who were arrested in the former YAR and are still believed to be held in prison. All were suspected members of the NDF; no confirmed figure is available on their number. Most NDF prisoners appear to qualify as political prisoners on the grounds that they did not receive fair trials. Some NDF members, arrested before 1985, are reportedly still being held despite a general amnesty declared in 1985 for all former NDF members.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Despite constitutional guarantees against such interference, security forces routinely search homes, monitor telephones, read personal mail, and otherwise intrude into personal matters, alleging security concerns.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The new Constitution provides for freedom of speech and press "within the limits of the law." Yemenis typically engage in uninhibited discussions of both domestic and foreign policies in qat (a leaf that acts as mild stimulant which many Yemenis chew) sessions, an institution deeply ingrained in Yemeni life. However, some Yemenis remain cautious in exercising their freedom of speech, believing that they may experience difficulty if security agents overhear them criticizing particular government leaders.

Since unification Yemen has enjoyed greater press freedom. In addition to several major newspapers owned by the Government, some 94 papers have been registered, although only about 60 are being published, some of them on an irregular basis. These papers represent a wide spectrum of political opinion and frequently criticize government policies and leaders by name. In one striking case in 1993, the editor of the only English weekly published several articles accusing President Saleh of cronyism. The Government charged the editor with "antigovernment" slander, but the court threw out the Government's case, an action that the press hailed as a victory for freedom of the press. It remains to be seen what effect this will have on the press, which is widely seen as practicing self-censorship, particularly on sensitive issues such as Yemen's policies during the Gulf crisis and Yemeni-Saudi relations.

The Ministry of Information continues to subsidize most newspapers, which gives the Government added control over the print media. The Government has on occasion prevented the distribution of foreign press articles deemed to be critical. Articles and photos deemed salacious are forbidden. Although there are no banned publications in Yemen, either foreign or domestic, the Government has been known to effectively restrict certain publications by imposing excessive duties or by other indirect means. For example, a credible source alleged that the high tariffs on newsprint are applied unevenly, with lower tariffs granted to "government-friendly" newspapers.

The Ministry of Information owns and operates Yemen's radio and television stations. News broadcasts appear to be closely controlled by the Government and virtually never contain reports critical of the Government. However, Yemen's two television channels regularly broadcast uncensored parliamentary sessions even though some speakers criticize government policies.

Informational materials carried by both foreigners and Yemenis are subject to inspection at customs points, and those of a religious, political, or pornographic nature are often confiscated. Self-censorship is sometimes practiced at Sanaa University, where professors and senior administrators require a security clearance before being hired. However, there have been no recent reports of government interference in teaching programs or curriculum development. Ali Abdul-Fattah Hashim, a writer and teacher, remains in prison after being arrested in April 1992 on charges of apostasy for promoting "heretical" teachings.

b. *Freedom of Peaceful Assembly and Association.*—Organizations must register with the Ministry of Social Security and Social Affairs, but licensing is usually routine. Yemeni citizens have a right to demonstrate peacefully and exercise it. Citizens continue to demonstrate regularly in front of the President's office, Parliament, and provincial government offices to voice their views on domestic issues.

c. *Freedom of Religion.*—Islam is the state religion, and there are restrictions on the practice of other religions. Most Yemenis are Muslims, either members of the Zaydi Sect, which is a form of Shi'ism, or followers of the Shafi'i Sunni School of Islamic law. Islamic associations with ties to pan-Islamic organizations enjoy a degree of freedom. The right of these organizations to run schools, however, is restricted in that they must submit to government oversight and regulation.

Most of the once sizable Yemeni Jewish population has emigrated; about 500 Jews remain, mostly scattered in northern rural areas. There are no formal synagogues, but services are routinely held in private homes. Despite occasional hindrances, the Government has allowed contact with foreign Jewish groups and has permitted these groups to build and operate schools and ritual baths in the two main centers of Jewish population, as well as assist Jews wishing to emigrate from Yemen in obtaining travel documents and tickets.

Except for several families in Aden, there are no indigenous Yemeni Christians. Foreign Christians throughout Yemen and the Indian-origin Christian community of Aden regularly conduct services. While there are no churches in the former YAR, there are Christian churches and a Hindu temple in Aden. Foreign clergy may not proselytize but are present in Yemen, often teaching or working in social services or health care. By religious convention, Muslims may not convert to other religions.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Yemeni citizens enjoy freedom of travel within Yemen, although there are many checkpoints on major roads. Foreigners are required to obtain permits for travel outside the capital, but the regulations are not strictly enforced and allow the Government to respond more quickly in case of need. Permission for most tourist travel is easily obtainable through travel agencies, and there are no reports of permission being denied.

Most Yemenis are able to travel abroad freely and to emigrate. In contrast to 1992, Yemeni Jews are now able to emigrate with relatively little hindrance. The Government has taken the stand that Yemeni Jews, like all Yemenis, are entitled to passports and that if they follow the prescribed procedures they will be issued travel documents. This policy is being implemented in practice.

For most Yemenis, obtaining passports is a relatively simple matter. Exit permit procedures have been simplified, and permits are generally available at the airport. However, young males who have not yet completed their military service sometimes are prevented from traveling abroad. Moreover, women seeking exit visas are often asked to prove that male relatives do not object to their travel. There have been no reports of Yemenis being denied the right to return.

Following a dramatic increase in the number of refugees (primarily from Horn of Africa countries) in 1992 from about 10,000 to over 60,000, the influx in 1993 was insignificant. There are no known cases of refugees being denied asylum, and there were no reports of forced repatriation. Many of the refugees have family or tribal ties to Yemen and have found work in Yemen. The Government has offered Somalis without ethnic affiliation to Yemen asylum under the care of the United Nations High Commissioner for Refugees (UNHCR). The Government closely monitors all political activity by refugees. Many of the Palestinians who arrived in Yemen from Lebanon in 1982–83 have departed; the remainder live in camps near Sanaa and Aden and are closely watched by the security services. Other Palestinians are employed, often as teachers or business people, and are not subject to significant restrictions on their freedom of movement.

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

The right of the citizens of Yemen to change their government was successfully tested—at least to some degree—by the holding of the new Republic's first elections in April in which 301 members of Parliament were chosen and which were generally

judged to be free and open. All the top leaders of the former YAR and PDRY have remained in power after unification.

The Constitution gives broad powers to the Parliament: these include electing the Presidential Council, withdrawing confidence from the Government, questioning the Prime Minister and other Ministers, ratifying international agreements, and approving the budget. In its initial sessions, the Parliament vetoed some government-sponsored bills and requested modifications in others. Parliament has shown less independence on issues of substance, as in the debates over constitutional amendments. Implementation of laws passed by the Parliament has been uneven as local ministry and other officials retain considerable discretion in interpreting and enforcing the law.

A five-member Presidential Council with broad executive powers has functioned since unification. Its chairman is the former YAR President, Ali Abdullah Saleh, and its Vice Chairman, the Yemeni Socialist Party (YSP) Secretary General, Ali Salem al-Bidh. The Council's executive powers include the right to pass legislation by decree when the Parliament is not in session. Laws passed by decree must be submitted for review by the Parliament within 30 days. The Council appointed Haydar Abu Bakr al-Attas Prime Minister in May 1990, and he formed a government now comprised of 30 ministries, divided among the three coalition members.

The new Constitution permits political parties, although by law their programs may not oppose the Islamic religion or the goals of the Yemeni revolution or violate Yemeni international commitments. Under the law, government financial support must be given to recognized political parties, and parties may establish their own newspapers. Even before unification, while technically illegal in both the YAR and the PDRY, new political parties began to organize. There are currently 54 political parties in Yemen, but until now none has registered in accordance with the 1991 political parties law.

Women may vote and hold office by law, although this right is limited in practice by cultural and religious traditions. Two members of the 301-member Parliament are women, and few women hold senior leadership positions in the Government or political parties.

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

There are two nongovernmental human rights organizations: The Yemeni Human Rights Organization, headquartered in Sanaa, and The Yemeni Organization for the Defense of Liberties and Human Rights, based in Aden. A government-sanctioned human rights organization also exists as a committee of the Parliament. It has held several meetings and has hosted an international children's rights conference but has done little else of substance.

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

Although the constitution prohibits discrimination based on sex, race, origin, language, occupation, social status, or religious belief, in practice various forms of discrimination exist.

Women.—Although the Constitution provides for equality of the sexes, significant restrictions on women are imposed by tradition and law. Under current law, polygyny is allowed, husbands may divorce their wives without justifying their actions before the court, and, in case of divorce, both the family home and the children are often awarded to the husband. Until this year, the relatively progressive family law from the south was still applied in Aden. Earlier this year, however, a presidential decree containing more restrictive regulations against women was issued. Since it has never been ratified by Parliament, it technically is not law. A prominent lawyer in Aden, however, cites from personal experience before the courts their enforcement of the more restrictive regulations.

The institution of dowry payments is widespread. The amount of payments has continued to increase; government efforts at limiting their size have been ineffective, due to societal restraints. Societal pressures also often force women to defer to the guidance of male colleagues and the general supervision of male relatives as, for example, in seeking to travel abroad.

Education of women in significant numbers began in the YAR only at the end of the civil war in 1970, although education of women in the PDRY was more advanced. It is conservatively estimated that 80 percent of Yemeni women are illiterate (some estimates range as high as 95 percent), compared to 40 to 50 percent of all men. In Aden, women work in midlevel jobs in several ministries and in banks and other businesses. Yemen's largest factory group employs women on the same pay scale as men, and women have risen through the ranks to lower management

positions. There are female judges and lawyers in Aden and lesser numbers in the north. The Ministry of Justice has only one female employee.

Wife beating and other physical abuse of women does occur in Yemeni families. Statistics on wife beating are unavailable. Although there is little public discussion of this matter, it has received increasing attention in the press. The female victim usually turns to a male relative to pressure the perpetrator to stop the abuse; she may seek a legal remedy, but social traditions usually compel women and their male relatives to seek mediation and keep the matter within the extended family.

There is a government-sponsored women's association which promotes female education and civic responsibilities.

Children.—The Yemeni Government claims to be fully committed to protecting children's rights and hosted an international children's rights seminar in 1993. In the face of continued government preoccupation with the political crisis, however, defense of children's rights is a low priority. Yemen is an extremely impoverished nation and cannot provide all the health, education, and welfare benefits children enjoy in more developed countries. There is, however, a system of universal education for children, as well as Government health clinics.

Child marriage remains common in rural areas. A form of female genital mutilation, clitorectomy, is practiced in the Tihama Red Sea coastal region and in the region of the Hadhramaut along the Gulf of Aden, especially among Yemenis of African origin. The extent of the practice is unknown. While some government health workers in the Tihama actively discourage clitorectomy, there is no government directive or guidance against the practice. Conservative social mores effectively prevent public discussion or government acknowledgment of the practice.

National/Racial/Ethnic Minorities.—Yemenis with a non-Yemeni parent (so-called muwalladin) face discrimination. For example, the Constitution requires that members of the Presidential Council be "born of Yemeni parents." Sanaa University, administered by the Government, applies the same restriction when hiring teaching and senior administrative staff, as does Yemen's military academy in selecting cadets. However, discrimination against muwalladin is not universal; many senior government officials, including ministers, are muwalladin. Naturalization of the non-Yemeni parent is enough to overcome the "Yemeni parents" requirement. Another smaller group known as Akhdam, the descendants of ancient Ethiopian occupiers who later became slaves, also faces persistent social discrimination.

Religious Minorities.—Apart from several Adeni Christian families and 20–30 underground Bahais in the north, Jews are Yemen's only indigenous religious minority. By custom, non-Muslims are not permitted to carry weapons, traditionally carried by Muslim Yemenis. With the recent lifting of travel restrictions, the most blatant form of discrimination against Jews has been removed. More subtle forms of discrimination, such as lack of political and economic opportunities, and the inability of Jewish men to marry outside the Jewish community, remain. Such discrimination is usually the result of custom rather than government policy, however.

People with Disabilities.—Disabled persons suffer discrimination based on traditional social prejudices against mental and physical handicaps. Persons with such handicaps are often isolated and are not given equal opportunity for education or employment. As noted in Section 1.c., mentally ill persons are occasionally shackled. The Government has not enacted legislation or otherwise mandated accessibility for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—As United Yemen has not yet enacted a new labor code, the labor codes for the former YAR and PDRY remain in effect for their respective parts of the country. In both the YAR and PDRY, labor unions were closely controlled, if not actually organized, by the respective ruling parties.

Under the YAR Labor Code, a union may be set up by 100 or more workers upon application to and approval by the Government. The Code prescribes a single union system with one union committee per enterprise, one union branch per locality, one general union per economic sector, and one national umbrella organization, which was the Yemeni Trade Union Confederation.

Public servants, employees, and manual workers employed in the state administration, as well as some categories of farm workers, are excluded from union membership. Under the YAR Labor Code, the Council of Ministers may dissolve trade unions without judicial action. The Code also prohibits unions from engaging in political activity. Financial records are subject to government oversight.

In the PDRY, the General Federation of Trade Unions (GFTU), the only labor association, was under close Yemeni Socialist Party control. The YAR and PDRY Labor Confederations merged in 1990, forming the Yemeni Confederation of Labor Unions (YCLU). The YCLU is affiliated with the International Confederation of

Arab Trade Unions and the formerly Soviet-controlled World Federation of Trade Unions.

In the YAR, labor-related legislation neither granted the right to strike nor outlawed strikes. No major strikes were held in 1993, in contrast with 1992. A general strike was called for in March, postponed until May, and finally dropped altogether after the Government agreed to substantial cost of living increases. Yemeni labor laws neither prohibit nor allow retribution against strikers. The International Labor Organization (ILO) Committee of Experts reminded the Government in March that numerous changes in the Labor Code were necessary to bring it into conformity with ILO Convention 87 on freedom of association. The Government informed the ILO in June that Article 39 of the Constitution, adopted following unification, guarantees to trade unions the right of organization, freedom of association, and political rights, which would be amplified in a new labor code.

b. *The Right to Organize and Bargain Collectively.*—Although the YAR Labor Code calls for employers to treat workers collectively, it does not require collective bargaining. There are consequently no formal collective bargaining agreements now in force. Unions do negotiate wage settlements for their members and have often resorted to strikes or other actions to achieve their demands. According to the YAR Labor Code, collective agreements must be registered and may be unilaterally revoked by the Government if they do not conform to the security and economic interests of the country.

Neither the PDRY nor the YAR labor codes specifically prohibit antiunion discrimination. Therefore, employers are not found guilty of antiunion discrimination, nor are they required to reinstate workers fired for union activities. Such matters may be taken to labor courts, however, which are generally favorably disposed toward unions. The ILO's Committee of Experts again in 1993 urged the Government to adopt legislation protecting workers against antiunion discrimination.

Until a new labor code is passed, workers in the north enjoy limited protections under the YAR Labor Code. Workers in the former PDRY have practically no protection. In the former PDRY, the State, through the YSP-controlled unions, purported to represent the rights of the workers. There was no collective bargaining, and there were no nongovernmental bodies that addressed labor grievances.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is forbidden by the Constitution, and there are no reports of its practice.

d. *Minimum Age for Employment of Children.*—There was no minimum age for employment of children in the YAR. Labor by minors aged 12 to 14 was regulated by the Labor Code. In the PDRY, the Labor Code prohibited the employment of children (defined as between 7 and 12 years of age) and regulated that of young persons (between 12 and 16 years of age), although these provisions were not rigorously enforced. Currently, apprentice employment of young persons aged 14 and older is permitted. This minimum age requirement is not enforced, and child labor is common throughout Yemen, particularly in rural areas. For the most part, it is sanctioned by family tradition, and it is not uncommon to see children working in workshops or stores. In the south, child labor often occurs on family, cooperative, and state farms.

e. *Acceptable Conditions of Work.*—There was no established minimum wage in the YAR. In the former PDRY, the labor laws set a minimum wage which provided a worker a minimal standard of living. The prevailing daily wage for unskilled labor in Yemen allows a very modest standard of living for a worker with a family.

YAR legal codes prescribe a maximum 8-hour workday (6 hours during Ramadan), but some workshops operate 10- or 12-hour shifts without penalty. The YAR Labor Code does not prescribe the number of workdays, only that the maximum workweek consist of 48 hours. There is no provision for a 24-hour rest period. The PDRY Labor Code stipulates a 42-hour workweek. Government employees generally work a reduced workweek: 35 hours (6 hours a day, 6 days a week, with a 5-hour day on Thursdays). These provisions, however, are not widely enforced in either part of Yemen. The Ministry of Labor in the YAR investigated complaints of alleged violations and, if found valid, sought restitution from the employer.

Enforcement of the Labor Code is more prevalent against foreign employers of Yemeni workers One foreign oil company was not permitted to require workers to shave; beards are usually forbidden on oil rigs to allow for the use of gas masks in the event of a blowout. Safety requirements are sometimes unenforceable because foreign companies do not have the freedom to discipline workers. Foreign companies have had labor conditions and size of work force unilaterally imposed on them by government ministries.

There is no legislation guaranteeing workers the right to remove themselves from dangerous work situations without jeopardy to continued employment. YAR and

PDRY legal codes did not effectively regulate working conditions and health hazards in the workplace, and this remains the case. In the past, the YAR government set general safety requirements for larger organizations but only occasionally checked compliance. There was legislation regulating conditions of labor in the PDRY, but there was no agency for effective enforcement.

SOUTH ASIA

AFGHANISTAN*

The political situation in Afghanistan in 1993 was characterized by the absence of effective central authority and an ongoing civil war among contending political factions. Governmental functions, where they were performed at all, were split between a fragmented central Government and several warring factions and regional councils which attempted—with mixed success—to establish some local civil administration. In March leaders of nine major political groups met in Islamabad, Pakistan and agreed, under the terms of the Islamabad Accords, to participate in a transitional grand coalition until elections could be held. Fighting among various groups continued, however, and in May the factional leaders reconvened in Jalalabad and agreed on how the transition was to be implemented. The terms of these Accords have not been fully met and, despite the drafting of an interim set of constitutional principles and inconclusive discussions about elections, intermittent fighting and a general political stalemate continued in Kabul.

No formal internal security apparatus has been established by the coalition Government. The unstable political situation, exacerbated by the presence of well-armed party militias in the capital, has produced an array of regional security bodies, many of which frequently operate independently of both party authorities and the fractious central Government.

The Afghan economy is based on agriculture, with land tenure in the hands of individuals or family/tribal groups and with some land remaining under feudal control of the traditional Khans. The collapse of irrigation systems, deterioration of market roads, and the danger of millions of unmarked land mines have seriously impeded agricultural production. Small-scale commerce, manufacturing, and mining activities also exist.

In the volatile and tense political environment of 1993, human rights were routinely violated on a large scale. The country had no constitution, national judicial system, or effective central government. Observance of human rights varied greatly from place to place, depending on the character of the local commander and his relationship with the local populace.

Throughout much of the country, there was a continued absence of the rule of law. While conditions approaching near normalcy returned to parts of the north, central, and western regions, Kabul was wracked by intermittently heavy fighting and widespread human rights abuses. Forces loyal to various factions represented in the coalition Government rocketed and shelled the capital in battles that left an estimated 18,000 people, mostly civilians, dead or wounded. Gunmen are said to have engaged in looting, rape, and murder of civilians in the ongoing struggle to control the capital.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Thousands of Afghans, including specific individuals targeted for assassination, died in 1993 during the course of the civil conflict. Perpetrators and motives were difficult to identify in most cases, as political motives were often entwined with family and tribal feuds, battles over drug turf, religious zealotry, and personal vendettas.

Intense factional fighting in Kabul in February was marked by reported excesses, even atrocities, attributed to both Hezb-i-Wahdat fighters and the Ittehad-i-Islami/Shura-i-Nazar alliance. These reports included incidents of mass rape, abduction,

*Since the staff of the American Embassy in Kabul was withdrawn for security reasons in 1989, the United States has no official presence in Afghanistan. This report therefore draws to a large extent on non-U.S. government sources.

and the torture and murder of both combatant prisoners and civilians. In February, according to press reports, approximately 60 women were seized by armed men, held in the Institute of Social Sciences in Kabul, raped, and killed. Also in February, four U.N. employees were murdered near the city of Jalalabad. Neither the motive nor identity of the killers was discovered. In July in Nangarhar province, a local group, calling itself "The Oppressed" and supported by members of the former Communist regime, was attacked by other factions, including men loyal to Shomali Khan, a member of the Nangarhar Provincial Council. At least a dozen members of The Oppressed were captured and summarily executed. In September Shomali Khan was himself killed, along with four bodyguards and some 20 bystanders, in a hail of bullets and rockets in Jalalabad. Shortly afterward, Nasir Khan, Shomali Khan's brother, was detained by a rival faction commander, allegedly tortured, and killed while in custody. Also in September, Mansur Nadiri, a leader of the minority Ismaili sect, reportedly escaped an assassination attempt in Kabul that killed a number of his bodyguards, and Yunis Qanuni, political director in the Ministry of Defense, was seriously wounded when a bomb concealed in a vendor's cart exploded as his car passed nearby. None of the perpetrators was apprehended.

Convicted murderers were summarily shot after Shari'a court trials in Kunar, Kabul, and Nangarhar provinces. There were also reports of instances in which relatives of a murder victim were allowed by local commanders to "slaughter" the convicted murderer, using a knife, in a so-called "qisas" (revenge) ritual. In one well-publicized case in northern Helmand province, the wife of a murder victim carried out the sentence; this was believed to be the first case of a "qisas" killing by a woman.

b. *Disappearance.*—Hostage taking was again common in 1993, particularly during the outbursts of heavy fighting in Kabul in January, February, and May. The Government was unable or unwilling to bring an end to this practice. An American citizen of Afghan origin and several dozen Soviet prisoners of war who disappeared during the Soviet-Afghan conflict remained unaccounted for.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There were numerous unconfirmed reports that ill-treatment and torture were used to extract information from prisoners being held by feuding political factions.

Traditional laws and punishments were often invoked in the absence of a functioning judicial system. These punishments traditionally include the amputation of hands and feet for those convicted of theft. International press reports suggest that women were frequently abused and often raped by fighters from the various warring factions, especially in Kabul.

d. *Arbitrary Arrest, Detention, or Exile.*—Informed observers agree that the rule of law has broken down in most of Afghanistan. Justice is administered locally without reference to any clear central legal system. Little is known about legal protection under current conditions, and it is doubtful that any uniform procedures exist for taking persons into custody and bringing them to trial.

The factions that form the coalition Government and independent local commanders are believed to hold up to 1,300 opponents or hostages in private prisons.

e. *Denial of Fair Public Trial.*—With the widespread breakdown of the judicial system, little was known about the administration of justice in 1993, although some municipalities and provincial authorities were known to have held public trials. Various leaders of the national political parties strongly back the imposition of Shari'a, or Islamic law, and it appeared that many local and provincial legal procedures were based on Islamic juridical precepts. Traditional tribal procedures also play a prominent role in the judicial process in some parts of Afghanistan; in many instances it is likely that these procedures do not accord with the protection of a fair public trial envisioned by international human rights standards.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—During periods of intense fighting in Kabul, there were many instances of looting, forced entry of homes, and other forms of arbitrary interference by members of factions contending for control of the capital.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Five major factions, aligned in two loose coalitions, fought over Kabul, wreaking widespread destruction and causing many deaths.

Despite Prime Minister Gulbuddin Hekmatyar's denials, credible reports indicate his Hezb-i-Islami faction fired numerous rockets at the capital, frequently demolishing residential or commercial districts of no discernible military value. Artillery, tank cannon fire, mortars, rocket-propelled grenades, and automatic weapons were employed regularly and indiscriminately in Kabul in the low-intensity fighting.

In February gunmen affiliated with Abdul Rasul Sayyaf's Ittehad-i Islami group and those of former Defense Minister Ahmad Shah Masood's Shura-i-Nazar seized the largely Shi'a neighborhood of Afshar from the rival Shi'a Wahdat militia. On

February 11th and 12th, armed men rampaged through the quarter, raping, looting, and killing civilians. One eyewitness reported to an Afghan media source that he had seen an elderly Shi'a man nailed to a tree and then shot in the head. An Afghan human rights organization reported that marauding militiamen chopped off limbs and slit the throats of civilians with bayonets. Estimates of civilians mutilated, killed, or raped in Afshar ranged from several dozen to over a thousand.

There were indications that armed factions were dragooning civilians to serve as porters or trench-diggers. In Baghlan Province, one organization allegedly forcibly conscripted a member from each family in the area to serve in its militia.

Millions of land mines sown by Soviet, regime, or resistance forces remain scattered around fortifications and roads and in the countryside. There is a U.N.-sponsored program to detect and remove mines, but the devices will pose a significant hazard to civilians for years to come.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedoms of speech and press are not guaranteed, and in practice the Government lacks the authority to protect them.

A number of daily and weekly newspapers are published in Afghanistan; they are generally under the control of the central or regional government or are organs of one of the political parties. The government-owned radio and television services were under the control of President Burhanuddin Rabbani's Jamiat-i-Islami party, but air time was occasionally granted to other groups. Prime Minister Gulbuddin Hekmatyar and National Islamic Movement leader General Abdul Rashid Dostam periodically broadcast radio and television programs from their own facilities.

In August AfghaNews reported that Prime Minister Hekmatyar sought to dissuade Kabul Radio from reporting rocket attacks on the city and sought reprisals against local journalists who wrote unflattering articles about him.

b. *Freedom of Peaceful Assembly and Association.*—In the current unsettled conditions, Afghans have a bewildering array of political groups with which they are free to associate. However, the prohibition against non-Islamic political parties remains in effect. Peaceful assembly was limited in practical terms by the dangerous security conditions in Kabul but was practiced elsewhere. Public mass demonstrations were occasionally held; in August several thousand people affiliated with a number of Afghan parties reportedly demonstrated without interference in the northern city of Taloqan against alleged Russian and Tajikistani bombardment of Afghan villages in reprisal for cross-border raids by insurgents opposed to the Government of Tajikistan.

c. *Freedom of Religion.*—Approximately 85 percent of Afghanistan's population is Sunni Muslim. Islam is the state religion, as enshrined in the official name of the country, the Islamic State of Afghanistan. In September the draft constitutional principles prepared under the auspices of President Rabbani declared the Hanafi (Sunni) rite as the basis of the State's Islamic foundation. The minority Shi'a community strongly objected, and the Shi'a Wahdat militia reportedly responded by attacking Abdul Rasul Sayyaf's religiously conservative Sunni forces.

Non-Muslims resident in Afghanistan may practice their faith, but may not proselytize, according to an official Afghan source. The country's small Sikh and Hindu communities, once totaling some 50,000, continued to dwindle as their members emigrated or became refugees in the wake of the intense religious violence to which they were subjected in some urban areas following the destruction of the Ayodya mosque in India in December 1992. There were scattered reports that zairats, shrines of Sufi Muslim orders, and some pre-Islamic funereal totems in Nuristan were also being vandalized.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Afghans were able to travel with relative freedom, both within and across the country's borders. However, travel was restricted by the deterioration of the national road network, the millions of undetected land mines, brigandage, and the unsettled political situation. Quasi-authorized checkpoints extracted tolls in cash or kind from travelers. Ethnic tensions limited the ability of some groups to travel safely through areas controlled by other groups. This made repatriation of Afghans who had fled to Pakistan and Iran difficult or, for some, impossible.

As a result of 15 years of fighting, Afghans form the world's largest refugee population, comprised predominantly of women and children. The high rates of return in 1992, when 1.4 million Afghans repatriated from Pakistan and Iran, fell sharply in 1993. Approximately 600,000 refugees returned to Afghanistan in 1993, two-thirds of them from Iran. According to the United Nations High Commissioner for Refugees (UNHCR) and the Government of Pakistan, in late 1993 there were 1.46 million Afghan refugees in Pakistan. In addition, roughly 2 million Afghan refugees remained in Iran.

During 1993 approximately 60,000 Tajiks, fleeing civil conflict in Tajikistan, sought refuge in Afghanistan. In December some 40,000 Tajik refugees remained encamped in northern Afghanistan. Threats from militant extremist groups, who wished to manipulate both the refugees and international organizations for their own ends, kept the UNHCR and other international organizations from working with about half of this large refugee population.

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

In the absence of a functioning central authority, citizens did not, in 1993, have the ability to change their government through peaceful, democratic means. The Grand Council convoked by President Rabbani in late 1992, which unilaterally extended his tenure for 2 years, was not regarded as legitimate by other political factions. After severe fighting broke out in January and February, the leaders of nine rival factions met in Islamabad, Pakistan, in March and agreed to form a transitional grand coalition until elections could be held. The Islamabad Accords were derailed in May by another outburst of fighting among the signatory groups over details of their implementation. The faction leaders reconvened in Jalalabad, where in late May they signed the Jalalabad Accords, agreeing to a mechanism for forming a transitional government. The two key elements of the Jalalabad Accords were an agreement to hold a council of commanders to choose Ministers of Defense and Interior, and the collection of heavy weapons by these authorities prior to national elections. However, these key stipulations had not been implemented by the end of the year.

In September President Rabbani appointed a 44-member commission to draft an interim set of constitutional principles. This document was rejected by two Shi'a parties and other leaders who objected to its contents on religious grounds or viewed the process itself as illegitimate. Prime Minister Hekmatyar and others pressed for early national elections to overcome the political stalemate, but political infighting prevented progress on this issue as well.

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

There are no known local human rights groups in Afghanistan, and the unsettled conditions in Kabul made it difficult for any human rights organizations to effectively monitor human rights issues.

The U.N.'s Special Rapporteur for Human Rights in Afghanistan visited Kabul in September. He met with senior Afghan officials and others and issued a report of his findings in November. The International Committee of the Red Cross was allowed to begin prison visits late in the year, in addition to continuing to provide medical services in Kabul and several provincial capitals. The Afghan League of Human Rights, based in Peshawar, Pakistan, issued a report in July condemning human rights abuses in Afghanistan. The organizer of the League reported that he subsequently became the target of threats from parties criticized in the report.

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

Women.—The participation of women in activities beyond the home and fields is limited by longstanding customs and religious beliefs. The Communist regime in the 1980's officially sanctioned a wider public role for women, whose status improved, particularly in urban areas, as they began to move, particularly in urban areas, into nontraditional occupations. However, the Mujaheddin victory over the Communist regime prompted a return to more traditional roles for women, largely restricted to the home or to all-female environments such as teaching in girls schools or working in female health clinics. Reports by travelers to Kabul in late 1993 indicated that some female newscasters had returned to Afghan television, although they were apparently subject to a strict, conservative Islamic dress code.

Children.—In the absence of an effective central authority in Kabul, it is not possible to assess the Government's commitment to the human rights and welfare of children. Various provincial and national governmental agencies, frequently in conjunction with international voluntary organizations, the United Nations, and bilateral donors made some efforts to address the most pressing social welfare needs of children, particularly in education and health care.

People with Disabilities.—The mentally and physically disabled suffered as a result of the anarchic situation existing in much of the country. The international media reported that residents of Kabul's 600-bed Marastun home for the blind, destitute, and mentally ill were abandoned by the staff in January as the security situation deteriorated. Many of the patients wandered away amid the fighting, other stayed and lived unattended and largely unfed, more than a dozen were killed in

crossfire or rocket attacks, and a number of mentally ill women were reportedly raped by gunmen who repeatedly broke into the home.

There is no information indicating whether the Government has enacted legislation mandating provision of accessibility for the disabled. Available evidence indicates a large portion of health care activity of international humanitarian relief organizations focused on providing prostheses and therapy to victims of land mines.

Section 6. Worker Rights

a. *The Right of Association.*—There was little reliable reporting on labor laws and practices. No labor rallies or strikes were reported. The Government does not have the means to enforce worker rights at present, nor is there a functional constitutional or legal framework that defines and protects them.

b. *The Right to Organize and Bargain Collectively.*—There is no tradition of genuine labor-management bargaining in Afghanistan. There is no information on any progress in establishing labor courts and other mechanisms for the resolution of disputes.

c. *Prohibition of Forced or Compulsory Labor.*—No information is available on government edicts regarding forced or compulsory labor.

d. *Minimum Age for Employment of Children.*—There is no evidence that the Government enforces a labor law relating to the employment of children.

e. *Acceptable Conditions of Work.*—No information on any statutory minimum wage is available. Provision appears to be made for time off for prayers and observance of religious holidays. There appear to be no effective enforcement mechanisms to ensure fair and safe labor practices.

BANGLADESH

Bangladesh is a parliamentary democracy headed by Prime Minister Khaleda Zia of the Bangladesh Nationalist Party (BNP). Her BNP attained a plurality of seats in the February 1991 election and reached a majority through the nomination of female members of Parliament to reserved seats. Opposition parties, including the Awami League, former President H. M. Ershad's Jatiya Party, and the Jamaat Islami, are represented in Parliament and play an active role in the political process.

The Home Affairs Ministry controls the police and paramilitary forces which bear primary responsibility for maintaining internal security. In a particularly egregious breakdown of law and order in 1993, 11 people were killed, over 200 injured, and hundreds of shops and homes destroyed when navy personnel attacked a neighborhood in Chittagong. A number of navy personnel were discharged from the service, and several were court-martialed for their role in this incident.

The army and paramilitary forces also play a significant role in maintaining security in the Chittagong Hill Tracts (CHT) where a tribal force has been waging a low-level insurgency. Due to a cease-fire, the CHT experienced fewer incidents of violence in 1993 than in 1992, although tensions remained high. In November, violence erupted in the town of Naniarchar as security forces failed to maintain order when a demonstrating tribal group was attacked, apparently by a nontribal settler group. The bloody clash left at least 27 tribals dead and almost 100 injured.

Bangladesh is one of the world's poorest countries; approximately 40 percent of the population of 118 million do not have sufficient income to meet minimum daily needs. The economy is primarily agricultural, with over 60 percent of the work force involved in farming, which represents almost 40 percent of the gross domestic product. The Government has pledged to reform the economy and to open it to market forces. However, the process of reform has been seriously hampered by resistance from those who fear losing de facto monopolies and guaranteed jobs or those who want protection from foreign competition.

There was little change in the human rights situation in 1993 from the previous year. Although less extensively than in 1992, the Government continued to use national security legislation such as the Special Powers Act to detain citizens, and in some cases political opponents, without formal charges. There were credible reports of custodial abuse and death, and those responsible generally went unpunished. Violence against women is a serious problem, but much of it is not reported and goes unpunished. Child labor is also common, with over 3 million children in the work force. There were credible reports of some forced repatriation of Rohingya refugees to Burma, and one refugee was killed by police fire in 1993.

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

a. *Political and Other Extrajudicial Killing.*—Although the January elections in Bangladesh's 89 municipalities were relatively peaceful, sporadic interparty violence resulted in 1 death and over 100 injuries. There was considerable violence involving university and secondary school students throughout the year. Much of this violence involved clashes both within and between student wings of various political parties. These incidents, which included 2 brutal gangland-style slayings, resulted in scores of injuries and at least 15 deaths in 1993.

In January, in a complete breakdown of the command and control structure, dozens of Bangladesh naval enlisted men, angered by alleged mistreatment of fellow troops by local residents, attacked a neighborhood near the Chittagong navy base. According to official sources, over 11 civilians were killed, over 200 injured, and hundreds of residential units and shops burned down. The Government's inquiry report into the incident has yet to be published, although over 20 naval personnel, including officers, were reportedly dismissed from the navy, and several have been court-martialed.

Several incidents involving shootings by security forces resulted in at least 17 deaths in 1993. In April a contingent of Bangladesh Rifles (BDR), a border security force, opened fire on a crowded cattle market and killed four persons during an attempt to confiscate cattle allegedly smuggled from India. In another incident in July, the BDR fired on a group of villagers trying to break a levee in a flooded area of Sylhet District, killing 4 and injuring 50 people. At a rail station in Dhaka in November, parapolice forces, called Ansars, shot and killed two passengers, allegedly in a dispute over payment of extortion money for goods they were transporting. There is no indication that criminal charges were brought against any of those involved in these incidents.

In 1993 human rights monitors reported at least eight deaths of prisoners in police custody. Most of those deaths occurred while accused criminals were held under police remand, the period between arrest and incarceration in one of the country's jails. The Government stated that in 1993, according to its records, no prisoners died as the result of mistreatment by police or jail authorities. The Government does not, however, routinely investigate deaths in custody. Determinations of the cause of death are often based solely on the local government medical officer's report, a practice that human rights monitors claim prevents an impartial and objective review of questionable circumstances of death. While there were reports of police transfers and suspensions pending magisterial investigations in 1993, no police were tried for abusing persons accused of crimes.

b. *Disappearance.*—There were no confirmed reports of disappearance resulting from official actions in 1993.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution forbids torture and cruel, inhuman, and degrading punishment. However, police continue to employ psychological and physical torture and other abusive treatment during interrogations, which, as indicated in Section 1.a., sometimes result in death. Torture usually consists of threats and beatings and may include the use of electric shock.

Most prisons in Bangladesh are overcrowded and lack adequate facilities for prisoners. This is especially the case in class "C" cells, which generally hold common criminals and low-level political workers. They often have dirt floors, no furnishings, and poor quality food, and the use of handcuffs and fetters is common.

Prisoners in these cells reportedly suffer the most abuse, such as beatings and being forced to kneel for long periods. Conditions in "B" and "A" cells are markedly better, with the latter reserved for prominent persons. The Government reports that independent monitoring of prisons is conducted on a monthly basis by a government-appointed committee of private citizens. The committee's findings are not made public.

Supporters of former President Ershad filed a writ of habeas corpus in the Bangladesh Supreme Court in 1992 asserting that his prison conditions are inhumane and that, among other things, Ershad has not been allowed to leave the jail for what they consider necessary medical tests. The Court had not yet rendered judgment at year's end. The Government acknowledges that Ershad has been denied these tests, claiming that his medical condition is satisfactory.

In 1993, as in the past, a number of claims were filed with magistrates against jail officials involved in alleged cases of abuse. However, human rights monitors report that none of the magistrates' reports was published and that no legal action was taken. In one example reported by human rights monitors, a 13-year-old boy was taken into custody and raped by two police officers. After inquiries by human

rights activists, the Government dismissed the two officers and reported that it planned to prosecute them on criminal charges.

d. *Arbitrary Arrest, Detention, or Exile.*—The Government continues to use national security legislation to detain citizens without formal charges. The law most often used for arbitrary detention is the Special Powers Act of 1974 (SPA). Under the SPA, the Government, through the Ministry of Home Affairs, may detain anyone deemed "a threat to the security of the country." Initially, the Government can detain a person for 30 days; by the end of that period, the Government must provide the detainee with a specific charge for his detention or release him. In practice, detainees are sometimes held for longer periods without being charged. From the date the charge is made, the Government permits the detainee 15 days to appeal the detention to the Home Ministry, which may grant early release.

After 6 months, a review panel that includes two jurists examines the case to determine if there is sufficient reason to continue the detention. If the Government adequately defends its detention order, the detainee remains imprisoned. If the Government fails to convince the review panel, the detainee is released. Detainees are allowed to see lawyers while in detention, although this is not usually permitted until a charge is filed. Detainees are allowed to see visitors and are not held incommunicado.

In September the Government reported that just under 900 people were currently being detained under the SPA, a decrease from the 3,000 level reported in 1992. The Government also reported that during the first 9 months of 1993 a total of 1,690 people were arrested under the SPA. Of 365 SPA cases that came before the High Court for review during this same period, 97 percent were found to be illegal. The great majority of those detained were released outright without being charged with specific crimes. These statistics do not support the Government's claim that the SPA is exclusively used against those facing legitimate criminal charges. In fact, the Government has used the SPA to harass political opponents, including prominent members of Ershad's Jatiya Party as well as low-level activists of other parties. For example, in April a former minister in Ershad's government and current Member of Parliament, Anwar Hussein Monju, was arrested under the SPA. He was released in May after the Government failed to file any charges against him. In addition, the Government uses the SPA to detain tribal opponents of its policies in the CHT, and human rights monitors assert that over 200 tribals are currently detained under the SPA.

In 1992 the Government enacted the Suppression of Terrorist Offenses bill. Under this law, commonly known as the "antiterrorism act," special tribunals were set up to try specific offenses, including extortion, destruction of property, hijacking, abduction, and terrorism, within specified and compressed time periods. The act specifically prohibits bail in the first month of detention; it also provides that tribunal judges are chosen by the Chief Justice, that all sentences may be appealed to the High Court, and that restitution should be provided for those wrongfully convicted.

According to the Home Ministry, during the first 9 months of 1993, 2,171 people were arrested under the antiterrorism act. Of those people tried during this period, approximately 42 percent were convicted; 371 people received prison sentences, most for periods of less than 10 years. The majority of the convictions were for extortion, hijacking, and terrorism. In November the first death sentence under this law was handed down to a man convicted of ransacking a testing hall and fighting with police during a national higher secondary school exam. This sentence is subject to higher review.

When the antiterrorism law went into effect, opponents of the bill expressed concern that indiscriminate use of the law would lead to many more cases of arbitrary detention on political grounds. However, the consensus among human rights monitors is that the antiterrorism law has so far been used to arrest criminals and not political activists. Nonetheless, concerns remain about the potential for abuse, and opposition parties continue to campaign for the law's repeal.

There were no reports of persons being exiled in 1993.

e. *Denial of Fair Public Trial.*—The court system is divided into two levels, the Low Court and the Supreme Court, both of which hear civil as well as criminal cases in public trials. The Low Court consists of magistrates, who are part of the administrative branch of government, and session judges, who belong to the judicial branch. The type and location of a case determines which of these branches will hear it. The Supreme Court has two divisions—the High Court division and the Appellate division. The High Court division hears original cases and reviews decisions of the Low Court. The Appellate division has jurisdiction to hear appeals of judgments, decrees, orders, or sentences of the High Court division. Rulings of the Appellate division are binding on all other courts.

The upper levels of the Bangladesh judiciary exhibit a high degree of independence and often rule against the Government in criminal, civil, and even politically sensitive cases. For example, in April a High Court division bench restored the citizenship of jailed Jamaat Islami leader Golam Azam despite government arguments that he did not qualify for citizenship. In July another High Court bench rejected the Government's arguments and ordered Azam released from incarceration.

The judicial system is inefficient and has a serious backlog. According to Ministry of Law statistics, the lower courts have over 218,000 criminal and civil cases on the docket, some dating back over a decade. In addition, the High Court division of the Supreme Court reports a backlog of over 5,000 cases which are over 10 years old. The Government reports that 26,352 of those awaiting trial are currently in prison. Over half have been in pretrial detention for less than 6 months, while 2,263 have been awaiting trial in prison for over 2 years. In November a man was released from the central prison after 21 years; for the first 13 years he was serving a sentence, and for the last 8 years he was awaiting trial on a second charge which was dismissed upon his release. In 1993 the Ministry of Law announced plans to hire more judges and streamline the legal process, but during the year only 13 new judges were appointed to the lower court.

The law provides an accused with the right to be represented by counsel, to review accusatory material, to call witnesses, and to appeal a judgment. In practice, however, these rights are not widely understood by a largely rural, illiterate population and are not always respected by the authorities, especially outside the main urban centers. The law allows judges to release an accused person awaiting trial on petition of bail. If bail is not granted, however, there are no legal limits to pretrial detention.

The time-consuming and expensive process of pursuing cases discourages many from seeking redress through the courts. While the right to legal counsel is recognized, it is not guaranteed. Courts provide state-funded defense attorneys in only a limited number of cases, and there are few legal aid programs to assist litigants. In June former President Ershad was convicted of use of undue influence and corruption and sentenced to 7 years' imprisonment. In 1991 and 1992, he was convicted on two other charges and sentenced to 13 years in prison. Ershad is appealing all of these convictions. He is now in prison, and a number of other cases are pending against him. He has been represented by counsel throughout the proceedings. His trials have been open to the press and public and conform to standard Bangladesh legal practice.

The Government claims to hold no political prisoners. However, some arrests under the SPA were for essentially political reasons, including those of members of Ershad's Jatiya Party and tribals arrested for allegedly aiding and abetting the insurgent group Shanti Bahini in the CHT.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Bangladesh legal procedure requires a judicial warrant before authorities may enter a home, and the courts may only issue this warrant if the Government provides evidence of reasonable suspicion that a crime has been committed or is being contemplated. In practice, human rights monitors assert that warrants are rarely obtained and there are no sanctions applied against officers violating the stipulated procedure. The SPA permits authorities to search premises without a warrant.

Some opposition and CHT tribal leaders maintain that their telephones and mail are monitored by the Government's civilian and military intelligence services.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Since the early 1970's, the Shanti Bahini, a tribal insurgent group, have waged a low-level conflict in the CHT. The insurgency grew out of a conflict between the tribal people, who sought to maintain their traditional way of life and special status in the hill areas, and Bengali settlers from the lowlands who sought to exploit the CHT's fertile and relatively unpopulated land. In the 1960's and 1970's, large-scale government settlement programs rapidly increased the number of Bengali inhabitants in the CHT from only 3 percent in 1947 to an estimated 45 percent. In response to tribal grievances, the Government in 1985 began to discourage and eventually prohibited further settlement by nontribals in the CHT. Despite this, some settlers continue to move into the area.

In a further attempt to end the insurgency, the Government established elected district councils in 1990 which assumed control of local government affairs in June 1991. However, the military remains in place and continues to exercise veto power over any matter that could affect security. Law and order matters and control over land, two fundamental issues for the tribal people, have not yet been placed in the hands of the district councils.

Throughout the conflict, all sides—tribals, nontribal settlers, and security forces—have accused each other of numerous human rights violations. The details of specific

incidents have been difficult to verify because of limited access to the area caused by government travel restrictions, tight security, difficult terrain, and unsafe conditions linked to the insurgency. In November, after over 1 year of relative quiet, violence erupted in the remote town of Naniarchar when a tribal group demonstrated for removal of a security checkpoint. A group of Bengali settlers reportedly attacked the demonstrators as well as other tribals in the town and looted and burned tribal homes. Army and police security forces present failed to stop the clash until at least 27 tribals had been killed and as many as 100 injured. The Government immediately appointed a one-man judicial inquiry commission to investigate.

A similar incident in April 1992 in the village of Logong, remains a contentious issue because of the Government's failure to take more than limited administrative action against those involved, as well as complaints about the accuracy of the government commission's inquiry report. According to that report, security forces and Bengali settlers killed 13 tribals (a number disputed by human rights monitors, who claim many more died), injured 13 others, and burned 550 huts in retaliation for the killing of a Bengali settler by the Shanti Bahini. There is no indication that the Government imposed or plans to impose any criminal sanctions on any of those responsible for the attack. The Government reports that one junior officer was dismissed from the border security forces, and disciplinary actions are pending against two paramilitary soldiers.

The Government continues to maintain a highly visible presence in the CHT. However, a series of short-term cease-fires, initiated by the Shanti Bahini in August 1992 and formally joined by the Government in May 1993, brought a decrease in violence and claims of human rights abuses in 1993. A government-appointed Parliamentary Committee held six meetings with representatives of the Jana Sanghati Samity (JSS), the political wing of the Shanti Bahini, to seek a solution to the conflict. The JSS has demanded removal of all Bengali settlers, withdrawal of the military, and regional autonomy, conditions which the Government has rejected. The sixth round of talks on November 24 resulted in little more than an agreement to meet for round seven and to extend the cease-fire until January 31, 1994.

In connection with efforts to stem the pattern of violence in the CHT, the Government sought to facilitate the repatriation of tribal refugees from the conflict who have sought shelter in India. Concerns about security and return of land were reportedly the primary issues that stalled these efforts (see also Section 2.d.). Despite the cease-fire and government-JSS talks, the situation remained fluid and tensions were high in the Hill Tracts throughout the year.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and the press, subject only to "reasonable restrictions." In practice, the Government generally respects freedom of speech and tolerates open criticism of the Government. Public rallies and speeches are frequent and often in opposition to government policies or actions. The Government sought to impose no new restrictions on speech or publications in 1993, although it continued to limit equal access to broadcast media and discussed imposing regulations on journalists. Several attacks on newspaper offices by unknown assailants occurred during the year.

Bangladesh has a large number of publications containing a wide variety of editorial views. Newspaper ownership and content are not subject to government restriction. Despite frequent government statements, particularly by the Minister of Information, regarding a code of ethics for journalists and required qualifications for the position of editor, no actions were taken to impose such restrictions.

The Government continues to own BSS, one of two national news services, and to control a large advertising budget, which reportedly accounts for as much as 75 percent of all newspaper advertising revenues. Some editors complain that the Government uses its advertising budget to punish newspapers that criticize it, leading to self-censorship. This self-censorship may take the form of muted criticism of the Government. In general, however, newspapers publish a wide variety of viewpoints and opinions.

The Government provides some advertising to all newspapers but continues to favor some over others. The Information Minister has publicly stated on several occasions that one of the criteria for the distribution of government advertising is the degree of objectivity in the paper's reporting. This is a difficult standard to judge and is potentially subject to abuse. In addition, government advertising allotments are not distributed in direct proportion to circulation. The two papers owned by a government-controlled trust receive the greatest share, while others with higher circulations lag behind. The ruling party BNP newspaper, Dinkal, receives more government advertising than its circulation would appear to justify, while opposition

papers receive less. For a period in early 1993, the left-leaning Bhorer Kagoj received no government advertising.

There were several attacks on newspaper offices in 1993. In February the office of the daily Banglabazar Patrika was ransacked. The police investigation turned up no clues or suspects. The paper had published several stories unfavorable to the ruling party, but no link between those stories and the attack was established. Also in February, the offices of the private news service, United News of Bangladesh, were attacked after the agency reported the winner of a parliamentary by-election before the election commission had officially released the results. In June unknown assailants broke into the offices of The Morning Sun and did extensive damage to computers and other equipment, while in September a bomb attack on the office of Ajker Kagoj resulted in injury to seven staff members.

The broadcast media remain under government control and ownership. Broadcast news provides noticeably more extensive and favorable coverage of the Government than of the opposition. Failure to provide coverage of events unfavorable to the Government is sometimes striking. In May this practice was evident in the coverage of a serious accident at Dhaka's airport involving an airplane of the government-owned Biman Bangladesh airlines. Bangladesh Television (BTV) failed to report the early morning accident, a major news story, in its evening broadcasts, reportedly because the Government had not yet issued an official statement. In another example, BTV coverage of a strike called by the National Trade Union Federation in May to protest the Government's refusal of concessions failed to mention widespread closures of factories and showed only footage of those that remained open.

In late 1992, the Government began to broadcast Cable News Network and British Broadcasting Corporation international news for several hours each day on the single Bangladesh television station. The Government continued this practice during 1993, thereby permitting considerably increased access to international news. The direct reception of international satellite telecasting services is becoming increasingly popular in Bangladesh and has not been regulated by the Government.

Issues of staffing and general programming tend to be politicized at BTV. During 1993, some BTV employees were reportedly transferred to other positions in the Ministry of Information after allegedly failing to respond to requests for coverage from ministries and high-ranking members of Parliament belonging to the ruling BNP party. Some critics claim that the Government removed the Director-General of BTV in June because he backed his staff on such questions.

The Government's Film Censor Board continues to exercise control over the screening of films in Bangladesh. It initially banned a film about the war of liberation on grounds that it distorted the nation's ideals. In response to a public outcry, the censors reversed their decision and allowed the film to be shown. The Censor Board also bans films it finds pornographic, and the Government continues to ban films from South Africa and Israel.

Foreign publications are generally available in Bangladesh. No foreign journalists were arrested, barred from entry, or expelled in 1993. No arrests were reported under the clause of the 1991 Penal Code prohibiting the publication or circulation of any statement "prejudicial to the interest of security of Bangladesh or public order."

Academic freedoms are respected by the Government. However, faculty and student bodies are deeply politicized, sometimes inhibiting freedom of expression on campus. Teachers complain that verbal and physical assaults by students are politically motivated. Drama groups need permission—routinely granted—to perform plays. In 1993 the Government banned performance of "jatras"—bawdy village operas—on the grounds of obscenity. While the ban is enforced in the rural areas, government-sanctioned performances are permitted at a government-run academy in Dhaka.

A book entitled "Lajjya" ("Shame"), a fictional account of the plight of a Hindu family forced to leave Bangladesh by Muslim neighbors following the destruction of the Babri mosque in India, was banned by the Government a few months after its release in February. The Government justified the ban as necessary to avoid communal misunderstandings and violence, describing the book as "tantamount to blasphemy" and offensive to the "religious sentiment" of the majority of the population. A little known fundamentalist Islamic group from the northeast city of Sylhet issued a death threat against the book's author, Taslima Nasreen. Although it later retracted the death threat, the group continued to organize demonstrations against Ms. Nasreen's writings and to demand that the Government prosecute her for them. In response to the death threat and verbal attacks, the author sought and obtained court-ordered police protection. The Government took no action against the group that issued the death threat.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of every citizen to form associations, subject to "reasonable restrictions" in the interest of morality or public order. In practice, individuals are free to join private organizations and associations. Public meetings require a permit from a local district magistrate. Occasionally, the Government prohibits rallies in certain areas for security reasons. Sit-ins, hunger strikes, marches, and rallies are common forms of political expression in Bangladesh. These occasionally lead to violence, sometimes involving the police. In March the police attempted to stop a rally in downtown Dhaka by the Nirmul Committee, a group dedicated to prosecuting alleged collaborators for atrocities committed during the war of liberation. In breaking up the gathering, the police beat a number of the leaders, including Jahanara Iman, a nationally known writer and mother of a freedom fighter killed in the independence struggle. The Government received much public criticism for its heavy-handed tactics. The authorities frequently prohibited or harassed Jatiya Party meetings. Jatiya Party members who attempted to hold marches in Dhaka were forcibly prevented from doing so by the police. In some cases this led to minor violence between police and demonstrators.

c. *Freedom of Religion.*—Islam is the dominant religion in Bangladesh, practiced by an estimated 87 percent of the population. The Eighth Amendment to the Constitution, passed in 1988, recognized it as the state religion. Although it also assures the freedom to practice other religions, this constitutional change continues to cause concern among Hindu, Christian, and Buddhist minorities. Some minority citizens believe it has encouraged hostility toward them and contributed to heightened communal tensions.

Following the destruction by Hindu radicals of the Babri mosque in Ayodhya, India in December 1992, a backlash occurred in many parts of Bangladesh. Some Hindu temples were reportedly looted and destroyed. The Government reacted quickly and successfully contained most public demonstrations in the major cities, keeping violent actions against Hindu communities and property to a minimum. In many rural areas, however, Hindu communities received less effective police protection. Human rights monitors and Hindu organizations reported some deaths, hundreds of beatings, and significant property damage. The Government later offered to provide approximately $38,000 for the reconstruction of destroyed Hindu temples.

Proselytizing by Bangladeshi citizens is permitted by the Constitution, although in practice it is generally directed only toward such minority groups as Hindus and tribal people. There is strong social resistance to conversion from Islam.

Government policy continues to permit various religions to establish places of worship, train clergy, travel for religious purposes, and maintain links with coreligionists abroad. Foreign missionaries may work in Bangladesh, but, unlike citizens, their right to proselytize is not protected by the Constitution, and the issue is extremely sensitive. An example of this sensitivity occurred in late 1992 when allegations of proselytizing and conversions from Islam provoked an attack by local Muslim residents on the largely Christian village of Chabagan in the Chittagong district. An angry mob attacked villagers, destroyed some homes, and threatened a nearby foreign Christian missionary-run hospital. Local authorities successfully defused tensions without further loss of property.

Some missionaries and Christian nongovernmental organizations report facing bureaucratic obstacles in carrying out their activities, including the threatened withdrawal of their government registrations along with lengthy delays in obtaining or renewing security clearances and visas for foreign personnel. Appeals to the Government have sometimes been successful in removing such obstacles.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Except in designated areas of the CHT, Bangladeshi citizens are free to move about within the country. Travel by foreigners is also restricted in the CHT and some other border areas. Bangladeshis are generally free to visit abroad and emigrate, subject to foreign exchange controls. Civil servants must first obtain clearance from the Prime Minister's office. In some instances, persons considered to be security risks are barred from traveling abroad. The right of repatriation is observed.

After the fall of the Ershad regime, the former President (currently imprisoned) and some of his family, as well as several senior members of his regime and political party (Jatiya Party), were prevented from leaving the country, and their passports were seized. This occurred even though the Supreme Court in July 1990 had declared illegal the seizure in 1986 of a former Member of Parliament's passport. The Acting Secretary General of the Jatiya Party and another party official were prevented from traveling to Saudi Arabia in 1993, when government officials charged they were carrying a letter from jailed former President Ershad to King Fahd. Some

of those affected by such restrictions have challenged them in the courts and have received rulings allowing them to travel.

Approximately 238,000 non-Bengali Muslims, known as Biharis, remain in Bangladesh pending resettlement in Pakistan. After independence in 1971, these persons opted for Pakistani citizenship, and Pakistan agreed in principle to accept them. Despite Pakistani assurances to Prime Minister Zia, during her visit to Pakistan in August 1992, that 3,000 Biharis would soon be accepted, only one small transfer of 325 refugees took place in January.

The Biharis, most of whom still reside in 66 camps throughout Bangladesh, may seek employment and conduct other activities, but as noncitizens they do not vote, hold seats in Parliament, or hold passports. Biharis may apply for Bangladeshi citizenship at any time, and those who do are granted full rights of citizenship.

At the end of 1993, approximately 200,000 Rohingyas, Muslims from Burma's Arakan Province, remained refugees in southeastern Bangladesh. Fleeing repression of the Burmese security forces, 250,000 Rohingyas crossed the border into Bangladesh, largely in late 1991 and early 1992. With international assistance, they are being housed in 19 camps in the area of Cox's Bazar. The Government restricts their movements and frequently arrests those who venture outside the camps. The Government is under domestic pressure to repatriate the refugees quickly.

The presence of the Rohingya refugees continues to spark occasional public protests and violent incidents involving security personnel, local residents, and refugees. There were credible reports that local government authorities abused refugees in order to force repatriation at various times during 1993, especially in August and September. The United Nations High Commissioner for Refugees (UNHCR), in addition to providing relief services, has worked to protect the refugees from abuses and to ensure that repatriation is voluntary. The repatriation process, which began in September 1992, has been slow, sporadic, and marred by government efforts to coerce refugees into returning to Burma. In December 1992, UNHCR announced that the Government was preventing it from carrying out its protection mandate, and credible reports of forced repatriation by the Government prompted international criticism. After extensive negotiations, the Government and UNHCR signed a Memorandum of Understanding (MOU) in May that permits UNHCR to conduct private interviews of returning refugees to determine if their decision is voluntary. It also allows UNHCR access to all the refugee camps during daylight hours.

Due to uncertainty about the life they would face after returning to Burma, most Rohingyas were unwilling to volunteer for repatriation in the absence of international monitoring in Burma. By the end of 1993, 16 months after the process began, only about 50,000 had returned. However, the Government of Burma and UNHCR reached an agreement in November that, when implemented, will permit a UNHCR presence in Burma to protect the returning refugees and to provide relief and rehabilitation assistance.

Between 30,000 and 50,000 Bangladesh tribal refugees from the CHT are residing in the Indian state of Tripura. It is believed that up to 15,000 may have returned to Bangladesh in the last several years. Bangladesh and India reached agreement on plans for full repatriation and announced the agreement with promises of the return of land to the refugees and extensive resettlement assistance. However, no refugees returned on the first scheduled date in June. The Government continues to attempt to reassure the refugees of a receptive climate for their return. Despite repeated visits to the camps in India by government representatives and a refugee delegation visit to Bangladesh for first-hand observation in September, there was no official repatriation of tribal refugees in 1993.

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

With the fall of the Ershad regime and the holding of free and fair elections in 1991, Bangladesh's citizens began to enjoy the right to change their government through democratic means. Bangladesh has a multiparty parliamentary system in which elections by secret ballot are held on the basis of universal suffrage.

Members of Parliament are to be elected at least every 5 years. The Parliament has 300 elected members, with 30 additional seats reserved for women who are chosen after the election by the seated Parliament. Candidates may contest a maximum of five seats in any one election but may hold only one. Parliament elects Bangladesh's president to a 5-year term. The President's duties are largely ceremonial.

The Bangladesh Nationalist Party, headed by Khaleda Zia, emerged from the election in 1991 with a plurality of seats and formed a government. It currently holds a slim majority in Parliament. The parliamentary opposition is led by Sheikh Hasina Wajed and her party, the Awami League. While there are a number of

minor parties, the only other major opposition parties are former President Ershad's Jatiya Party and the Islamic-oriented party, the Jamaat Islami.

Municipal elections were held in January throughout the country, and in February a by-election was held to fill a vacant parliamentary seat. The by-election was won by the ruling Bangladesh Nationalist Party, but the opposition Awami League claimed there were irregularities in the vote counting. The independent Chief Election Commissioner ordered a recount—the first in Bangladesh's history—which confirmed the original results. Outside observers found the election process to be free and fair. In the municipal elections, nominally nonpartisan, the right to vote was openly, freely, and fairly exercised. Although some scattered violence occurred, its incidence was greatly reduced from elections held under the previous regime.

Tribals in the CHT have full national voting rights and are represented in the Parliament by three members. A majority of the seats on the three local district councils in the CHT is reserved for tribals.

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

A number of domestic human rights nongovernmental organizations operate openly, actively conducting investigations into allegations of possible human rights violations. During 1993, some of these organizations published extensive reports of their findings, held press conferences, and issued appeals to the Government to take action in specific cases. Local organizations regularly communicated with government officials as well as representatives of international human rights organizations and foreign governments. They also implemented programs promoting human and legal rights awareness among the country's largely uneducated and rural majority. In 1993 there were no reports of arrests of human rights monitors, confiscation of publications, or forced suspension of an organization's activities.

The Government continues to be sensitive to international opinion regarding human rights issues. On occasion during 1993, the Government restricted access to some Rohingya refugee camps by nongovernmental relief organizations and UNHCR representatives. However, in the May agreement with UNHCR, the Government guaranteed UNHCR access to all camps during daylight hours. Since then, access to the camps has been greatly improved.

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

Bangladesh is a largely rural and culturally homogeneous society, with deeply ingrained cultural and religious traditions. It is also one of the most densely populated countries in the world with a developing economy that is barely able to keep pace with population growth. In this context, women, children, minority groups, and the disabled often confront social and economic disadvantages that the society is unable or unwilling to eliminate. Article 27 of the Constitution states that "all citizens are equal before the law, and are entitled to equal protection by the law." In practice, legal provisions aimed at eliminating discrimination are not strongly enforced. Social programs designed to help disadvantaged groups are often insufficient or not fully implemented.

Women.—Women continue to hold a subordinate place in Bangladesh society. While their position has improved in the last decade, progress has been slow. Even though some 80 percent of the population lives in rural areas where women's traditional role is crucial to the well-being and success of the family and community, women are nevertheless generally considered an economic liability and receive inferior treatment. Most nutrition, health, and educational indicators show that Bangladeshi women fare worse than men.

Article 28 of the Constitution specifically prohibits government discrimination against any citizen on grounds of sex. Despite this provision, women do not enjoy equal status with men under the law. The 1961 Muslim Family Ordinance, for example, provides for less inheritance for women than for male family members and more limited divorce rights. Men are permitted to have up to four wives. Under criminal and civil law, women are granted equal status. In practice, however, high illiteracy rates (greater among women than men) and unequal educational opportunities often mean that women are unaware of their rights. Strong social stigmas and lack of economic means to obtain legal assistance frequently prevent women from seeking redress in the courts, which are in any event heavily backlogged (see Section 1.e.). A small number of legal awareness programs targeted at women have had limited impact. Women enjoy full voting rights which they exercise openly in at least equal numbers with men.

In education and employment women occupy a measurably weaker position. By tradition, and perhaps in response to women's lack of economic opportunities (which

tends to perpetuate the cycle), families tend to invest more in male than female education. Among the majority rural population, only 30 percent of primary school students are female. This figure drops to below 25 percent at the secondary level and below 15 percent at the college and university level. While economic opportunities for women have grown faster than those for men in the last decade, women still occupy only a small fraction of the wage-earning jobs, except in the garment industry. Less than 5 percent of all government jobs are held by women. A policy of ensuring more women among new hires has had limited effect as the Government has been unable to reach its stated goal of 15 percent.

Violence against women is part of, and at the same time overshadowed by, the general repression of women in society. Specific acts of violence are difficult to quantify because of unreliable statistics. Due to the second-class status of women in society, most incidents go unreported because they are either ignored by the authorities or suppressed by the family or community. An indication of the level of violence against women was revealed in the statistics released by the Government in October on recorded cases of suicide in the country for the previous 22 months. According to these figures, women had a considerably higher suicide rate (57 versus 42 percent) than the majority male population. In 1993 human rights monitors reported five incidents in which unofficial community councils carried out judgments, usually floggings, against women accused of various moral offenses. One woman was reportedly stoned to death, and another was burned. The Government, which recognizes the role of traditional village councils in resolving local disputes, has said that it is seeking criminal prosecution of those involved in the death cases.

The Government has enacted laws specifically prohibiting certain forms of discrimination against women, including the Anti-Dowry Prohibition Act of 1980 and the Cruelty to Women Law of 1983. Enforcement is weak, especially in the rural areas where most of the population resides, and the Government usually does not vigorously prosecute cases which are filed. While it is clear that dowry deaths do occur, there are no reliable statistics on their number or on the prosecution of perpetrators. The Government reports that under the Cruelty to Women Law 1,108 cases were filed in the 12-month period ending in July 1993. By the end of 1993, only 14 of those cases had been prosecuted, and in only one case was a conviction obtained.

Children.—The Government undertakes programs in the areas of primary education, health, family planning, and nutrition which target directly or have a direct impact on the welfare of children. Some programs have been quite successful. For instance, the Government's immunization program has raised childhood immunization rates in the urban areas from 3 percent to 82 percent. However, although reliable expenditure figures are not available, it is clear that current resources are inadequate to meet the needs of this vulnerable and major segment of the population. General health and social indicators clearly show that most children face difficult odds in obtaining adequate health care and education. Despite improvements made in the last decade, indicators such as infant mortality and child morbidity rates remain relatively high.

The Government in 1991 made universal primary education mandatory but stated that it could not implement the law in the foreseeable future Pilot programs in one small area of each of Bangladesh's 64 districts were begun. In practice, among children 6 to 10 years of age, only about 50 percent are in school. Of those, approximately 65 percent drop out before the age of 10.

Primary education is currently underfunded in comparison with secondary schools and universities, which together receive about 70 percent of the Government's expenditures on education. Recognizing the importance of primary education, the Government in 1993 created a Division of Primary Education, separate from the Ministry of Education and reporting directly to the Prime Minister's office.

Human rights monitors have reported problems of children being abandoned, kidnaped, and sold into bondage, as well as a growing problem of child trafficking and prostitution schemes. When uncovered by the authorities, these have received wide public attention and condemnation. Police and border security forces are alert to and routinely check for signs of child trafficking. Government officials acknowledge, however, that a lack of resources and training limits their ability to tackle these problems.

Indigenous People.—The issue of property rights for land traditionally held by the tribal people of Bangladesh, particularly those of the CHT, continues to cause claims of discrimination and to provoke acts of violence. Until 1985 the land of CHT tribal peoples, who frequently lacked proof of ownership, was regularly parceled out by the Government to Bengali settlers. There were also complaints of false deeds, physical attacks, unannounced mortgage foreclosures, and outright confiscation of land from suspected tribal insurgents. No reports of similar violations have been received in

recent years, but longstanding complaints continue to be a fundamental factor underlying the insurgency in the CHT (see Section 1.g.). The Government has moved toward granting more authority over local matters to the tribal people in the CHT. In July 1991, tribal-dominated local government councils assumed control over primary education, health, family welfare, and agricultural extension. Government security forces, however, continue to control issues of law and order as well as land use.

Tribal peoples in other areas of Bangladesh in the past have also reported loss of land to Bengali Muslims through questionable legal practices and other means.

Religious Minorities.—Religious minorities, principally Hindu, Christian, and Buddhist, make up an estimated 13 percent of the population. Although equal under the law, these minorities are, in practice, disadvantaged in such areas as access to government jobs and political office. Selection boards in the government services are often without minority group representation. In the current Parliament there are 12 members from minority groups, out of a total of 330.

Property ownership, particularly for Hindus, has been a contentious issue since independence, when many Hindus lost land holdings due to unequal application of the law. Reported cases of violence directed against religious minority communities has resulted in loss of property, most recently in the aftermath of the destruction of the Babri mosque in India in December 1992. These actions are a symptom of the communal tensions that have prompted some people belonging to minority groups to leave Bangladesh, causing a slow but steady decline in the relative size of the country's minority population, especially Hindus.

People with Disabilities.—According to government figures, there are approximately 3 million disabled people in the country. Bangladesh's laws provide for equal treatment and freedom from discrimination for the disabled. The Government has not yet enacted specific legislation or otherwise mandated accessibility for the disabled. It has announced, however, that it is developing a national plan of action to address this and other ways of promoting the rights of disabled people.

In 1993 the Ministry of Social Welfare reported that in the last year approximately 100,000 disabled people benefited from programs to teach technical skills. An overall lack of resources directed toward the disabled, however, leaves them disadvantaged and unable to benefit fully from legally prescribed rights. The disabled are particularly vulnerable to the problems of insufficient employment opportunities and inadequate health, education, and social services that affect the society as a whole.

Section 6. Worker Rights

a. *The Right of Association.*—The Bangladesh Constitution guarantees freedom of association, the right to join unions, and, with government approval, the right to form a union. With the exception of workers in the railway, postal, telegraph, and telephone departments, government civil servants are forbidden to join unions. This ban also applies to security-related government employees, such as the military and police. Bangladeshi civil servants forbidden to join unions, such as teachers or nurses, have joined associations that perform functions similar to labor unions, i.e., providing for members' welfare, offering legal services, and airing grievances. Collective bargaining, however, is prohibited. Some workers have formed unregistered unions. Current law also prohibits professional and industry-based unions in Bangladesh's two export processing zones (EPZ's).

Workers in the two EPZ's have also skirted prohibitions on forming unions by setting up associations. The Government has stated that labor law restrictions on freedom of association and formation of unions in the EPZ's will be lifted by 1997. In the burgeoning garment industry, there have been numerous complaints of workers being harassed and fired in some factories for trying to organize workers.

Approximately 1.6 million members of the country's total work force of about 45 to 50 million workers belong to unions. Only about 3 million workers are involved in the formal industrial sector. (There is a large unreported informal sector, and labor statistics are unreliable.)

Ten to 15 percent of Bangladesh's approximately 4,200 labor unions are affiliated with 23 officially registered National Trade Union (NTU) centers (there are also several unregistered NTU's). There are no legal restrictions on political activities by labor unions, though the calling of nationwide general strikes or transportation blockades by unions is considered a criminal rather than political act and thus forbidden. Some unions have complained that the Government is using its antiterrorism law as a means to suppress both opposition political workers and union members, rather than bona fide terrorists.

Unions are not part of the government structure. They are highly politicized, however, and virtually all the NTU centers are affiliated with political parties, including

one with the ruling BNP. Some unions are militant and engage in intimidation and vandalism. Illegal blockades of public transportation routes by strikers occurred several times in 1993, with scattered violence. Clashes between members of rival labor unions occurred in 1993, and at least two union leaders died in such incidents. On September 13, 25 workers were injured in clashes between armed Awami League and BNP labor front members at the large Adamjee jute mill.

For a union to obtain and maintain its registration, 30 percent employee participation is required. Workers are eligible for membership on the unions' executive staff, the size of which is set by law in proportion to the number of union members. Registration of a union may only be canceled by the Registrar of Trade Unions with the concurrence of the Labor Court, but no such actions were known to have been taken in 1993. There are no restrictions on affiliation with international labor organizations, and Bangladeshi unions and federations maintain a variety of such links. Trade unionists are required to obtain government clearance to travel to International Labor Organization (ILO) meetings, but no clearances were reported denied in 1993.

The right to strike is not specifically recognized in the law, but strikes are a common form of protest. In 1993 university teachers struck over the issue of campus violence. Jute, textile, and sugar workers struck over the issues of minimum wages, privatization of industry, retrenchment of workers, and the detention of labor officials.

General strikes continue to be used by the political opposition to pressure the Government on political demands, causing significant economic and social disruption through loss of work hours and production. Wildcat strikes are illegal but occur frequently, with varying government response.

The Essential Services Ordinance permits the Government to bar strikes for 3 months in any sector it decides is "essential." This ban, which is generally obeyed, was applied in 1993 to national airline pilots and water supply workers and previously has been applied to shipping operations and electricity supply workers. The Government is empowered to prohibit a strike or lockout at any time before or after the strike or lockout begins and to refer the dispute to the Labor Court. Mechanisms for conciliation, arbitration, and Labor Court dispute resolutions were established under the Industrial Relations Ordinance of 1969. Workers have the right to strike in the event of a failure to achieve a bipartite settlement. If a strike lasts 30 days or longer, the Government may prohibit the strike and refer the dispute to the Labor Court for adjudication. This took place in several cases in 1993, but no decisions were reached by the court. Such delayed decisions are frequent, usually due to nonattendance by employers or the union. Both sides use the tactic of delay, employers attempting to keep workers on the job, and union leaders, short of strike funds, allowing workers to return to work without calling off the strike.

There are provisions in the Bangladesh Industrial Relations Ordinance for the immunity of registered unions or officers from civil liability. Enforcement of these provisions is uneven. In the case of illegal work actions, such as transportation blockades, police arrest union members under either the Special Powers Act, the Antiterrorism Law, or regular criminal codes.

b. *The Right to Organize and Bargain Collectively.*—Free collective bargaining is legal only for private sector workers in Bangladesh, on condition that the workers are represented by unions legally registered as collective bargaining agents by the Registrar of Trade Unions. Collective bargaining occurs on occasion in large private enterprises, but, with unemployment in the 30 percent range, workers' concerns with job security often outweigh wage and other issues. During three major strike calls in 1993, worker attendance at private factories remained high. Collective bargaining generally does not occur in small private enterprises.

Public sector workers' pay levels and other benefits are recommended by the National Pay and Wages Commission. The Commission's recommendations are binding and may not be disputed except on the issue of implementation.

Under the Industrial Relations Ordinance, there is considerable leeway for discrimination against union members and organizers by employers. For example, the Ordinance allows arbitrary transfer of workers suspected of union activities. Complaints that employers routinely engage in antiunion discrimination are particularly high in the garment industry. In practice, private sector employers tend to discourage any union activity. The Registrar of Trade Unions rules on discrimination complaints. In a number of cases, the court has ordered the reinstatement of workers fired for union activities. However, the Labor Court's overall effectiveness is damaged by a serious case backlog, and there have also been allegations that some of its deliberations have been corrupted by employers. Unions are prohibited and no collective bargaining takes place in the export processing zones. The Government has stated that restrictions on unions in these zones will be lifted by 1997.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor. The Factories Act and Shops and Establishment Act, 1965, set up inspection mechanisms to enforce laws against forced labor, but resources for enforcement are few. These laws are not rigorously enforced. While Bangladesh does not experience large-scale, bonded labor, there is forced labor to the extent that workers are often required to work later than stipulated by law. This is the case in the garment industry, which operates in high-volume, short-deadline modes of production.

d. *Minimum Age for Employment of Children.*—Bangladesh has laws that prohibit labor by children. The Factories Act of 1965 bars children under the age of 15 from working in factories. This law also stipulates that young workers (i.e., children and adolescents) are only allowed to work a maximum 5-hour day and only between the hours of 7 a.m. and 7 p.m.

In reality, enforcement of these rules is inadequate. According to United Nations estimates, about one-third of Bangladesh's population under the age of 18 is working. Children are commonly seen driving rickshaws, breaking bricks at construction sites, and working at tea stalls. Children also routinely perform domestic work. Cases of children being physically abused and occasionally killed by the head of households where they work are reported in the press. Under the law, each child must attend school through the fifth grade. However, the Government continues to maintain that it does not have the resources to implement this law immediately in the entire country.

In anticipation of possible U.S. legislation prohibiting the import of products made by child labor, thousands of underage children employed in Bangladesh's garment industry were fired in 1993. A cooperative effort to rehabilitate the estimated 70,000 children who will ultimately lose their jobs in the garment industry is being mounted by the Bangladesh Government, the United Nations Children's Fund (UNICEF), the ILO, and nongovernmental organizations.

e. *Acceptable Conditions of Work.*—There is no national minimum wage. Instead, the wage commission sets wages industry by industry. In most cases, private sector employers ignore this wage structure, arguing that low labor productivity vitiates any argument for a set wage. In 1993 the Confederation of Labor Unions (SKOP) won a minimum wage agreement for public sector factory workers that fell slightly short of the level recommended by the wage commission. According to the agreement, government factory workers will receive about $24 a month (950 taka) plus benefits, effective in July 1993. Private sector wages tend to fall below the total government wage and benefits package. The average wage of private sector workers in similar industries is several hundred taka less.

The law sets a standard 48-hour workweek with 1 day off mandated. A 60-hour workweek, inclusive of a maximum 12 hours of overtime, is allowed. The law is poorly enforced in industries such as hosiery and ready-made garments. Relative to the average standard of living in Bangladesh, the average monthly wage could be described as sufficient to support life but not by any means a good wage for a family.

The Factories Act of 1965 nominally sets occupational health and safety standards. The law is comprehensive but appears to be largely ignored by many Bangladeshi employers. Workers may resort to legal action for enforcement of the law's provisions, but few cases are actually prosecuted. Enforcement by the Labor Ministry's industrial inspectorate is weak. Due to high unemployment and inadequate enforcement of the laws, workers demanding correction of dangerous working conditions, or refusing to participate in perceived dangerous activities, risk losing their jobs.

BHUTAN*

Bhutan is an absolute monarchy, ruled by the Wangchuck dynasty of hereditary monarchs since 1907. Located in the Himalayas between India and Tibet, the small Kingdom has been able to escape domination by any external power since the 10th century. There is no written constitution or bill of rights. King Jigme Sinhye Wangchuck, on the throne since 1972, has continued social and political reforms begun by his father, but progress has been disrupted over the past half decade by civil strife involving ethnic Nepalese. Buddhists constitute between one-half and

*Bhutan and the United States do not have diplomatic relations, and U.S. officials travel there infrequently. Since few independent observers have visited southern Bhutan, information on Bhutanese practices affecting human rights is often incomplete.

two-thirds of the population; another third, mostly from the southern districts, is of Nepali Hindu ethnic origin.

The Royal Bhutan Police, a force of about 5,000, assisted by the Royal Bhutan Army, with approximately 7,000 lightly armed men, and a militia of about 10,000, maintains internal security.

An estimated 90 percent of Bhutan's 600,000 population are largely illiterate and live in rural areas on subsistence agriculture in a mainly barter economy. India is Bhutan's main trading partner and principal source of foreign exchange.

Despite some positive actions, including the Government's authorization of periodic prison visits by the International Committee of the Red Cross (ICRC) and implementation of certain legal reforms, there remained serious concern about the Government's human rights practices, including implementation of the 1985 Citizenship Act; related measures to strengthen Bhutanese culture; the failure to prosecute security force members who committed rape, torture, and other abuses in the name of enforcing citizenship laws; and the status of 85,000 ethnic Nepalese refugees from southern Bhutan currently in camps in eastern Nepal.

The 1985 Citizenship Act targets the ethnic Nepalese minority, whose growing percentage of the population was perceived by the ruling Drupka Buddhists as a threat to their culture. Under the Act, tens of thousands were declared to be illegal immigrants and forcibly evicted from Bhutan. Others fled voluntarily in the face of officially sanctioned pressure, including arbitrary arrests, beatings, rape, robberies, and other forms of intimidation by police and the army. The Bhutan People's Party (BPP) and the Bhutan National Democratic Party (BNDP), organized by ethnic Nepalese in exile, continued to press for democratic reforms and resist government policies they argue would suppress their ethnic and cultural identity. The Government outlawed the BPP in 1990, accusing it of killing government officials, destroying government property, and kidnaping or attacking southerners who did not support its cause.

Other human rights abuses included: denial of the right of citizens to change their government; limitations on the right to a fair trial; restrictions on peaceful association and assembly, and worker rights; and traditional cultural practices that result in some discrimination against women.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no independent confirmations of such killings. A government report charged ethnic Nepalese dissident groups with responsibility for 17 murders between August 13, 1992, and June 5, 1993. Bhutan's government-controlled weekly newspaper described numerous incidents during 1992 and 1993 in which unidentified attackers killed and mutilated government officials and civilians living in the south. Among the victims were Dattaram Sharma, a former government official stabbed to death in August 1992, and Dil Maya Dungel, the daughter of a village headman who suffered gunshot wounds when armed men raided the family's home. A substantial but undetermined number of the attacks the Government has identified as incidents of terrorism appear in fact to have been the work of armed robber gangs taking advantage of unsettled conditions on the Indo-Bhutan border.

b. *Disappearance.*—Over the past 3 years, police and army forces have arrested thousands of ethnic Nepalis suspected of supporting the dissident movement, some of whom were held incommunicado and consequently were thought to have "disappeared." According to a 1993 government report, 1,592 accused "antinationals" were subsequently released under official amnesties. Bhutanese human rights groups claim many other detainees outside the Thimphu area are still unaccounted for and presume these people are being held without charge. They also charge that some may have been "disappeared" by government security forces. The Government denied such disappearances ever took place and accused dissident groups of kidnaping over 200 people during the last 3 years, including 24 between August 13, 1992, and June 5, 1993.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—According to human rights groups, there were continuing reports from ethnic Nepalese refugees in India and Nepal of hundreds of cases in which police or army forces had allegedly beaten, raped, and robbed suspected supporters of the dissident movement and their families. In a survey of 1,781 refugee families living in camps in Nepal conducted by the Human Rights Organization of Bhutan (HUROB), 204 respondents stated they had left Bhutan because a family member had been beaten or tortured. Twenty-one respondents claimed to have been raped, and 383 said they left Bhutan because they had been threatened with or feared rape. HUROB, the

People's Forum for Human Rights, Bhutan (PFHRB), and the South Asia Human Rights Documentation Center (SAHRDC) published dozens of affidavits from victims of rape and torture who fled to the refugee camps in Nepal. Several nongovernmental organizations in Nepal are providing rehabilitation services to torture victims among the ethnic Nepali refugees.

In the aftermath of widespread arrests in 1990 and 1991, prison conditions were poor, with inadequate sanitation, unhealthy food, and endemic overcrowding. Several detainees were alleged to have succumbed to harsh prison conditions. Responding to pressure from Amnesty International (AI), the Government ended the use of shackles in 1992, and periodic ICRC prison visits beginning in 1993 also contributed to a marked improvement in conditions of detention.

The abuses committed by government forces in southern Bhutan were a consequence of government policies intended to reduce the presence of ethnic Nepalese. These policies created a climate in which intimidation of ethnic Nepalese was encouraged and physical abuse tacitly condoned. A 1993 survey of victims of violence in the refugee camps, prepared by a consultant to an international refugee agency, found that most alleged incidents of torture in southern Bhutan took place in 1990 and 1991. This finding is consistent with reports that abuse by government forces peaked during the year following the September 1990 disturbances led by the BPP. The consultant found that reported rapes continued at a high rate into 1992; however, there were few reported cases of rape and torture in 1993. The Government flatly denied such abuse ever occurred. Since October 1993, newly arriving refugees have reported incidents of intimidation and abuse which indicate another deterioration of the situation in Bhutan. While the influx to camps has remained low, cases accepted by the United Nations High Commissioner for Refugees on the grounds of persecution (as opposed to family reunion claims) have doubled to 66 percent.

d. *Arbitrary Arrest, Detention, or Exile.*—Bhutanese law contains no guarantees against arbitrary arrest. The Government said that 17 "confirmed terrorists" were arrested by the security forces between January 1, 1992, and May 21, 1993, and that another 55 "terrorists" were caught by village volunteers and handed over to police during the same period. The Government released no information about what happened to these detainees or when they might be tried. Past treatment of other such detainees suggest that their detention may be arbitrarily prolonged.

The November 1992 session of Bhutan's National Assembly produced a new national security law that eliminates the mandatory death penalty for treason. Government officials previously cited the death penalty requirement, and their desire to avoid executions, as an excuse for delay in trying those held on charges related to the unrest in the south. In late 1992, judgments were handed down against 37 people charged with treason and various other "antinational" activities. Thirty-two defendants were found guilty and given sentences ranging from 9 months to life in prison. As of late 1993, about 200 "antinationals" were still in detention pending trial on charges related to political unrest in southern Bhutan. Most were housed at a prison camp in Chemgang, a mountainous area outside Thimpu. Evidence suggests that incommunicado detention is no longer a problem.

e. *Denial of Fair Public Trial.*—The judicial system consists of district courts and a High Court in Thimpu. Minor offenses and administrative matters are adjudicated by village headmen. Criminal cases and a variety of civil matters are adjudicated under a 17th-century legal code, revised in 1959, which applies to all Bhutanese regardless of ethnic origin. Judges appointed by and accountable to the King are responsible for all aspects of a case, including investigation, filing of charges, prosecution, and judgment. After appeal to the High Court, a final appeal may be made to the King who traditionally delegates such matters to the Royal Advisory Council. The legal system does not provide for jury trials or the right to a court-appointed defense attorney.

The Bhutanese legal system has no provision for lawyers or solicitors, although it does allow for the appointment of a "jambi" (a person well-versed in the law) if the defendant so desires. Questions of family law, such as marriage, divorce, and adoption, are resolved separately according to traditional Buddhist law for the majority of Bhutanese and Hindu law in areas where persons of Nepalese extraction predominate.

Tek Nath Rizal, an ethnic Nepali, former member of the Bhutan National Assembly and Royal Advisory Council, and founder of PFHRB, was held for over 3 years pending trial. Rizal was abducted in November 1989 from eastern Nepal, where he fled after clashing with the King of Bhutan over ethnic Nepalese rights. The Government accused Rizal of orchestrating an "antinational campaign" and on December 29, 1992, formally charged him with conspiracy, sedition, and treason. Rizal waived his right to a jambi and defended himself at his trial. On November 16, Tek Nath Rizal was convicted and sentenced to life imprisonment under the National

Security Act of 1992. The Government found him guilty of violating the National Security Act by carrying out harmful activities against the Tsa Wa Sum (King, country, and people). Rizal was granted a conditional clemency on November 19 which provides for his release as soon as the southern problem is resolved. Rizal is the only internationally recognized political prisoner in Bhutan.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—There are no written guarantees of privacy, but Bhutanese cultural traditions are highly respectful of personal privacy. These traditions were undermined by the Government's emphasis on promoting national integration. A royal decree issued in 1989 made Drukpa national dress compulsory for all citizens. Anyone found violating the decree may be fined or sentenced to jail for a week. Although enforcement of the decree has become lax, it is still observed during business hours in southern towns like Phuntsholing and Geylegphug. According to human rights groups, police regularly conduct house-to-house searches for suspected dissidents without explanation or legal justification.

Section 2. Respect for Civil Liberties, Including

a. *Freedom of Speech and Press.*—With an adult literacy rate reliably estimated at around 30 percent, Bhutan's population is relatively unaffected by the print media. Kuensel, the Government's weekly newspaper, with a circulation of 10,000, is the country's only regular publication. Indian and other foreign newspapers are available, but authorities confiscate and censor editions carrying articles critical of the royal family or government policies. Bhutan has no television broadcast service. In 1989 the Government ordered the dismantling of about 20 television satellite dishes which were being used to distribute illegally television transmissions from neighboring countries as well as through satellite technology. Many Bhutanese continue to receive television transmissions from neighboring countries as well as through satellite technology.

The government radio station broadcasts each day in the four major national languages (Dzongkha, the language of the western highlands; Nepali; English; and Sharchop). Indirect criticism of the King is permitted in the National Assembly and is sometimes covered in the Kuensel. The Government banned the Nepalese language as a medium of instruction in Bhutanese schools at the end of 1990. Many schools in the south were closed in the aftermath of the 1990 disturbances or converted into army camps and detention centers. The Government reported that most had reopened by mid-1993, but outside observers are only able to confirm the reopening of about half the schools. The ban on instruction in Nepali remains.

b. *Freedom of Peaceful Assembly and Association.*—There are no written guarantees of these freedoms. Bhutanese may engage in peaceful assembly and association only for purposes approved by the Government. Although the Government allows civic and business organizations, there are no political parties. The BPP and BNDP, organized by ethnic Nepalese exiles from Bhutan, have been labeled "terrorist and antinational" and according to the Government "have no standing inside the country." Both parties advocate a constitutional monarchy with a parliamentary democracy and claim wide support in southern Bhutan.

c. *Freedom of Religion.*—Buddhism is the state religion. The Government subsidizes monasteries and shrines and provides aid to about a third of the Kingdom's 12,000 monks. The monastic establishment enjoys statutory representation in the National Assembly and Royal Advisory Council and is an influential voice on public policy.

Citizens of other faiths, largely Hindus, enjoy freedom of worship but may not proselytize. Under Bhutanese law, conversions are illegal. The King has declared major Hindu festivals to be national holidays, and the royal family participates in them. It is illegal for foreign missionaries to proselytize in the Kingdom, but international Christian relief organizations and Jesuit priests are active as teachers and in other humanitarian activities.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Some Bhutanese enjoy considerable freedom of movement, but many reports indicate that ethnic Nepalis face substantial restrictions on their ability to travel inside Bhutan. For many years, Bhutanese seldom traveled inside or outside the Kingdom, but the construction of roads and the establishment of air links with neighboring countries have encouraged travel. Bhutan's southern border with India is open, and people residing in the immediate areas freely cross this border. Indians from other regions who enter Bhutan by airplane or stay in hotels must have visas and fall under the cap set by the Government limiting the admission of tourists to 4,000 per year. By treaty, Bhutanese are free to reside and work in India.

Since early 1988, Bhutan has sought to reduce the ethnic Nepalese population by implementing a 1985 act that significantly tightened the requirements for transmit-

ting citizenship. Until 1985, citizenship was transmitted as long as the father was a Bhutanese citizen under the 1958 Nationality Law of Bhutan (which granted citizenship to all ethnic Nepalese adults who owned land and had lived in Bhutan for at least 10 years). The 1985 act raised this standard by requiring that both parents be Bhutanese citizens in order to transmit citizenship. Residents of Bhutan who could not satisfy this new requirement were retroactively declared illegal immigrants.

People losing their citizenship under the 1985 act may apply for naturalization but only after satisfying a rigorous set of standards, including proficiency in the Dzongkha language and proof of residence in Bhutan during the previous 15 years. Exile political groups complain that the law makes unfair demands for documentation on largely illiterate people in a country that has only recently adopted basic administrative procedures. They claim that many ethnic Nepalese whose families have been in Bhutan for generations were expelled because they were unable to document their claims to residence. The Government denies this and asserts, for example, that the word of village leaders is an acceptable substitute for written documentation. Refugee groups dispute this statement and report that village elders are not present when citizenship interviews are carried out.

The 1985 Citizenship Act also provides for the revocation of citizenship of any naturalized citizen who "has shown by act or speech to be disloyal in any manner whatsoever to the King, country, and people of Bhutan." The Bhutanese Home Ministry, in a circular notification dated August 17, 1990, advised that "any Bhutanese national leaving the country to assist and help the antinationals shall no longer be considered as a Bhutanese citizen . . . such people's family members living under the same household will also be held fully responsible and forfeit their citizenship." Human rights groups charge this provision was widely used to revoke the citizenship of ethnic Nepalese who were subsequently exiled from southern Bhutan. In 1993 growing numbers of refugees reported their citizenship was revoked under this provision.

Arrivals of refugees from Bhutan in the eight camps run by the United Nations High Commissioner for Refugees (UNHCR) and its cooperating agencies in Nepal peaked during 1992. By mid-1993, arrivals had fallen to slightly more than 100 per month, reflecting tightened screening at the Nepalese border and an apparent reduction in official pressure on the ethnic Nepalese. By September 1993, 85,000 were registered in the UNHCR camps, of whom about 66,000 arrived during 1992. Between 5,000 and 15,000 more are believed to have left Bhutan and settled with family members in India. The total outflow of approximately 100,000 people is equal to about 15 percent of Bhutan's population.

Many refugees, especially those who arrived in Nepal during 1991 and 1992, claim to have been pressured to leave by local authorities. These pressures include the threat to confiscate property, denial of public services, and physical intimidation. For much of 1993, refugees reported leaving Bhutan because of increasing depopulation in southern districts, feelings of apprehension and insecurity, the loss of their jobs after it was discovered that they had family members who had fled the country, and the wish to be reunited with relatives already living in the camps. As the year drew to a close, however, refugees increasingly reported incidents of persecution—including beatings, destruction of homes, and eviction at gunpoint—as the reason for fleeing. Expulsions appear to continue under the government circular described in Section 1.f. which provides for the exile of persons whose family members have joined the "antinational" movement.

The Government claims that those who were expelled are Nepalese or Indian citizens who came to Bhutan to work after the 1958 Nationality Law was issued. It also claims the majority of those arriving in Nepal have left voluntarily after selling their land and property. There are credible reports that these "voluntary emigrants" were compelled to sign away their property by government officials. In July Nepal and Bhutan agreed to form a joint committee to settle the problem of the refugees. However, the King and other Bhutanese officials have repeatedly stated they will accept responsibility only for "bona fide Bhutanese nationals who have been forcibly evicted." Documentation requirements are to be determined by the joint committee. However, the Government of Bhutan has made clear that it plans to accept few repatriates.

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

Citizens of Bhutan do not have the right to change their government. Bhutan is an absolute monarchy, with sovereign power vested in the King. The Government has resisted democratic changes. Decisionmaking is centered in the Palace and involves only a small number of officials in the civil and religious establishment. Al-

though the present King and his father have made attempts to integrate women and some southerners (ethnic Nepalese) into the body politic, the system is still dominated by the male members of an aristocracy of Mahayana Buddhist ancestry. Political parties do not exist, and the Government discourages their formation. The BPP, founded in June 1990, was outlawed the following September after widespread protests by ethnic Nepalese in southern Bhutan. The Government claimed the BPP was a terrorist organization, responsible for murders, kidnapings, and destruction of government property in the south. The Government also outlawed the Bhutan National Democratic Party (BNDP), founded in February 1992 by former government officials of ethnic Nepalese origin.

The National Assembly, formed in 1953, is composed of 105 members elected by limited franchise (heads of family in Hindu areas, village headmen in Buddhist regions), 12 elected by the monastic establishment, and 33 high-level government officials appointed by the King. Its principal functions are to enact laws, approve senior government appointments, and advise the King on matters of national importance. It also provides a forum for presenting grievances and rectifying cases of maladministration. Voting is by secret ballot, with a simple majority needed to pass a measure. The King cannot formally veto legislation, but he may return bills to the Assembly for further consideration. The members occasionally have rejected the King's recommendations or delayed their implementation, but the King has always had enough influence to persuade the Assembly to approve legislation he considers essential or to withdraw proposals he opposes. Government officials may be questioned by the Assembly, and ministers may be forced to resign by a two-thirds vote of no confidence.

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

Just as it does not permit political parties, neither does the Government permit local human rights groups. At least three groups led by ethnic Nepalese exiles, HUROB, PFHRB, and the Association of Human Rights Activists - Bhutan (AHURA), monitor the human rights situation in southern Bhutan and collect depositions from refugees in Nepal. These groups also campaign internationally to put pressure on the Bhutanese Government and conduct human rights education among the refugees in the camps. These groups report human rights violations by dissident groups but only rarely. The Government accuses HUROB, PFHRB, and AHURA of working for antinationals.

The Government's attitude toward international human rights and humanitarian groups continued to show signs of improvement in 1993. ICRC representatives visited prisons near Thimpu three times in 1993. The Government had an ongoing dialog with Amnesty International (AI) focused on recommendations in an AI report issued in December 1992. These recommendations included the abolition of shackles, establishment of a mechanism to hold security forces accountable for torture, and ratification of the Convention Against Torture. Although shackles appear to have been abandoned by government security forces, much more needs to be done. The Government continues to deny visas to international groups and individual investigators.

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

Women.—Bhutan has developed neither a rigid caste system nor customs that sequester or disenfranchise women. Family land is divided equally between sons and daughters, and dowry is not practiced, even among ethnic Nepalese Hindus. A United Nations Children's Fund (UNICEF) study found that boys and girls in Bhutan receive equal treatment as regards nutrition and health care. This equality of treatment is reflected in data showing little difference between sexes in child mortality rates.

Among urban Bhutanese, girls are given "equal or near equal opportunities" to pursue education, UNICEF found. This pattern of parents seeking education for their children, regardless of sex, appears to apply among both Hindu and Buddhist families. Nationwide, however, government data indicate that girls account for only about 40 percent of the school population. Although traditional cultural patterns place girls in a lower status than boys, girls are still cherished, since in Bhutanese society it is they who care for the parents when they reach old age.

The sexes mix freely, and polygyny is sanctioned as long as the first wife gives her permission. Marriages may be arranged by partners themselves as well as by their parents, and divorce is common. Legislation has been enacted in recent years making marriage registration compulsory and favoring women in matters of alimony. About 10 percent of government employees are women. In rural areas, the

division of labor follows strict gender lines, and women in unskilled jobs are generally paid slightly less than men.

Rape was made a criminal offense in Bhutan in 1953, but that law had weak penalties and was poorly enforced. The National Assembly in its July 1993 session adopted a revised Rape Act with clear definitions of criminal sexual assault and enhanced penalties. In cases of rape involving minors (which reportedly is a growing problem in Bhutan), sentences range from 5 to 17 years. In extreme cases, a rapist may be imprisoned for life.

The National Women's Association of Bhutan was formed by the National Assembly in 1981 to promote improvements in the socioeconomic status of women. It now functions as an independent nongovernmental organization.

Children.—Children enjoy a privileged position in Bhutanese society and benefit from international development programs focused on maternal and child welfare. The Government's 1992 5-year plan estimates the primary school enrollment rate at 66.9 percent in 1990, based on an estimated population of 104,000 children between the ages of 6 and 12. Bhutan's health care system combines internationally funded medicine with traditional spiritual and ritual remedies. The child mortality rate in 1984 was 21.1 percent. In 1990, 84 percent of Bhutanese children had received required immunizations.

National/Racial/Ethnic Minorities.—Ethnic Nepalese first came to Bhutan in large numbers at the turn of the century. These migrants were granted Bhutanese citizenship for the first time under the Citizenship Law of 1958 (see Section 2.d.). The Government contends there was large-scale illegal immigration which went undetected by the Government until the census carried out in 1988. The discovery that ethnic Nepalese were on the verge of becoming a majority prompted the Government to launch an aggressive campaign to reassert Bhutanese (Drupka) culture and tighten immigration. If no action was taken, the ruling elite feared, Bhutan's Buddhist society would be overwhelmed by the Hindu ethnic Nepalese, as happened in neighboring Sikkim (which was annexed by India in 1974).

Early efforts at halting the unfavorable demographic trends focused on limiting immigration and attempting to assimilate the existing ethnic Nepalese. Attempts at assimilation included financial incentives for intermarriage, education for some students in regions other than their own, and direction of economic development funds to the south. By 1989 assimilation gave way to policies aimed at "Bhutanization." Measures intended to preserve a national identity required the wearing of Bhutanese dress, made the teaching of Dzongkha compulsory, and banned instruction in Nepalese. Under the 1985 Citizenship Act, tens of thousands of ethnic Nepalese were declared to be illegal immigrants and forcibly evicted from the country. Still more fled the country in the face of officially sanctioned pressure (see Sections. 1.c. and 2.d.).

International pressure on Bhutan increased during 1992, as concern spread about the ballooning refugee population in Nepal. In response, the Government tried to stem the outflow of migrants from southern Bhutan. A royal decree was issued making it a criminal offense to forcibly evict any citizen, and three government officials were convicted on charges related to intimidation of ethnic Nepalese. Ethnic Nepalese also were excluded from paying rural taxes and contributing labor for development projects in 1992. By that time, however, the exodus had gained momentum; thousands of ethnic Nepalese with unquestioned claims to Bhutanese citizenship moved to India or the refugee camps in Nepal to be reunited with family members and escape a climate of fear and uncertainty in southern Bhutan.

By law southerners may own land and establish business in the north, and northerners have the same right in the south. Nonetheless, it is reportedly still difficult for ethnic Nepalese (except government officials) to buy property in Buddhist areas. Ethnic Nepalese have been required to produce "No Objection Certificates" issued by the police for admission to schools and for jobs. For example, a November 6 advertisement in the national newspaper requires students seeking to enter a driving school to produce a "No Objection Certificate." Admission to a course for a postgraduate certificate in education requires a "No Objection Certificate." These certificates continue to be required despite claims by the Government that they would be abandoned. In fact, these certificates are used to prevent ethnic Nepalese citizens from taking jobs or educational slots in many districts of Bhutan.

Exile student groups accuse the Government of revoking the scholarships of Nepalese students who were accused of supporting the dissident movement. Government critics claimed families with ties to the Palace and senior levels of the Government are strongly favored in their access to government employment and state scholarships for foreign education. The Government contends that it has made a serious effort to send qualified minority candidates for education overseas. To defend its hiring practices, it cites data on government employment showing that as of 1991 near-

ly half of the civil service was filled by ethnic Nepalese. Of 213 students sent to India for study between 1985 and 1991, it says, 127 were southern Bhutanese.

People with Disabilities.—Bhutan has not passed legislation mandating accessibility for the disabled. There is no evidence of official discrimination against people with disabilities, but neither is there evidence of official efforts to assist the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—Trade unionism is not permitted, and Bhutan has no labor unions. There is no right to strike. Bhutan is not a member of the International Labor Organization.

b. *The Right to Organize and Bargain Collectively.*—There is no collective bargaining or legislation addressing labor-related issues pertaining to industry, which accounts for about 25 percent of the gross domestic product but only a minute fraction of the total work force. The Government affects wages in the manufacturing sector through its control over parastatal wages.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Government uses a system of compulsory labor taxes to compensate for its low financial tax base. Under various development schemes, a typical urban or rural family of 8.5 persons could be liable for up to 40-person days of labor each year.

d. *Minimum Age for Employment of Children.*—There are no laws governing the employment of children. Children are not employed in the industrial sector, but many assist their families in the traditional economy. In roadbuilding, for instance, eligibility for employment is by height, not age. Although most workers are at least 15 years of age, a UNICEF study suggested children as young as 11 are sometimes put to work with roadbuilding teams.

e. *Acceptable Conditions of Work.*—As noted above, there is no legislation addressing labor issues. There is no legislated minimum wage, standard workweek, or health and safety standards. Labor markets are highly segmented by region, and monitoring wage developments is inhibited by the preponderance of subsistence agriculture and the practice of barter. The largest salaried labor market is the government service, which has an administered wage structure last revised in 1988. Only about 18 industrial plants employ more than 50 workers. Apart from a few of these larger plants, the entire industrial sector consists of home-based handicrafts and some 60 privately owned small or medium-scale factories producing consumer goods. A predominantly agricultural country, Bhutan's rugged geography and land laws that prohibit a farmer from selling his last 5 acres result in a predominately self-employed agricultural labor force.

INDIA

India is a parliamentary democracy with a free press, civilian-controlled military, independent judiciary, and active political parties and civic associations. Competitive elections produce regular changes of leadership at the national, state, and municipal levels.

The 25 state governments have primary responsibility for maintaining law and order. However, the central Government provides guidance and support through use of national paramilitary forces and in law has ultimate responsibility for protecting the fundamental rights guaranteed under the Constitution. The Union Ministry for Home Affairs controls the nationwide Indian Police Service, most of the paramilitary forces, and the internal intelligence bureaus. The rapid growth of the internal intelligence bureaus and the increased use of paramilitary forces against separatist insurgencies and communal unrest have given the Home Ministry increasing day-to-day control over law and order operations. Centrally controlled paramilitary forces are deployed throughout India and have been responsible for significant human rights abuses in Jammu and Kashmir and the northeast. These abuses ultimately raise questions about the effectiveness of civilian oversight and the extent of the Government's willingness and ability to prosecute offenders vigorously. Army units are also deployed for internal security duty in Kashmir and the northeast, and generally show greater respect for human rights than the paramilitary forces, although they have also been responsible for some abuses.

India has a mixed economy, with the private sector dominating agriculture, most nonfinancial services, consumer goods manufacturing, and some heavy industry. The Congress (I) Government pursued economic liberalization and structural reforms begun in 1991. Trade and foreign investment restrictions were relaxed, certain gov-

ernment subsidies and foreign exchange and price controls were reduced, and the government deficit was brought under control. India's economic problems are compounded by population growth of 2 percent per year, with a current total of about 891 million. Income distribution remained very unequal. Forty percent of the urban population and 51 percent of the rural population live in extreme poverty.

Despite extensive constitutional and statutory safeguards, significant human rights abuses persist throughout India. The abuses are aggravated by severe social tensions and the authorities' attempts to contain violent secessionist movements. Abuses are particularly acute in disturbed areas, such as Punjab and Kashmir, where the judicial system has broken down in the face of terrorist threats. As in past years, areas of abuse include: extrajudicial executions and reprisal killings by security forces in Kashmir, Punjab, and northeast India (encouraged in some cases in Punjab by government bounties on killed militants); political killings, kidnaping, and extortion by militants; torture, rape, and deaths of suspects in police custody throughout India; incommunicado detention for prolonged periods without charge under special security legislation; inadequate prosecution of police and security forces' personnel implicated in abuse; widespread intercaste and communal violence; legal and societal discrimination as well as extensive violence, both societal and by police and other agents of government against women; infrequent prosecution of "dowry deaths" (wife murder); and widespread exploitation of indentured, bonded, and child labor.

In 1993 the Government sought to address human rights concerns by opening dialogs with international human rights organizations and the International Committee of the Red Cross (ICRC), allowing some international monitors access to Kashmir and other parts of India, enhancing human rights training for police and army personnel, and creating a National Human Rights Commission with powers to investigate and recommend punishment in cases of police abuse. To date these efforts have produced only modest results.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Political killings by both government forces and militants continued at a disturbing rate, particularly in Jammu and Kashmir, Punjab, and the northeast, where separatist insurgencies continued in 1993. Extrajudicial executions of suspected militants and their supporters by government security forces accounted for hundreds of deaths, as did terrorist attacks by militant groups. Ethnic and communal strife resulted in additional killings. Deaths in police custody received increased public attention in 1993 and were the subject of significant court decisions mandating compensation for victims and their families. However, as in the past, there was little evidence that the responsible officials received appropriate punishment.

Extrajudicial executions in areas facing separatist insurgency were generally tolerated by state authorities, who claimed the breakdown of judicial systems left security forces no alternative for dealing with accused terrorists. A September 1991 amendment to the Code of Criminal Procedure granted broad protection to all public servants, including the security forces, for acts committed while discharging their official duties in states under President's rule. This provision contributed to the security forces' sense of impunity in Jammu and Kashmir, which remained under President's rule throughout the year.

Civilian and security force casualties reported in Kashmir were relatively stable, but the number of militants killed climbed significantly. Press reports indicate that 1,161 civilians and 215 security force personnel died in insurgency-related violence in Kashmir in 1993. Militant casualties during this same period numbered 1,438, many of whom died under suspicious circumstances. The Jammu and Kashmir Basic Rights Protection Committee, a group headed by a retired high court justice, drew on press accounts to detail 168 deaths in security force custody during the first 4 months of 1993. The victims of custodial violence included a state police constable, whose reported death in army custody in April sparked a 6-day police rebellion centered in Srinagar. (See Section 1.g. for further discussion of extrajudicial killing in Jammu and Kashmir.)

Kashmiri militant groups carried out politically motivated killings on a wide scale, targeting government officials, alleged police informers, members of rival factions and Hindu civilians. On August 14, militants stopped a bus in Jammu and killed 16 Hindu men. On August 3, militants attacked Hindu pilgrims near Anantnag, killing 1 and injuring 23. Among those killed in targeted militant attacks were a retired assistant commissioner, a Hindu leader in Jammu, a Srinagar-based news reader for All India Radio, and the relative of a local Congress(I) leader.

In Punjab police continued to engage in extrajudicial killings including faked "encounter" killings. In the typical scenario, police take into custody a suspected militant or militant supporter without filing an arrest report. If the detainee dies during interrogation or is executed, officials deny he was ever in custody and claim he died during an armed encounter with police or security forces. Alternatively, police may claim to have been ambushed by militants while escorting a suspect. Although the detainee invariably dies in "crossfire," police casualties in these "incidents" are rare.

In one such incident, a 22-year-old Sikh farmer, Manjinderpal Singh, was picked up by police on July 12. According to the Punjab Human Rights Organization, the detainee's father and members of the village council on July 14 contacted the district police chief, who told them Singh would be released soon. On July 20, the police chief reported that Singh had been killed on July 15 in an encounter with militants. The police reportedly offered no explanation for the delay in informing the family.

In another case of extrajudicial killing, Kulwant Singh, a Sikh lawyer, disappeared on January 25 along with his wife and child after he was called to the Ropar police station to pick up a client. Following repeated inquiries by local lawyers for over 2 weeks, the district police superintendent announced that Kulwant Singh and his family were killed on January 25 by two terrorists who wanted to surrender. The police superintendent claimed the terrorists who allegedly confessed to the killings committed suicide by swallowing cyanide shortly before their role in Kulwant Singh's murder was made public. Punjab Chief Minister Beant Singh agreed to order an inquiry into the case but reportedly backed off in the face of police resistance.

The Armed Forces (Punjab and Chandigarh) Special Powers Act of 1983 grants army and paramilitary personnel wide discretion in the use of lethal force, giving authorities an easy defense for "encounter" killings. Extrajudicial executions were also encouraged by the Punjab government's practice of offering bounties for killed militants. The chief minister told the state assembly that over 41,000 such bounties were paid between 1991 and 1993; in some cases more than one person claimed credit for the same killing.

The claim of Indian human rights groups that Punjab police were engaged in a systematic campaign to liquidate militants and their supporters is borne out by data showing a high ratio of militant to security force casualties. Press reports indicate 589 alleged Sikh militants were killed in Punjab in 1993, compared to 23 civilians and 16 members of the security forces.

There were several reports during 1993 that Punjab police "hit teams" were pursuing Sikh militants in other parts of India. On May 17, one such team raided an apartment in Calcutta looking for alleged militant Lakshmi Singh. According to neighbors, Punjab police commandos broke into the apartment early that morning, shot Singh and his wife in their bedroom, then fled with the bodies. The government of West Bengal lodged a protest with the Punjab government, but no disciplinary action was reported against the police commandos.

In a similar incident, on July 3 two brothers, Dilbagh and Kashmir Singh, were taken into custody in Bombay by a Punjab police team. After his release, Kashmir Singh claimed they were subjected to mental and physical torture before being put on a train for Punjab on July 5. When they turned his badly bruised body over to family members, police said Dilbagh Singh had fallen from the moving train. Bombay Sikh activists claimed Dilbagh Singh was killed by the police and called for a full investigation, but no action was taken. Punjab Police Chief K.P.S. Gill told journalists on July 22 that "the purpose of having such teams has been to trace, identify, and kill top militants." Gill added that Punjab police teams were stationed in the states of Rajasthan, Gujarat, West Bengal, Bihar, Maharashtra, Jammu and Kashmir, Assam, and Uttar Pradesh.

There were few instances of terrorist violence in Punjab during 1993, in part a consequence of stringent government security measures. On April 25, the district commissioner (head of civil administration) in Bathinda was injured by a bomb that exploded near his vehicle. On March 24, militants on a scooter killed seven people and injured two when they opened fire on a crowd near Ludhiana. Sikh militants operating in the Terai region of Uttar Pradesh killed 11 people and injured 3 in a string of apparently random attacks on June 9. On September 24, Sikh militants reportedly fired on a bus-load of Youth Congress leaders near Ludhiana, killing 3 and injuring 11.

In the states of Andhra Pradesh and Bihar, Maoist revolutionary Naxalites targeted politicians, landlords, and government officials in terrorist attacks. The Andhra Pradesh Civil Liberties Committee, in turn, charged the state government with killing 249 suspected Naxalites in faked "encounters" during 1992. In February the People's War Group (PWG) assassinated the Additional Director of the Andhra

Pradesh police academy in a daylight attack. The PWG killed several dozen other police and paramilitary personnel in ambushes and land mine attacks. The Maoist Communist Center (MCC), a Naxalite group active in Central Bihar, operated a parallel judicial system that ordered summary executions of landlords and other "class enemies."

In the seven states of northeastern India, at least 18 major insurgent groups were active, including the United Liberation Front of Assam (ULFA), the National Socialist Council of Nagaland (NSCN), and the Bodo Security Force. Most of the reported casualties in the northeast were army and paramilitary personnel. In August and September, however, NSCN militants killed more than 200 Kuki tribesmen, including women and children, in a series of attacks in the hill districts of Manipur. This followed an NSCN ambush on June 29 that left 27 army personnel dead and 24 injured.

Large-scale army operations in Assam were suspended, but the army retained overall responsibility for coordinating police and paramilitary forces in the region. Under the Armed Forces Special Powers Act of 1958, army and security forces were given wide discretion to use lethal force in Assam and four other northeastern states. In February the regional high court in Guwahati ordered the Indian army to pay $1,600 in compensation to the family of a man who disappeared in 1991 while in army custody. The court had earlier issued a habeas corpus petition ordering the Government and army to produce the man in court after he had been detained for interrogation about his son. ULFA militants in Assam killed accused informers and at least seven "deserters" who had accepted a government amnesty. ULFA's chairman reportedly issued a directive from Bangladesh calling for the death of all ULFA members who surrendered to police.

Indian newspapers reported nine deaths in custody or after police torture in and around Delhi during 1993. Press reports from the southern city of Bangalore alleged there were six deaths in police custody there during the year ending August 30. The Chief Minister of West Bengal told the state assembly there had been 277 custodial deaths in his state since 1977, of which only 1 case was probed by the courts.

India's Criminal Procedure Code requires a magisterial inquiry in every case of a death in police custody. However, most custodial abuse is directed at the poor and uneducated lower castes, who are unlikely to understand their right to redress. Inquiries are often not carried out, and when an investigation does occur, the results are generally not made public.

b. *Disappearance.*—Disappearances are believed to occur on a large scale. There are credible reports that police throughout India often do not file required arrest reports, with the result that there are hundreds of unsolved disappearances in which relatives claim a person was taken into police custody and never heard from again. Police usually deny these claims, countering that there are no records of arrest.

This problem is particularly acute in Punjab, where there was a sharp rise in reported disappearances as the police sought to eliminate militants and their supporters. Sikh human rights groups reported dozens of disappearances in which police claimed they never held a person, even when there were witnesses to the arrest.

In cases where officials acknowledged an individual was in custody, police sometimes report the detainee was killed while trying to escape when taken to recover an alleged arms cache. Without exception, human rights groups say, these detainees are never seen again. The Human Rights Trust, a Delhi-based nongovernmental organization (NGO), reported 28 such cases, with registered arrest reports, between January and May. One case involved Gurdev Singh Kaonke, a Sikh religious leader who reportedly escaped while being taken to recover an arms supply on January 2 and has not been seen since.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although torture is prohibited by law, there is credible evidence that torture of detainees is common throughout India. Sometimes this abuse is part of the interrogation process, sometimes it is to extort money from the victim or his relatives, and sometimes it is summary punishment doled out by individual police officials.

Confessions extracted by force are generally inadmissible in court. Under the Terrorist and Disruptive Activities (Prevention) Act (TADA), however, a confession made to an officer above the rank of superintendent of police is admissible as evidence, provided the police have "reason to believe that it is being made voluntarily." Press accounts and reports by human rights groups indicate that brutality in extracting confessions under the TADA is common.

Indian human rights groups have detailed numerous individual cases of torture and abuse during interrogation by police and paramilitary forces in Kashmir, Punjab, and Assam. Forms of torture include beatings, rape, burning with cigarettes and hot rods, suspension by the feet, crushing of limbs with heavy rollers, and elec-

tric shocks. Many alleged torture victims die in custody, and others fear to speak out due to the threat of police retaliation. Consequently there are few firsthand accounts. One exception was the case of Masroof Sultan, a Kashmiri student who was pulled from a bus on April 8 and tortured with electric shocks. Sultan told foreign journalists he was shot and left for dead by border security force (BSF) soldiers who tried to pass off his death as a crossfire incident. Sultan's family claims to have seen him in custody and pleaded for his release. Although his case was taken up by several governments and international human rights groups, the Government did not investigate Sultan's torture or punish those responsible.

Another case involved the gang-rape of a Kashmiri woman on May 25 by army troops outside Srinagar. The victim, Nazeera Jan, told reporters that 10 soldiers broke into her room, tied her husband to a tree outside, and sexually assaulted her. A medical examination confirmed that she had been raped, and the army announced court-martial proceedings against four of the accused. State officials claimed that the four were each sentenced to 10 years' imprisonment, but this punishment was not publicized. In Calcutta, a police constable was sentenced to life imprisonment for his involvement in a custodial rape incident in 1992 that was taken up by opposition politicians and women's groups.

In response to a parliamentary question on August 19, the Home Ministry stated that 146 security force personnel had been disciplined for "acts of omission and commission during operations in Jammu and Kashmir during the past 3 years." Because the Government did not publicize the forms of punishment or the crimes involved, it was impossible to judge the adequacy of the punishment or even if the crimes involved human rights issues. A Home Ministry note given to the South Asia Human Rights Documentation Center described punishments ranging from 7 years' to 6 months' imprisonment meted out in nine cases of rape, extortion, or sexual abuse. There is no evidence that any member of the security forces has been punished for an incident of custodial death or custodial torture in Jammu and Kashmir. Among Kashmiris, there is a general impression that official abuse goes unpunished.

Custodial abuse is common even in Indian states free of insurgency. Scheduled castes and harijans, people at the bottom of India's social ladder, are particularly vulnerable to police violence. There continued to be consistent reports that police, mostly upper caste Hindus, deliberately targeted members of these groups and religious minorities for beatings and rape. A highly publicized case from 1992, involving a low caste thief castrated while in police custody, remained stuck in the courts. The district magistrate's report to the Supreme Court called for disciplinary action against four police officers, along with three doctors accused of altering evidence. As of the end of the year, the station house officer and assistant subinspector charged in the case remained out on bail, despite a Supreme Court recommendation that bail be cancelled by May 10.

The Government grew increasingly sensitive to allegations of police abuse during 1993 and took some steps to address the problem. The Home Ministry reiterated instructions to police authorities that coercive methods should not be used on persons in police custody and expanded human rights training at India's elite national police academy. The Government says many members of the police have been disciplined for abuse of detainees. However, punishment is usually meager (suspension or transfer) and occurs only in a small percentage of incidents. The courts have played a role in trying to bring police behavior into line with Indian law. In a key decision on March 30, the Supreme Court reaffirmed the right of victims and their families to seek compensation from the Government for abuse while in police custody. However, the serious backlog in India's judicial system means that custodial abuse cases usually move slowly. In 1993, for instance, three policemen were sentenced to life imprisonment for their role in a custodial death in 1980. In August the principal suspect in this case was granted bail, pending his appeal before the Delhi high court.

The Government does not allow independent monitoring of prisons by NGO's. Prison conditions are, however, the subject of frequent press reports and have been assessed by human rights groups relying on testimony from former detainees. Press reports include charges of sexual abuse of prisoners; the use of prisoners by prison officials for domestic labor; the sale on the black market of food and milk meant for prisoners; and the sale of women prisoners to brothels. Women constitute 2 to 6 percent of the total prison population, according to the 1987 National Expert Committee on Women Prisoners Report.

A June 1993 report by the Human Rights Trust charged that prisoners in New Delhi's Tihar jail, considered one of the best-run in India, had inadequate food, medical care, and clothing. The prison houses approximately 8,500 prisoners in facilities designed to hold 2,219. Over 90 percent are awaiting trial, according to the jail's

inspector general, and may be held months or even years before getting a court date. There were reportedly some 120 suicides in Tihar between 1988 and 1992.

The Juvenile Justice Act of 1986 provides that boys under 16 and girls under 18 are not to be held in prisons. However, these provisions appear to be widely ignored, especially in police lockups. The Supreme Court has criticized the states for not providing separate facilities for children in jails and for not constructing reformatory institutions.

In August the Supreme Court took up the issue of persons with mental disorders who have committed no crimes but are held in prisons throughout India. In its response to a petition by a West Bengal human rights monitor, the Court restrained the Government from putting mentally ill people in jail and directed all state governments to report on the status of "noncriminal lunatics" in their states. A senior West Bengal official stated that there were more than 1,000 such persons in West Bengal prisons.

There are three classes of Indian prison facilities. Class "C" cells are the worst. They often have dirt floors, no furnishings, and poor quality food. They are overcrowded, and the use of handcuffs and fetters is common. Prisoners in these cells reportedly suffer the most abuse. Prisoners are designated class "C" on the basis of their standing in society, not on the nature of the crime—those who cannot prove they are either college graduates or income taxpayers when they come before the magistrate are class "C."

Class "B" cells are for college graduates and taxpayers. Crowding is less of a problem in "B" cells, and the food and treatment of prisoners are reportedly better than in class "C." Class "A" cells are for "prominent persons," as designated by the Government. Prisoners in these cells are accorded private rooms, visits, and adequate food, which can be supplemented by their families. In fact, very few prisons actually maintain class "A" cells; class "A" prisoners are usually held in government guest houses. These provisions are not evenly enforced. Kashmiri political leaders Abdul Gani Lone and Syed Ali Shah Geelani, for instance, were held in class "C" cells at New Delhi's Tihar jail, even though their backgrounds entitle them to class "A" facilities.

d. *Arbitrary Arrest, Detention, or Exile.*—There were credible reports of widespread arbitrary arrest and detention under the special security laws enacted over the past decade to help law enforcement authorities fight separatist insurgencies.

The Constitution requires that an arrested person be informed of the grounds for arrest, given the right to be represented by counsel, and (unless he is being held under a preventative detention law) produced before a magistrate within 24 hours of arrest. At this initial appearance, the accused is committed to custody (either police or judicial remand) or released. An accused must be informed of his right to bail at the time of arrest and (unless he is being held for a nonbailable offense) may apply for bail at any time. The police must file a charge sheet within 60 or 90 days of arrest, depending on the severity of the crime. If the police fail to do so, court approval of a bail application becomes mandatory.

The Constitution permits the enactment of preventive detention laws in the event of threats to public order and national security. These laws provide for limits on the length of detention and for judicial review. Government critics charged with political offenses such as sedition or disruptive speech are typically held for extended periods under the TADA or the National Security Act (NSA) but are never formally tried. Some alleged militants in Kashmir and Punjab have been in detention for years. International human rights groups claim there are thousands of political detainees in India.

The NSA, passed in 1980, permits detention of persons considered security risks; police anywhere in India (except Kashmir) may detain suspects under NSA provisions. The Jammu and Kashmir Public Safety Act (1978) covers corresponding procedures for that state. Under the NSA's strong preventive detention provisions, a person may be detained without charge or trial for up to 1 year on loosely defined security grounds. A detention order must be confirmed by the state government and reviewed by an advisory board of three high court judges within 7 weeks of arrest. NSA detainees are permitted visits by family members and lawyers and must be informed of the grounds for detention within 5 days (10–15 days in exceptional circumstances). Some 16,000 people have been detained under the NSA since its inception. More than two-thirds of those detained were released by order of the state government or advisory board. According to the Government, as of May 1993, there were 639 people under NSA detention nationwide. The cumulative figure for Public Safety Act arrests in Kashmir (as of January 1, 1993) was 2,983, with all but 998 of the arrestees subsequently released.

The TADA, though enacted in 1985 to fight insurgency in Punjab, has been invoked by almost every state in India, including those where no real emergency ex-

ists. The TADA punishes those found guilty of terrorist and disruptive acts or membership in a terrorist gang with no less than 5 years' imprisonment and up to the death penalty for certain terrorist crimes. Disruptive activities are defined broadly to include speech or actions that disrupt or challenge the sovereignty or territorial integrity of India. The TADA extends the period to 60 days during which a detainee may be held in police custody after remand by the court and allows administrative detention up to 180 days (1 year in special circumstances). Suspects held under the TADA must be presented within 24 hours before an executive magistrate who reviews the detention order, but human rights groups say this requirement is frequently ignored. The Act was extended for 2 years in May, when an amendment was added requiring authorization from a state police inspector general before a court takes cognizance of a TADA case. (See also Sections 1.c. and 1.e.)

There were 7,816 reported arrests under the TADA in 18 states and union territories during 1992. The Government claimed a total of 52,268 people were arrested under the TADA between 1985 and February 15, 1993. Of these, only 434 were convicted. The vast majority of TADA detainees are eventually freed on bail or released without charge.

There are widespread accusations that the special security laws have been misused in states not experiencing civil unrest as a convenient way to hold people without trial. These accusations are borne out by government data showing TADA and NSA arrests by state. In 1992, for instance, TADA was used more frequently in Gujarat and Andhra Pradesh than in Punjab, which was the Act's original target. Indeed, during the first 7 months of 1993 Gujarat registered 1,409 TADA arrests, more than half the nationwide total of 2,514. As of April, detentions under NSA in 1993 were highest in Gujarat and Uttar Pradesh.

Human rights monitors and the president of the Madras High Court Lawyers Association accused the Tamil Nadu government of using the NSA and other special security laws to detain political opponents under the pretext of fighting terrorism. In Punjab, state authorities used the TADA to arrest Sikh political leaders and prevent opposition rallies. In Assam, authorities used the TADA to silence journalists and human rights activists suspected of separatist sympathies. In Maharashtra, police were accused of using the TADA to round up Muslims indiscriminately on suspicion of involvement in the March 12 Bombay bombings.

Exile is not practiced.

e. *Denial of Fair Public Trial.*—India has an independent judiciary with strong constitutional safeguards. An October Supreme Court decision gave the Chief Justice of India—in consultation with his colleagues—a decisive voice in selecting judicial candidates. Under the Constitution, judges are appointed by the President and may serve up to age 65 in the Supreme Court and age 62 in the state high courts. India's legal procedures generally assure a fair trial when they function normally, but the process can be drawn out and inaccessible to the poor. Defendants have the right to choose counsel from an Indian Bar that is fully independent of the Government. There are effective channels for appeal at most levels of the judicial system. This is not true for cases tried under the TADA which can be appealed only to the Supreme Court. Since many TADA detainees lack the resources to gain access to the Supreme Court, the act effectively limits appeal.

The Indian Criminal Procedure Code provides for an open trial in most cases but allows exceptions in proceedings involving official secrets, trials in which statements prejudicial to the safety of the State might be made, or under provisions of special security legislation such as the TADA. Defendants are presumed innocent until proven guilty except in certain cases (see below). There are effective channels for appeal at all levels of the judicial system, although there is some limitation on appeals under the special security laws. Sentences must be announced in public.

The TADA authorizes secret testimony to protect witnesses and suspends the usual prohibition on the use of evidence gathered through police interrogation. Indians charged under the TADA with certain categories of crimes are presumed guilty and carry the burden of proving their innocence. Human rights groups charge that these categories are so broad—including cases in which weapons are recovered or there is strong incriminating evidence—that they can be manipulated to fit any case. TADA trials are held before special courts. The state or central government may designate a court as a TADA court for any geographic area, any case, or any class of offenses. Appointees to TADA courts must have served as a Sessions Judge or Additional Sessions Judge immediately prior to their appointment. Some 450 petitions have been filed before the Indian Supreme Court challenging the constitutionality of the Act, but the court has yet to give its opinion. Constitutional challenges to the TADA cover a broad spectrum. Many contend that the TADA violates the accused's right to due process. Others claim the TADA abrogates the jurisdic-

tional rights of the States by eliminating appeal to the High Court. Still others address the TADA's incompatibility with the constitutional guarantee of free speech.

Muslim personal law governs many noncriminal matters involving Muslims, including family law, inheritance, and divorce. The Government's declared policy is not to interfere in the personal laws of the minority communities, with the result that laws that discriminate against women are upheld. Different personal laws are administered through the single civil court system.

In Kashmir and Punjab the judicial systems barely function. In both states, threats by militants against judges, witnesses, and their family members have created a situation in which no court is willing to hear cases involving terrorist crimes. As a result, there were no convictions of alleged terrorists in Kashmir or Punjab during 1993.

There are no political prisoners in India. (For political detainees, see Section 1.d.)

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Under Indian law, warrants are normally required for searches and seizures. In a criminal investigation, however, police may conduct searches without a warrant if obtaining one would cause undue delay. They must justify such searches after the fact in writing to the nearest magistrate with jurisdiction over the offense being investigated. This requirement appears to be respected. The Special Powers Acts allow an officer or noncommissioned officer of the Armed Forces to arrest, without warrant, any person who has committed a cognizable offense or against whom a reasonable suspicion of such an act exists. The officer may use such force as necessary to effect the arrest, enter and search, without warrant, any premises, and recover any property reasonably suspected to be stolen or any arms believed to be unlawfully kept. There is no judicial review of this procedure. Indeed, the Acts bar any prosecution, suit, or other legal proceeding against any person in respect to anything done or purported to be done in exercise of the powers conferred by the Acts, except with the prior sanction of the central Government.

Surveillance of communications, including tapping telephones and intercepting personal mail, is authorized under the Indian Telegraph Act "on the occurrence of any public emergency or in the interest of the public safety or tranquility." These powers have been used by every state government.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Both government forces and militants committed egregious violations of humanitarian law in the disputed state of Jammu and Kashmir. The Muslim majority population in the Kashmir valley increasingly found itself trapped between the repressive tactics used by security forces to combat insurgency and the militants' acts of wanton violence. Approximately 400,000 Indian army and paramilitary forces have been deployed throughout Jammu and Kashmir to contain the separatist movement. Under the Armed Forces (Jammu and Kashmir) Special Powers Act, security force personnel have sweeping powers, including authority to shoot to kill suspected lawbreakers or disturbers of the peace and to destroy structures suspected of harboring militants or arms.

There were credible reports that security forces frequently used excessive force against civilians, sometimes in retaliation for attacks by Kashmiri militants. On January 6, a 40-man BSF unit responded to a hit-and-run attack by militants by firing on civilians and setting fire to buildings in Sopore, a stronghold of the Hizb-Ul Mujahideen militant group. According to Kashmiri and Delhi-based investigators, the day-long BSF rampage left 43 people dead, 14 injured, and around 300 homes and businesses burned. Witnesses reported that BSF personnel used rags dipped in fuel to spread the flames and fired indiscriminately on civilians.

The Government responded by dispatching senior officials to Sopore, promising compensation to victims, suspending nine BSF personnel (including the commandant), and transferring the entire BSF unit. The Government also ordered a judicial inquiry into the incident. This effort was hampered by a reported militant order to witnesses to boycott the investigation. As of year's end, the judge assigned to the probe had yet to complete his investigation. BSF troops were accused of firing without warning on an October 22 demonstration in the militant stronghold of Bijbehara, leaving 41 dead and 76 injured, according to the Peoples Union for Civil Liberty. Despite government claims that the security forces were ambushed by militants, only one BSF subinspector was injured. The Government subsequently announced two official investigations and a separate inquiry by the National Human Rights Commission into these incidents.

There were other examples of BSF personnel using excessive force against civilians. In mid-April, at least 16 people were killed and 260 shops and houses were gutted when fire swept through the Lal Chowk area of Central Srinagar. It appeared the blaze began when Kashmiri demonstrators set fire to an abandoned BSF bunker. However, press reports indicate the BSF troops responded by firing ran-

domly at demonstrators and setting fire to homes and businesses in neighboring areas. An official inquiry was announced, but the results were never released. In July a BSF soldier shot and killed an 8-year-old boy when he reportedly mistook a kitchen utensil the boy was holding for a grenade. When the enraged parents ran at the BSF men, they too were shot and killed.

Kashmiri militant groups were also guilty of serious human rights abuses. In addition to political killings detailed in Section 1.a., militants committed extortion and carried out acts of random terror that left hundreds of Kashmiris dead. Two people were killed and three injured on May 11 when militants reportedly fired a rocket at the government headquarters in Srinagar. Twenty-five people were injured on May 3 when a bomb planted by alleged militants exploded in a Jammu theater. On September 15, a bomb reportedly planted by militants exploded in a Hindu temple in Jammu, killing one person and injuring eight others. Between January 1990 and July 1993, the Government claimed, militants killed 1,817 civilians.

Militant groups were accused of executing captured soldiers and informers by strapping grenades to their bodies and setting them off in public. In addition, militants were implicated in dozens of killings involving rival separatist factions. The Government accused the Hizb-Ul Mujahideen group of responsibility for the March 31 execution of Dr. Abdul Ahad Guru, a leading Kashmiri human rights monitor. On March 22, a Delhi paper carried a report that Dr. Guru was being used by the Home Ministry as a channel to the Jammu and Kashmir Liberation Front. Ten days later, his bullet-ridden body was found on the outskirts of Srinagar.

Kashmiri militants continued to use kidnapings of prominent businessmen and politicians to seek the release of detained militants, sow terror, and extort funds. After a hiatus of several months, kidnapings in Jammu and Kashmir climbed sharply during the first part of 1993. Among those held were a former Member of Parliament, the director of the State Tourism Development Corporation, and a university professor. The Home Ministry reported that 22 government employees were kidnaped during the period from April to June. Press reports indicate that abductions continued at a similar pace throughout the year.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution protects these freedoms, and they are, with some limitations, exercised in practice. A vigorous press reflects a wide variety of public, social, and economic beliefs. Indian newspapers and magazines regularly publish investigative reports and allegations of government wrongdoing, and the press as a whole champions human rights and criticizes perceived government lapses.

The Press Council of India is a statutory body of journalists, publishers, academics and politicians, traditionally chaired by a sitting or former Supreme Court justice. Designed to be a self-regulating mechanism for the press, it investigates complaints of irresponsible journalism and sets a code of conduct for publishers. This code includes not publishing articles or details that might incite caste or communal violence. The council publicly criticizes newspapers or journalists it believes to have broken the code of conduct, but its findings, while noted by the press community, carry no legal weight and have little influence on journalists.

National television and radio are government monopolies and are frequently accused by opposition politicians and the print media of manipulating the news to the benefit of the Government. However, international satellite television is not censored or otherwise controlled by the Government and is widely distributed in middle-class neighborhoods via cable. It is gradually eroding the Government's monopoly on electronic media.

Under the Official Secrets Act (OSA), the Government may restrict publication of sensitive stories, but this is sometimes interpreted broadly by the Government to suppress criticism of its policies. For instance, in Punjab, despite the decline of militancy, the Government occasionally impounded issues of newspapers because of what it considered objectionable reporting.

The 1971 Newspapers Incitements to Offenses Act remained in effect in Jammu and Kashmir throughout 1993. Under the Act, a district magistrate may restrict the press from carrying material resulting in "incitement to murder" or "any act of violence." Punishment permitted under the Act includes seizure of newspapers and printing presses. Despite these restrictions, newspapers in Srinagar regularly carried militant press releases attacking the Government and reported in detail on alleged human rights abuses. The Government has taken no steps to prevent Kashmiri papers from printing militant press releases. Reporters were subject to harassment by security forces. On August 5, three journalists in Srinagar were beaten with batons and rifle butts by BSF troops who objected to their coverage of an opposition rally. In Assam, the Government arrested an editor and several reporters in

connection with articles they published about ULFA militant activities. Journalists and academics who gathered in the state capital on February 20 to protest these arrests were met with a police baton charge in which 25 people were reportedly injured.

In Tamil Nadu, the state government applied intense pressure to the opposition press as relations between the state government and Delhi deteriorated. State officials frequently used "defamation" charges in the courts to intimidate editors and journalists. In July the state government withdrew police protection from a Madras weekly; shortly thereafter, the newspaper was ransacked. An official investigation was launched immediately after the attack. There has never been a determination of responsibility. The Government permitted foreign journalists to travel freely in Kashmir, meet with militant leaders, and file reports on government abuses.

On January 31, militants in Punjab assassinated a reporter for the Hind Samachar News Group. The Babbar Khalsa International claimed responsibility, saying it would not tolerate journalists who projected a negative image of militancy.

In Kashmir, rival militant groups threatened journalists and editors and even imposed temporary bans on some publications. Militants burned the residence of an Urdu-language newspaper editor who refused to carry their press release. In September the paper suspended publication, citing militant harassment.

Journalists in the western states of Maharashtra and Gujarat were subject to regular harassment by Hindu radicals representing nongovernment political groups. On August 18, members of the Shiv Sena Organization assaulted the editor of a Bombay newspaper when he criticized the Shiv Sena newspaper at a journalists' seminar. The same day, members of a Hindu labor organization ransacked the office of a Bombay tabloid and beat up its senior reporter. In May the editor of a Gujarat newspaper was stabbed to death by unidentified attackers. Six months earlier, the local Shiv Sena chief had publicly threatened the editor's life, after he published editorials critical of the group.

A government censorship board reviews films before they are licensed for distribution. Board members are appointed by the Government, through the Ministry of Information and Broadcasting. The board deletes material deemed offensive to public morals or communal sentiment. Producers of video news magazines are also required to clear their products with the board, which occasionally censors parts of stories that put the Government in a bad light. There is a mechanism to appeal the board's decision which sometimes results in a censorship ruling being overturned.

Indians enjoy complete academic freedom, and students and faculty espouse a wide range of views. In addition to 10 national universities and about 160 state universities, states are empowered to accredit local private institutions.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution protects the right of peaceful assembly and the right to form associations, and these rights are generally respected in practice.

Local governments ordinarily respect the right to protest peacefully, but authorities sometimes require permits and notification prior to holding parades or demonstrations. Under the Criminal Procedure Code (CRPC), the authorities may order the dispersal of any assembly of five or more people that is likely to cause a disturbance of the peace. The Code allows the authorities to ban such assemblies prospectively for a period up to 2 months. At times of civil tension, authorities may ban public assemblies or impose a curfew. In February the Government used provisions of the Criminal Procedure Code to ban a large rally in the capital by the Hindu Bharatiya Janata Party (BJP) and to arrest those defying the ban. The BJP claimed about 50,000 people were arrested nationwide, most of whom were released within a few days. In October and December, the State government in Punjab arrested over 1,000 opposition party members in an effort to prevent a protest march to Delhi and a proposed series of sit-ins at district headquarters buildings.

The Unlawful Activities (Prevention) Act of 1967 empowers the Government to ban organizations whose activities promote communal hatred. Five religion-based organizations (three Hindu and two Muslim) were banned under the Act in reaction to the destruction of a mosque in Ayodhya in December 1992, but enforcement of the bans was lax. A special tribunal overturned the ban on three of the organizations in June. The Government restricted freedom of assembly in Srinagar and other parts of Jammu and Kashmir by placing them under sporadic curfew during much of the year.

c. *Freedom of Religion.*—India is a secular state in which all faiths enjoy freedom of worship. Government policy does not favor any religious group. Nevertheless, tensions over religious differences pose challenges to the secular foundation of the Indian State.

Hindu-Muslim tensions remained high in the aftermath of the December 1992 Ayodhya crisis. Communal riots in Bombay during early January left at least 550

people dead and 2,500 injured. Witnesses said some of those killed were stoned to death or burned alive. In a report published in August, the Indian People's Human Rights Tribunal, led by two retired high court judges, characterized the riots as "an organized crime perpetrated by communalists in connivance with the police." The Tribunal's report, supported by over 2,000 depositions, asserts that the police were either passive bystanders or openly sided with Hindu mobs. Press accounts state that the overwhelming majority of those killed or injured in the riots were Muslims.

The Religious Institutions (Prevention of Misuse) Act makes it an offense to use any religious site for political purposes or to use temples for harboring persons accused or convicted of crime. While specifically designed to deal with Sikh places of worship in the Punjab, the law technically applies to all religious sites.

Indian religious organizations may maintain communications with coreligionists abroad, but financial contributions from overseas are regulated by the Home Ministry and may not be used to finance publishing. There is no national law to bar proselytizing by Indian Christians, but laws in some states discourage them from practicing openly.

Foreign missionaries can generally renew their visas, but since the mid-1960's the Government has refused to admit new resident missionaries. Those who arrive now do so as tourists, and stay for short periods. As of January 1992, there were 1,611 registered foreign missionaries in all of India. The sharp rise of conversions among tribals of the northeast continued to create tensions; as in the past, state officials refused to issue permits for foreign Christian missionaries to enter some northeastern states.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Indian citizens enjoy full freedom of movement within the country, except in certain border areas where, for security reasons, special permits are required. Travel abroad is generally not restricted, but there are exceptions. Under the Passports Act of 1967, the Government may deny a passport to any applicant who "may or is likely to engage outside India in activities prejudicial to the sovereignty and integrity of India." This provision is occasionally used to bar government critics (especially advocates of Sikh independence) from traveling abroad.

Millions of people of Indian origin live abroad. Indian citizens may emigrate without restriction.

Although India is not a signatory to the U.N. Convention and Protocol on the Status of Refugees, the Government follows the general principles laid down in that document, including opposition to turning back refugees at the border. Those whom it recognizes as refugees are placed in camps (Chakmas, Sri Lankan Tamils) or resettlement areas (Tibetans). Tibetans have been accommodated by the Indian authorities since the 1950's. Afghans, Burmese, and other nationalities are neither deported nor recognized as refugees. Instead, they receive renewable residence permits and are recognized as refugees by the United Nations High Commissioner for Refugees (UNHCR) or are ignored.

Bangladeshis formerly received the same treatment, but as domestic political pressure increased during 1991 and 1992, the Indian government began to crack down on their entry. During 1991, according to government statistics, 53,733 illegal immigrants from Bangladesh were apprehended on the border and turned back. Government officials say there is no firm estimate of the number of Bangladeshis living illegally in India, but estimates range from 2 to 15 million. In addition, India is home to over 54,000 Chakma tribal people who fled the Chittagong Hill tracts of Bangladesh during the 1980's. Indian and Bangladeshi officials meeting in May reached agreement for expeditious repatriation of the Chakmas. Press reports assert that rations and cash assistance to the camps in Tripura were reduced in a bid to encourage repatriation under this agreement. As of the end of the year, however, there had been no discernible repatriation.

About 80,000 Tamil refugees from Sri Lanka were living in 131 government-run camps, and up to 100,000 more were settled with friends and relatives throughout Tamil Nadu. The state government, using central government resources, provided shelter and subsidized food to those in the camps. In May the Tamil Nadu government banned all NGO assistance to the camps in an apparent effort to encourage repatriation. About 7,000 Tamils were repatriated voluntarily during August and September under an Indian government program monitored by the UNHCR. India also provided humanitarian assistance to over 100,000 Tibetan refugees in Himachal Pradesh, Karnataka, and elsewhere in India.

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

Indian citizens freely exercise their right to change their government. India has a democratic, parliamentary system of government with representatives elected under universal adult suffrage; the voting age is 18.

Multiparty elections are held regularly at local, state, and national levels. A Parliament sits for 5 years unless dissolved earlier for new elections or under constitutionally defined emergency situations. State governments are elected at regular intervals except in states under President's rule.

On the advice of the Prime Minister, the President may proclaim a state of emergency in any state in the event of war, external aggression, or armed rebellion. Similarly, President's rule—rule from the center—may be declared in the event of a collapse of a state's constitutional machinery. President's rule remained in effect in Jammu and Kashmir throughout the year. It was lifted in the states of Uttar Pradesh, Madhya Pradesh, Himachel Pradesh, and Rajasthan following elections in 1993 and declared in the northeastern state of Manipur on December 31.

Under the Constitution, seats are reserved for scheduled tribes and scheduled castes in Parliament and state legislatures in proportion to their population. Political parties and tribal groups work to advance the interests of indigenous people and on several occasions have extracted specific concessions from the Government. Women account for about 7 percent of the members of Parliament. They hold or have held a variety of senior positions, including Deputy Speaker of the upper house and Prime Minister. By law, women are guaranteed 30 percent of seats in all local elected bodies (municipal councils and village panchayats). Some states have discussed the idea of a similar reservation for state assemblies. A government report stated that 40 to 50 percent of women exercised their franchise in the 1991 national election.

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

Independent Indian human rights organizations are active and vocal. They include the People's Union for Civil Liberties, the People's Union for Democratic Rights, the South Asia Human Rights Documentation Center, Citizens for Democracy, and numerous regional organizations. These groups investigate specific allegations of human rights abuses and publish reports on their findings, which are often highly critical of the Government and militant groups. All of India, including Kashmir and Punjab, is open to Indian investigators.

The central Government is generally tolerant of dissent. Nonetheless, human rights monitors have been targeted by the police for arrest and harassment. In addition, a number of monitors were the victims of killings, some of which may have been politically motivated. Dr. Farooq Ashai, a prominent Kashmiri orthopedic surgeon and specialist in the treatment of torture victims, died on February 18 when he was caught in the line of fire from a security forces' bunker. Five weeks later, Dr. Abdul Ahad Guru, a leading Kashmiri human rights activist, was abducted and killed by unidentified gunmen (see Section 1.g.). Another Kashmiri human rights figure, Hirdai Nath Wanchoo, was killed under similar circumstances in December 1992. Results of the official investigation were never released; however, according to press accounts the Government investigators blamed the Jamait-ul-Mujahideen for Wanchoo's death. Since Wanchoo was a vocal critic of security force abuses, most Kashmiris found the accusation not credible and accused the Government of the killing.

In Punjab, the police harassed, intimidated, and occasionally arrested human rights monitors. In one case, a Sikh human rights monitor was held without charge for 3 weeks, then released with instructions to say nothing about his time in police custody. In Maharashtra and Gujarat, hundreds of activists and local residents attempting to block the Narmada Dam project were arrested and subjected to police intimidation; some alleged they were tortured by police. Doctors in Delhi who treated victims of communal riots in December 1992 and documented charges of official involvement were later subject to harassment by police investigators. Hospital administrators reportedly received requests from the Home Ministry directing them to seek explanations from some doctors who were involved in an NGO investigation of the Delhi riots. The doctors were associated with the Delhi Medicos and Scientists Forum, which published a report on the Delhi riots that accused the Delhi police of communal bias and excessive use of force.

In May the Government introduced authorizing legislation for a national human rights commission. The bill was criticized by Indian human rights groups, which claimed the commission would be dominated by government servants, barred from investigating allegations of abuse involving the army and paramilitary forces, and

provided with inadequate investigatory staff. A Presidential Ordinance issued on September 29 and passed by the Parliament in December revised the Commission to give greater representation to retired jurists but left it with a limited mandate to investigate security force abuses In December the Commission instructed state governments to inform it within 24 hours of any custodial death. If an incident is not reported on time, the Commission will assume there was a cover-up attempt.

The central Government remains sensitive to international allegations of human rights violations. However, in July the Home Ministry reversed its longstanding policy of barring investigating teams from Amnesty International and other international human rights organizations. Although no such investigations occurred in 1993, the Government indicated the timing of such visits would be determined in consultations with the central Government and the concerned state government. The Government also reached agreement with the ICRC for a seminar on international humanitarian law to be held in Delhi in early 1994. In August a four-member delegation from the International Commission of Jurists traveled to Kashmir as guests of the Government and met with a range of lawyers and human rights monitors.

Indian human rights groups say the Government seldom responds to inquiries from U.N. bodies such as the U.N. Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on Torture. The official review performed by the Human Rights Committee of India's 1989 Report to the Committee produced several recommendations for policy changes to strengthen the protection of human rights in India, including revision of India's special security legislation which could violate provisions of the International Covenant on Civil and Political Rights.

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

The traditional caste system as well as differences of ethnicity, religion, and language deeply divide Indian society. Despite laws designed to prevent discrimination, these differences are frequently manifest in social and cultural practices that have a profoundly discriminatory impact.

Women.—India has an elaborate system of laws to protect the rights of women, including the Equal Remuneration Act, the Prevention of Immoral Traffic Act, and the Sati (Widow Burning) Prevention Act. Deeply rooted traditions, often tied to religious or social practice, lead to lax and sometimes no enforcement of these laws, especially in rural areas. Female bondage and forced prostitution remain common in parts of Indian society.

According to an Indian government study, which is borne out by press reporting, violence against women—including molestation, rape, kidnaping, and wife murder ("dowry deaths")—has increased over the past decade. Domestic violence in the context of dowry disputes is a particularly serious problem. In the typical dowry dispute, a groom's family will harass a woman they believe has not provided a sufficient dowry. Occasionally, this harassment ends in the woman's death, which family members often try to pass off as a suicide or kitchen accident. Although most "dowry deaths" involve lower middle-class families, the phenomenon crosses both caste and religious lines. The Government's strategy to combat violence against women emphasizes education and legislation to stiffen punishment for abuse. A National Commission for Women, established in January 1992, investigates cases of abuse and reports to the Government on measures to improve the status of women in Indian society. The Commission has publicized several cases of sexual harassment and physical abuse, but is criticized by women's groups for acting in a politicized manner.

Government figures show a total of 4,785 dowry deaths during 1992, down about 7 percent from 1991. Under a 1986 amendment to the Indian Penal Code, in every unnatural death of a woman in the first 7 years of marriage where it is proved she was subject to harassment, the court must presume her husband or in-laws were responsible. In such cases, police procedures require that the investigation b conducted by an officer of deputy superintendent rank or above and that a postmortem be performed by a team of two or more doctors.

In March three family members were sentenced to capital punishment in a dowry death case in Aligarh. However, such convictions are rare. One case highlighted by the Indian press took 4½ years to reach a preliminary hearing where a judge was to decide if there was sufficient evidence to try the victim's husband and in-laws for murder. Moreover, lawyers handling dowry cases complain that judges and prosecutors (usually men) are uninterested in cases of domestic violence and are susceptible to bribes.

Despite several provisions in the Constitution promising equality before the law and prohibiting discrimination on the basis of gender, the personal laws of several

Indian religious communities provide for legally sanctioned gender discrimination. Under Islamic personal law, a Muslim husband may divorce his wife unilaterally; there is no such provision for women. Islamic law also provides for a man to have up to four wives, while polyandry is prohibited. These provisions have sparked debate within India's Muslim community and have been loudly criticized by some Hindu groups as examples of preferential treatment given to Muslims.

Existing laws relating to asset and land ownership give women little control over land use, retention, or sale. The Hindu Succession Act provides equal inheritance rights for Hindu women, but in practice married daughters are seldom given a share in parental property. Islamic personal law, while recognizing the right to inheritance of both sons and daughters, specifies that a daughter's share should be only one-half of a son's. Under the tribal land system, notably in Bihar, tribal women do not have the right to own land; the traditional practice of putting women to death there as "witches" is closely linked to the denial of property rights.

India has thousands of grassroots organizations working for social justice and economic advancement of women. These efforts are usually supported by the Government, despite strong resistance from traditionally privileged groups. This resistance is illustrated by a case in September 1992 in which a women's rights activist in rural Rajasthan was gang-raped by men who objected to her advocacy against child marriage. Although the case was referred to the Central Bureau of Investigation, as of late October the five men accused by the victim had not been arrested.

Children.—The Government places a high priority on children's health and welfare, but its resources are often overwhelmed by demographic pressures. A recent government report estimated the population under 6 years of age at 130 million. A Department of Women and Child Development functions under the Human Resources Ministry. The Department's 1992–93 budget accounted for about 0.44 percent of total government expenditures. India has a large population of street children, with perhaps as many as 100,000 in major cities such as Delhi, Bombay, and Calcutta. Child prostitution in these cities is rampant. Child marriage, a traditional practice in northern India, was outlawed by the Child Marriage Restraint (Amendment) Act of 1976. This law raises the age of marriage for girls from 15 to 18, but enforcement is uneven. (See Section 6.d. on child labor.)

Because of a strong cultural preference for male offspring, sex-determination tests (amniocentesis and sonogram) are widely used, resulting in a disproportionate number of abortions of female fetuses. Human rights groups estimate that at least 10,000 cases of female infanticide occur each year throughout India, primarily in poor rural areas. Female foeticide and infanticide have produced a steady decline in the ratio of females to males in the Indian population. This figure has gone from 972 per 1,000 at the turn of the century to 955 per 1,000 in 1981 and 927 per 1,000 in 1991. Parents often give priority in both health care and nutrition to male infants over females. Women's rights groups point out that the burden of providing an adequate dowry for girls is one factor in making female births less desirable. Although abetting or taking dowry is theoretically illegal under the Dowry Prohibition Act of 1961, it is still widely practiced.

National/Racial/Ethnic Minorities.—The Constitution gives the President authority to specify historically disadvantaged scheduled castes and tribes which are entitled to affirmative action in employment and other benefits. Scheduled tribes constitute about 8 percent of the Indian population and scheduled castes about 16 percent. Scheduled castes and tribes benefit from targeted development funds, government hiring quotas, and special training programs. However, spaces in national education institutions reserved for tribals and lower castes are often taken by more influential people from other backgrounds. A national commission on scheduled castes and scheduled tribes reports annually on the status of tribal peoples and investigates specific complaints about deprivation of rights of scheduled castes and tribes. The seven-member commission was established through a constitutional amendment in March 1992. Although the commission was given the powers of a civil court to call witnesses and investigate abuse, it has yet to issue a report and has had no impact thus far.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989 provided additional legal protections for these disadvantaged groups. However, it has not checked atrocities committed against them. Scheduled castes and scheduled tribes continued to be the victims of murder, rape, robbery, burning, and beating because of their status. The Welfare Ministry told Parliament in 1993 that in the states of Uttar Pradesh, Madhya Pradesh, Bihar, and Delhi, not a single trial involving atrocities against scheduled castes and tribes had been completed since 1986.

Although the practice of untouchability was in theory outlawed by the Constitution and the 1955 Civil Rights Act, it remains very much a part of life in India.

The resulting intercaste violence claims hundreds of lives each year. In Karnataka, 2 people were killed and 51 injured when police fired on a procession of dalits (untouchables) protesting against atrocities and discrimination by higher caste Hindus.

The Innerline Regulations, enacted by the British in 1873, still provide the basis for safeguarding tribal rights in most of the border states of northeastern India. These regulations prohibit any person, including Indians from other states, from going beyond an inner boundary without a valid permit. No rubber, wax, ivory, or other forest products may be carried out of the protected areas without prior authorization. No outsiders are allowed to hold land in the tribal areas without approval from tribal authorities.

Despite constitutional safeguards, the rights of indigenous groups in eastern India are often ignored. There has been encroachment (including by illegal immigrants from Bangladesh) on tribal land in almost all the states of eastern India, and businessmen, flouting the Innerline Regulations, have taken out forest and mineral resources. These violations have given rise to numerous tribal movements demanding protection of land and property rights, including the Jharkhand movement in Bihar and Orissa and the Bodo movement in Assam.

Religious Minorities.—There is no obvious discrimination against religious minorities in civil rights areas such as jobs, housing, and education.

People with Disabilities.—India has a long history of concern for its disabled. The country's first NGO dedicated to rehabilitation of the blind was created nearly a century ago. With over 12 million Indians suffering from physical disabilities, according to the Government, demand for services often exceeds supply.

The Government's Ministry of Welfare has principal responsibility for programs for the disabled and targets comprehensive rehabilitation services to India's rural population through 16 district centers. A national rehabilitation plan commits the Government to putting a rehabilitation center in each of India's more than 400 districts, but services are now concentrated in urban areas. The Government reserves 3 percent of positions in official offices and parastatal enterprises for people with visual, hearing, or orthopedic disabilities. Other support programs include: special railway fares; assistance for purchase and fitting of aids and appliances; customs exemptions under bilateral agreements for donated rehabilitation supplies; education allowances; and scholarships. The Welfare Ministry also provides substantial funding to several hundred NGO's involved in rehabilitation and training of special educators.

National education policy emphasizes the mainstreaming of handicapped children and stipulates that all educational and vocational programs must provide for the special needs of people with disabilities. The Department of Education provides funding to state governments and NGO's to install necessary facilities. Although the Government is developing legislation modeled on the Americans with Disabilities Act, there is currently no requirement for provision of accessibility for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution guarantees the right of association. Workers are guaranteed the right to form and join unions of their own choosing without prior authorization, including in export processing zones (EPZ's). Several trade union centrals also exist. Most trade unions have some tie to a national or local political party. However, trade unions stress their formal independence from political parties and, on occasion, differ from their respective political allies on labor-related issues. According to available data, somewhat less than 25 percent of workers in the modern sector—roughly 2 percent of the total work force—are organized.

Trade unions have the legally protected right to strike, but public sector unions mustgive at least 14 days' notice prior to striking. Some states have laws requiring workers in certain nonpublic sector industries to give prior strike notice. The Essential Services Maintenance Act allows the central Government to ban strikes and requires conciliation or arbitration in specified essential industries. Legal mechanisms exist for challenging the assertion that a given dispute falls within the scope of this Act. In 1992 (the last year for which data are available) there were 894 strikes. The Trade Unions Act of 1926 specifically prohibits employers from taking retribution against striking workers.

Human rights abuses against nationally organized unions or unionized workers have generally not been a problem in India. However, as with other peripheral groups in Indian society, unaffiliated unions of low caste or tribal workers cannot always avail themselves of protections and rights guaranteed by law. The investigation into the 1991 murder of Shankar Guha Niyogi, a tribal union leader, is yet to be completed. The judicial inquiry that was to investigate the killing of more than 18 of Niyogi's followers during a protest sitdown in July 1992 has not yet com-

menced. In June a "peoples tribunal" inquiry held state government authorities responsible for the massacre.

Unions are free to affiliate with international trade union organizations. For example, the Indian National Trade Union Congress is affiliated with the International Confederation of Free Trade Unions (ICFTU), and the All India Trade Union Congress (AITUC) is affiliated with the formerly Soviet-controlled World Federation of Trade Unions (WFTU).

b. *The Right to Organize and Bargain Collectively.*—The right to organize (including protection against antiunion discrimination) and to bargain collectively has existed in Indian laws for decades. Trade unions carry out these activities independently and without government or, in general, employer interference. Although hampered by long delays and a severe backlog of unresolved cases, a system of specialized labor courts exists to hear and adjudicate labor-related complaints.

Collective bargaining is the normal means of setting wages and settling disputes in the organized industrial sector, and trade unions are usually vigorous in defending worker interests in this process. When collective bargaining fails to establish locally equitable wage levels, the Government may set up tripartite boards, including trade union representation, to determine them. The Trade Union Act prohibits discrimination against union members and organizers, and employers may be penalized if they discriminate. The Supreme Court has repeatedly upheld the 1926 Act and reinstated workers dismissed for union activity.

There are seven EPZ's in India. Physical access to the EPZ's ordinarily is limited to those who work in them, and union organizers are not exempt from these limitations. While workers in EPZ's have the legal right to organize and bargain collectively, trade union activity is rare. Women workers constitute the bulk of the work force in the EPZ's.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced labor, and legislation passed in 1976 specifically bans the practice of "bonded labor." A Supreme Court decision defined "forced labor" as work at less than the minimum wage (minimum wages are usually set by the states, not the central Government). Under this definition, "forced labor" is widespread throughout India, particularly in rural areas. "Bonded labor," the result of a private contractual relationship whereby a worker incurs or inherits debts to a contractor and then must work off the debt (plus extensive interest), is illegal but prevalent. While violations are punishable by imprisonment for up to 3 years, individual state labor departments are responsible for law enforcement, and prosecutions are rare.

Based on reports from the states, the Government estimates that between enactment of the Bonded Labor (Regulation and Abolition) Act in 1979 and March 31, 1993, approximately 251,424 bonded workers had been released, of whom 223,108 had been "rehabilitated" by March 31, 1992. Other sources, including the Bandhua Mukti Morcha and the Gandhi Peace Foundation, have estimated that those released represent only one-tenth of the total number of bonded laborers in India. Private and autonomous social organizations, such as trade unions, the Council for Advancement of Peoples' Action and Rural Technology, and Action for Welfare and Awakening Rural Environments, attempt to identify cases of bondage and pursue them with the appropriate officials. However, even with better coordination and increased resources to overcome the complicated jurisdictional division between central and state governments, the eradication of bonded labor is proceeding slowly.

d. *Minimum Age for Employment of Children.*—Article 24 of the Constitution prohibits employment of children under 14 years of age in factories, mines, or other hazardous employment; Article 45 encourages states to provide free and compulsory education for all children up to the age of 14. A law passed in 1986 banned the employment of children under 14 in hazardous occupations (such as glass making, fireworks, match factories, and carpet weaving) and regulated their employment in others. The Factories Act of 1948 limits the working hours of children between the ages of 15 and 18 to 5 hours per day. However, these constitutional and legal provisions have had little impact on the use of child labor. Government statistics put the total number of child workers at 17.5 million in 1985. The International Labor Organization (ILO) put the number at 44 million, while NGO's cite a still higher figure of 55 million. As in the case of bonded labor, the central Government often faults divided jurisdiction with state governments for its inability to curb the practice. The continuing prevalence of child labor can be attributed to social acceptance, a widespread official belief that poverty causes child labor, and the failure of the state governments to make primary school education compulsory.

Two German-funded International Labor Organization (ILO) projects begun in 1992 seek to end child labor in the formal sector and reduce it elsewhere through promotion of primary school and vocational training alternatives. Some 25 activities of different NGO's have been approved under the projects thus far. The Tamil Nadu

state government and the United Nations Children's Fund (UNICEF) launched a joint program to eradicate child labor by promoting primary education, with state authorities pledging to enact legislation making it compulsory.

Certain industries, especially carpet weaving, have expanded their presence in the export market by exploiting the low cost of child labor. The South Asian Coalition on Child Servitude (SACCS) promoted consumer education campaigns in the United States and Germany (the world's two largest markets for South Asian carpets) as well as other European nations and lobbied for the selective boycott of carpets produced by child labor. SACCS' efforts induced a significant portion of the industry in India to join hands with NGO's and the Indo-German Export Promotion Project to formulate a certification process for carpets made without child labor. SACCS has lobbied states to enact universal, compulsory primary school education laws and force political leaders, irrespective of their party affiliation, to take a stand on the issue.

e. *Acceptable Conditions of Work.*—In the "unorganized sector," each state sets separate minimum wages for agricultural workers, which are not well enforced. While the basic minimum wage varies according to the state and sector of industry, most "organized" workers receive much more than the minimum wage, especially when legislatively mandated bonuses and other benefits are included. The minimum wage is considered adequate only for the most minimal standard of living.

The Factories Act established an 8-hour workday, a 48-hour workweek, a 24-hour rest period each week, and various standards for working conditions. These standards are generally enforced and accepted in the modern industrial sectors but tend not to be observed in the more extensive older, smaller, and less economically robust industries. State governments are responsible for enforcement of the Factories Act. However, the large number of industries covered by a small cadre of factory inspectors and their limited training and susceptibility to bribery make for lax enforcement. Although occupational safety and health measures vary widely, in general neither state nor central government resources for inspection and enforcement of standards are adequate. Safety conditions tend to be better in the EPZ's. Workers are not guaranteed the right to remove themselves from dangerous work situations without jeopardy to continued employment. The ILO, in conjunction with the International Social Security Administration and the Indian National Safety Council, held its 13th World Congress on Occupational Safety and Health in New Delhi in April. This was the first time this ILO Congress was held in a developing country. Although the congress evoked a good response from foreign and Indian practitioners in this field, it failed to generate interest among India's general public.

MALDIVES

The Republic of Maldives comprises 1,190 islands in 26 natural atolls scattered across an area 500 miles long by 75 miles wide in the Indian ocean with a population of some 225,000 persons. It has a parliamentary form of government with a strong executive. In practice, government authority in this small, homogeneous society rests largely in the hands of the President and a number of powerful Cabinet ministers. Political parties are officially discouraged. Candidates for the unicameral legislature, the Citizens' Majlis, run as individuals. The Majlis selects a single nominee for president who is subsequently approved or rejected by the voters.

In 1993 the Majlis nominated President Maumoon Abdul Gayoom for a fourth 5-year term. His principal rival for the nomination, Ilyas Ibrahim, was subsequently tried in absentia for violation of the Constitution, found guilty of treason, and sentenced to more than 15 years' banishment in what was widely seen as a politically motivated legal proceeding. A number of Ibrahim's supporters were arbitrarily detained, and some were later tried and convicted for political offenses.

The National Security Service (NSS), which includes the army and police, is responsible for maintaining internal law and order as well as defending the country. Total NSS membership is estimated at between 1,200 and 2,000. NSS members generally serve in both police and military functions over their careers. The police division investigates crimes, does security intelligence work, makes arrests, and enforces house arrest.

Nearly half the work force engages in traditional activities such as fishing and small-scale agriculture. Manufacturing and tourism employ an additional 25 percent of the work force, with tourism accounting for 40 percent of foreign exchange receipts.

The Government continues to restrict human rights closely in several areas, including the right of citizens to change their government, freedom of speech and of

the press, freedom of religion, and women's and workers' rights. There are some political prisoners. Other problems include arbitrary arrest, incommunicado detention, and lack of an independent judiciary. Some of these restrictions—on religion and women's rights, for example—are linked with the country's observance of the Shari'a (Islamic law) and other Islamic principles and customs.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of such killings in 1993.

b. *Disappearance.*—There were no reports of disappearances in 1993.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There were no credible reports in 1993 that persons were beaten while in police custody. Supporters of Ilyas Ibrahim were alleged to have been abused while in custody, but these allegations were not substantiated. Convicted criminals may be flogged under judicial supervision when this punishment is prescribed by the Shari'a. Usually, however, punishment is confined to fines, compensatory payment, house arrest, imprisonment, or banishment to a remote and sparsely populated atoll. Banishment is considered a particularly severe punishment because the banished person is not allowed visits by family members.

Prison conditions are reported to be adequate. Food and accomodation provided, especially for political prisoners, is reportedly quite good by Maldivian standards. Prisoners are allowed to work while in prison. Spouses are now allowed complete privacy during visits with incarcerated partners.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution states that "no person shall be apprehended, except on a verdict specified by Shari'a or (civil) law." Police undertake investigations either on suspicion of criminal activity or in response to a formal written complaint alleging commission of a crime. The complaint can be written by anyone, including a citizen, police officer, or government official. No warrants are required for arrests, but arrests are made only after clearance from a superior officer, such as the officer-in-charge, is received. Depending on the results of the police investigation, the Attorney General may refer the case to the appropriate court.

Complainants may also directly petition a court for its intervention. It is customary not to disclose to the public the details of the charges against a person until it has been established that the charges are likely to be upheld.

Persons under investigation generally are free pending trial, provided they do not leave a specified atoll. Depending on the charges, however, a suspect may be imprisoned or placed under house arrest without trial for 15 days while the case is being investigated. In most cases, if not brought to trial within 15 days, the subject is freed. After the first 15 days, detention or house arrest may be extended for 30 days by authority of the President. There is no limit on the detention of persons suspected of such crimes as illegal drug use, terrorism, or attempted overthrow of the Government. As a result, such detainees may be held without trial indefinitely.

There is no provision under Maldivian law for bail. Neither is there a requirement in law that persons be formally charged before being detained on suspicion, so some suspects, especially for political offenses, have been imprisoned or held under house arrest for weeks or months without charge. There is also no right to legal counsel during police interrogation or the making of a confession. One detainee, charged with withholding information about terrorist activities, was arrested in February 1991 and held under house arrest for 2 years before his trial (at which he was acquitted in March 1993) began. Some detainees reportedly have been held without access to lawyers, friends, or family. Persons held under house arrest may be prohibited visits by nonfamily members and access to a telephone. At times prisoners have been held incommunicado as a way to extract confessions.

Most, if not all, of the more than 50 persons arrested in November 1990 on what appear to have been exaggerated charges, including terrorism and political subversion, have either been released or tried, convicted, and sentenced to imprisonment or banishment to outer atolls.

In 1993 at least 20 supporters of Ilyas Ibrahim—the President's brother-in-law and chief rival for the presidential nomination—were detained. Three were charged with assisting Ibrahim in his campaign to win the presidency—an offense under the Maldives' Constitution (see Section 2.e. and Section 3). They were convicted and sentenced to 10 years' banishment. A fourth was sentenced to 7 years' banishment for withholding information about the above-mentioned crime. Other detainees were released after questioning, but approximately eight are believed to still be in police custody awaiting the filing of charges.

There were no cases of foreign exile in 1993. The practice of banishment to remote atolls is a form of internal exile.

e. *Denial of Fair Public Trial.*—The President exercises considerable influence over the judiciary as demonstrated by his power to appoint and dismiss judges. All judges serve at his pleasure; they are not subject to confirmation by the citizens' Majlis. The High Court falls under the authority of the Office of the President. Under the law, the President has the power to grant pardon and amnesty to offenders but, according to Maldivian officials, does not determine sentences. Some observers also believe that the President personally reviews some court decisions and may use his influence to affect the outcome of decisions.

There are eight lesser courts and a High Court in the capital island, Male. The High Court handles a wide range of cases, including politically sensitive ones, and acts as a court of appeal. Each of the lesser courts deals with specialized cases, such as debt, theft, or property claims. On other islands, there are all-purpose courts. There are no jury trials. Most trials are open to the public and are conducted by judges trained in Islamic and civil law. Public and press attendance at trials of persons charged with political crimes has, on occasion, been restricted, but the major political cases in 1993—that of Ilyas Ibrahim and his supporters—were open to the public and heavily attended.

Ibrahim was charged with having illegally attempted to become president of the Maldives. Under the Constitution, nomination of the presidential candidate is the responsibility of Parliament and it is a constitutional offense for an individual to actively seek the office. Ibrahim was also charged with having violated his oath as minister. Ibrahim, who was out of the country, declined to appear before the court as ordered. He was ultimately tried in absentia. Although he was represented by counsel during the proceedings, Ibrahim claims that his attorney was prevented from traveling abroad to meet with him and that telephone and fax communications between him and his attorney were monitored by the Government. Ibrahim was convicted on both charges and sentenced to 15 years' banishment on the first count and to 6 months' additional banishment on the second. He still faces two additional charges involving conflict of interest between his ministerial duties and private positions that he held concurrently.

Most Maldivians believe that the charges against Ibrahim were motivated primarily by political considerations and that the results of the trial were a foregone conclusion (see Section 3). However, most also believed that there was some substance to the charges by government officials that Ibrahim attempted to bribe parliamentarians to vote for him.

Cases on outer islands are usually adjudicated by traditional legal practitioners, but more complex legal questions are referred to the appropriate specialized court in Male'. The Male' court may in turn refer the issue to four judges attached to the Justice Ministry.

During trial, the accused may defend himself and call witnesses. He also may be assisted by a lawyer, but most defendants do not use them because there are few professionally trained lawyers in Maldives. Courts do not provide lawyers to defendants who cannot obtain legal counsel on their own. Traditional Islamic judges question the concerned parties and attempt to establish the facts of a case as well as reach a legal judgment. Generally, the length and type of sentence are established by law and custom.

Shari'a and civil law operate simultaneously in the Maldivian legal system, but civil law is subordinate to Shari'a. Shari'a is applied in situations not covered by civil law as well as in dealing with certain specific acts and offenses, such as divorce and adultery. The courts that deal with matrimonial and criminal cases do not, as a general rule, allow legal counsel to be present because the interpretation of Shari'a used in Maldives argues that answers and submissions should come directly from the parties involved. The High Court of Maldives, however, does allow legal counsel in all types of cases, including those in which the right to counsel was denied by the lower court.

There are political prisoners, but there are no reliable estimates of the number.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits opening, or reading letters, telephone conversations, telegrams, and wireless messages exchanged between persons "except in accordance with the specific provisions of the law." The NSS sometimes opens the mail of private citizens and notifies them that it has done so. It is also widely believed that the Government taps telephones. The Constitution requires that private premises and dwellings be respected, but there is no legal requirement for search or arrest warrants, and police officials sometimes search private residences without prior warning.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and expression "so long as the specific provisions of Shari'a and the law are not contravened." In practice, however, freedom of speech, press, and broadcast are sharply restricted. Under Maldivian law and custom, a citizen may criticize or complain to the Government without fear if he does so through recognized channels. These include letters or oral complaints to the President, a Majlis member, a civil servant, or other person in authority.

Individuals who use other channels to express dissent, however, do so at their peril. The Penal Code includes a provision that makes it illegal to arouse the people against the Government. A November 1990 amendment to the Penal Code decriminalized "any true account of any act of commission or omission past or present by the Government in a lawfully registered newspaper or magazine, so as to reveal dissatisfaction or to effect its reform." This amendment so far has had no appreciable effect in easing journalists' concerns about publishing material that might be deemed to contravene the broad Penal Code provision. Law no. 4 of 1968 also prohibits public statements—either orally or in writing—that express anti-Islamic sentiment or that might threaten national peace and stability or that might be libellous to anyone.

The harassment, arrest, and conviction of a number of journalists following a short period of unprecedented press freedom in early 1990 eliminated the dissident press and created a persisting atmosphere in which newspapers are afraid to publish articles critical of the Government. The Government also holds printers responsible for the material they print, resulting in the printers' refusal to accept anything even slightly controversial.

Seventy-six newspapers and periodicals are registered, of which 13 are published by the Government. The only two dailies are owned by government ministers. Two politically outspoken newspapers, Sangu and Hukuru, whose official registrations were revoked in mid-1990, remain closed. Of the 2 journalists affiliated with Sangu who were among 50 persons detained in 1990, one, editor Mohammed Shafeeq who was originally sentenced to 11 years' imprisonment, was released from house arrest in May. The second, a journalist, remains under house arrest serving a 3-year sentence. Other journalists detained in 1990, including several from Hukuru, have reportedly either completed their sentences or been granted amnesty. There were no forced closures of newspapers or magazines in 1993. In the one defamation case brought against a journalist by a private party in 1993, the journalist was found innocent.

There is no prior censorship of newspapers, but officials in the Department of Information and Broadcasting sometimes call publishers to point out that certain articles are unacceptable for political or other reasons. Publications may be banned for containing criticisms of the Government "based on falsehood and unfounded speculation." The Government also reserves the right to take action against journalists who "bring discredit and dishonor to individuals or groups through the malicious use of mass media and create social unrest among the general public." Because these regulations are often broadly construed, self-censorship is well ingrained among writers and editors.

The Government owns and operates the only television and radio stations. Foreign broadcasts are not jammed. There is no prohibition on satellite receivers anywhere in the country.

There are no legal prohibitions on the import of foreign publications, except those containing pornography or material otherwise deemed objectionable in terms of Islamic values. No seizures of foreign publications were reported in 1993. There are no reported restrictions on academic freedom nor any governmental censorship or control over classroom materials. Some teachers are reportedly quite vocal in their criticism of government policies.

b. *Freedom of Peaceful Assembly and Association.*—Article 15 of the Constitution guarantees Maldivians the right to assemble as long as they do not violate the law or the Islamic code of behavior. Public political meetings are permitted during electoral campaigns, with Home Ministry permission, but so far political meetings have been limited to small gatherings on private premises. Clubs and other private associations are permitted if they do not contravene Shari'a and civil law. They must be registered with the Government. While not expressly forbidden by law, political parties are not permitted in practice. President Gayoom has publicly discouraged their formation, declaring political parties inappropriate to the homogeneous Maldivian society, at least for the present.

c. *Freedom of Religion.*—Freedom of religion is significantly restricted. The Constitution designates Islam as the official religion and requires all citizens to be Muslims.

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There are no places of worship for adherents of any other religion, and the importation of figures for worship is prohibited. Clergy and missionaries of non-Muslim faiths may enter Maldives but are forbidden to proselytize or hold public worship services. Conversion of a Muslim to another faith is a violation of Shari'a law and could result in a loss of citizenship for the Maldivian convert, although law enforcement authorities say this provision of the law has never been applied. The practice of any religion other than Islam is prohibited by law. Citizens of other nations resident in Maldives are, however, allowed to practice their religion if they do so privately.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no formal restrictions on freedom of movement within the Maldives. Although no law explicitly prohibits migration to the capital island of Male' or its surrounding atoll, these areas have become so overcrowded that the Government discourages migration there except for short periods of work, education, or medical treatment.

There are no arbitrary restrictions on foreign travel or emigration. A Maldivian who has acquired another nationality must maintain Maldivian nationality concurrently and must enter and leave Maldives on a Maldivian passport. The Government is not known to have revoked the citizenship of any Maldivian.

There are no refugees or displaced persons.

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

Maldives traditionally has been governed by a limited circle of persons, and Maldivians have only limited and indirect influence on the selection and organization of their government. A single nominee for president, who constitutionally must be male and a Sunni Muslim, is chosen by secret ballot in the Majlis from as many candidates as are proposed by members. Direct personal campaigning for the nomination by a candidate is not permitted. The nominated candidate is confirmed or rejected in a nationwide referendum, also by secret ballot. In 1993 the Majlis nominated President Gayoom to a fourth 5-year term in office.

Members of the citizens' Majlis, a unicameral legislature, are chosen for 5-year terms by secret ballot. All Maldivians over 21 years of age may vote. Of the body's 48 members, 40 are elected—2 from each of the 19 inhabited atolls and 2 from Male'—and the President appoints 8. Individuals or groups are free to approach members of the Majlis with grievances or opinions on proposed legislation.

The most recent Majlis election was held in November 1989. Under the Constitution, Islamic law rather than the Majlis has legal preeminence. In practice, the President, who in addition to being the head of government and state is also responsible for the protection of Islam, and key members of his Cabinet wield tremendous power over the Majlis.

It is widely believed that through a combination of inducement and intimidation the President and key members of his Cabinet have been able to control the outcome of the presidential election process. In the 1993 campaign President Gayoom was challenged by his brother-in-law and Cabinet Minister Ilyas Ibrahim, who had also been nominated. In the nominating vote, Gayoom won 28 votes to Ilyas' 19. Ilyas, who charged that he had been forced to leave the country by the President, and who faced criminal charges should he return, alleged that the President improperly pressured Majlis members and denied him his right to contest fairly for the presidency. Government officials allege, however, that Ilyas improperly used funds from his ministerial portfolio to induce parliamentarians to vote in his favor.

In place of political parties, factions in the Majlis tend to form around individuals or points of view. Any member may introduce legislation. If seconded, it must be considered by the entire legislative body. Although the Majlis previously could not interpellate ministers, in 1993 President Gayoom instructed the Majlis to introduce a question time during which Members of Parliament will question ministers directly about government policy and administration. The Government has said that members of the Majlis are protected by law for statements made during Majlis debates; however, since the arrest and banishment of a member of the Majlis in 1990 on charges that were not made public and the harassment of several others for outspokenness in 1990 and 1991, the atmosphere in the Majlis reportedly has become more subdued than it was in early 1990. The Majlis still, however, proposes new legislation and debates some draft bills vigorously.

Women are not eligible to become president but may hold all other government posts. For reasons of tradition and culture, however, few women seek or are selected for public office. In 1993 2 women served in the 48-member Majlis. There were no female members of the Cabinet.

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

There are no active local human rights groups, and government restrictions on freedom of speech and press inhibit any organization from investigating and publicly criticizing the Government's human rights policies.

In general, the Government does not welcome international human rights organizations or the human rights inquiries of foreign governments, considering them an intrusion into Maldives' domestic affairs. However, there have been instances in recent years in which the Government has engaged international human rights organizations in discussion.

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

Women.—Women traditionally have played a subordinate role in Maldivian society, although they now participate in public life in growing numbers and gradually at higher levels. Well-educated Maldivian women report that although the upward professional mobility of women is not limited by statute, the education, career choices, and achievement of women is circumscribed by cultural norms and expectations. Because Islamic practice is the basis for Maldivian civil law, it is easier for husbands to divorce wives than vice versa. Islamic law also governs inheritance, according to men twice the share of women. Women who work for wages—for the Government, in business, or in garment factories—generally receive pay equal to that of men in the same positions. Approximately 10 percent of uniformed NSS personnel are now female.

The Government has shown interest in promoting the welfare of women in both the public and private sectors. A Department of Women's Affairs and a National Women's Council have been created to protect women in traditional roles and, to a degree, to expand opportunities for them in nontraditional occupations. These efforts must contend, however, with conservative sentiment among small businessmen and residents of the outer islands, due largely to orthodox Islamic training which opposes women being active outside the home.

There are no firm data on the extent of violence against women. Violence against women is probably underreported to authorities because of the value attached to privacy within the family in this conservative society. Police officials report that they receive only three or four complaints of assaults against women each year, and Maldivian women's rights advocates agree that wife beating and other forms of violence are not widespread. Rape and other violent crimes against women are rare.

Children.—There are no reported patterns of abuse against children in Maldives. A Bill of Children's Rights is incorporated into Maldivian law which specifically protects children from both physical and psychological abuse—including at the hands of teachers or parents. The Ministry of Home Affairs has direct authority for overseeing enforcement of this law and reportedly takes the responsibility seriously.

People with Disabilities.—There is no legislation in Maldives that specifically addresses the rights of the physically or mentally disabled. The Government has, however, played an active role in the protection and rehabilitation of the disabled. There is a government institution for treatment of the mentally handicapped. The Ministry of Health and Welfare arranges for treatment abroad for physically disabled persons who need specialist care and for visits to Maldives by specialists to treat both the mentally and physically disabled. The Government also provides a monthly allowance for the blind and makes items such as wheelchairs, crutches, and eyeglasses available to those who cannot afford them. The Government has not legislated or otherwise mandated accessibility for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—While unions are not expressly prohibited, the Government recognizes neither the right to form them nor the right to strike. There were no reports of efforts to either form unions or to strike in 1993.

Maldives has a work force of approximately 57,000 persons, about 20 percent of whom are employed in traditional fishing. Approximately 17,000 foreigners work in Maldives. Many are brought in from Sri Lanka and India to work in resort hotels so that Maldivian nationals will be only minimally involved in the serving of liquor. A large number of factory workers are also foreign laborers, and many are engaged in road work and construction projects. The great majority of economically active Maldivians work outside the wage sector. Detailed employment statistics do not exist, but it is estimated that the manufacturing sector employs about 15 percent of the labor force and the tourism industry another 10 percent. Tourism, however, accounts for about 20 percent of the gross domestic product and 40 percent of foreign exchange receipts.

b. *The Right to Organize and Bargain Collectively.*—Workers' rights to organize and bargain collectively are neither recognized nor protected by law. Wages in the private sector are set by contract between employers and employees and are usually based on the rates for similar work in the public sector. In 1993 the Government asked a foreign union organizer to leave the country due to his efforts to persuade Maldivian seamen to join the International Transport Workers Federation (ITF) for the purpose of obtaining wage and other benefits not provided to them in their employment contracts approved by the Ministry of Transport and Shipping. Maldivian officials also reportedly warned seamen against becoming involved with foreign seamen's unions, arguing that shipping company recruiters would stop coming to Maldives to offer jobs if they did so.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—There is no legal code regulating the conditions of labor. Forced or compulsory labor is not prohibited, but there are no reports that it is practiced.

d. *Minimum Age for Employment of Children.*—There is no compulsory education law. However, in 1990 some 77 percent of those 5 to 19 years of age were enrolled in government or private schools. A law passed in 1992 bars children under 14 years of age from "places of waged work" and from work that is "not suitable for that child's age, health, or physical ability" or that "might obstruct the education or adversely affect the mentality or behavior of the child." An earlier law prohibits government employment of children under the age of 16. There are no reports of children being employed in the small industrial sector, although children do work in family fishing, agricultural, and commercial activities. Hours of young workers are not specifically limited by statute.

e. *Acceptable Conditions of Work.*—There is no national minimum wage for the private sector, although the Government has established wage floors for certain kinds of work. There are no statutory provisions for hours of work and length of annual leave. Given the severe shortage of labor, however, employers must offer competitive pay and working conditions to attract skilled workers. In the public sector, a 6-hour day and a 6-day workweek have been established through administrative circulars from the President's office. Overtime pay for those who work more than a 6-hour day was instituted in the public sector in 1990. Government workers receive 3 weeks' leave per year. There are no laws governing health and safety conditions.

NEPAL

Nepal is a constitutional monarchy with a parliamentary form of government. Formerly an absolute monarch, the King in 1990 legalized political parties and invited formation of an interim government that promulgated a new Constitution. Under the Constitution, the King retains important residual powers but has effectively dissociated himself from the exercise of governing. The democratically elected Parliament consists of the House of Representatives (lower house) and the National Council (upper house). In multiparty elections held in May 1991, the Nepali Congress Party won a majority in the House of Representatives and chose G.P. Koirala as Prime Minister.

Internal security is maintained by Nepal's National Police Force, under the Home Minister, and, as necessary, by the Royal Nepalese Army, of which the King is Commander in Chief. Because communication links in Nepal are limited, local officials have a great deal of autonomy and exercise wide discretion in handling law and order. In 1993, as in previous years, the police on several occasions used excessive lethal force in quelling demonstrations, and police mistreatment of criminal suspects continued.

Nepal is one of the world's poorest countries, with per capita gross domestic product estimated at around $170. Over 80 percent of its 20 million people are supported by subsistence agriculture. Carpet and ready-made garment sales and tourism revenues are the major sources of foreign exchange, and foreign aid covers more than half of Nepal's development budget. Under the new Government, major efforts are under way to liberalize the economy and provide a greater role for the private sector.

Progress has been achieved in the transition to a more open society and greater respect for human rights since political reform began in 1990; however, there was no significant change in the human rights situation in 1993 from the previous year, and substantial problems remain. During periods of leftist-inspired unrest in June and July, groups of brick-throwing youths clashed with police on several occasions.

Poorly trained police forces fired indiscriminately into crowds in at least three instances and unnecessarily resorted to the use of lethal force at other times. Overall, at least 20 persons were killed. There were reports of torture under detention and widespread reports of custodial abuse. The Government's unwillingness to investigate or enforce accountability for recent and past abuses remained a concern. Some restrictions continued on freedom of expression. Trafficking in women and child labor remained serious problems. Discrimination against women and lower castes was prevalent.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—On several occasions, government security forces responded with excessive force to demonstrations, some of them violent, organized by the principal opposition party, the Communist Party of Nepal/United Marxist-Leninist (CPN/UML). A number of demonstrators were killed. On March 8, police fired into a crowd that was violently protesting the Tanakpur agreement between Nepal and India concerning water rights, after tear gas and the firing of blanks failed to disperse the demonstrators. One 15-year-old girl was killed, and two persons were wounded.

More serious political violence erupted in June after a government commission investigating the deaths of two senior UML leaders released its finding that the two died in an accident when their vehicle plunged into a river. The UML conducted its own investigation which claimed that their leaders were the victims of a political conspiracy. However, the party did not release its report or provide evidence to support its allegations. Between June 24 and 28, a series of protests were called by leftist parties to pressure the Government into forming a new investigative commission. The demonstrations turned violent in several places in Kathmandu and its suburb Patan. In some instances, groups of young men destroyed public and private property, attempted to set fire to government buildings, and attacked police with stones and bottles. Police initially exercised restraint, but by the third and fourth day of the protests police fired indiscriminately into crowds or at specific curfew violators. At least 16 people were killed, including several innocent bystanders.

Violence reignited on July 19–20, when a Communist-led call to halt all transport led to violent clashes with the police. The police killed three boycotters in Janakpur, Chitwan, and Jhapa districts and two more on August 23 in Sarlahi district.

The Government compensated some of the families of those killed in the demonstrations with approximately $500 each and paid the medical expenses for some of those injured in the violence. The Government compensated the families of 10 people killed in the 1993 summer violence after the families made claims through the Ministry of Home Affairs. Some families refused the offers of compensation. However, the Government refused to initiate a formal investigation into the events of June 26–29 or July 19–20 and did not initiate legal proceedings against the police officers responsible for the killings. The Government claimed the use of lethal force was justified on those occasions in order to safeguard the police who were heavily outnumbered. Independent human rights monitors faulted both sides for the violence. The police overreacted in firing into crowds indiscriminately and using deadly force before exhausting other options, while the demonstrators resorted to violence and stone throwing.

Police also shot and killed a Tibetan monk and wounded several others on June 15 when a group of about 60 Tibetans were intercepted after crossing the border from China without valid travel documents. The Government investigated the incident and promised to punish those responsible but took no action, nor did it release a report of the investigation by year's end.

On March 10, two policemen beat to death a man taken into custody in Hetauda. They were arrested and now await trial. On November 1, 1992, the police in Gorkha district beat to death one of five persons arrested on suspicion of theft (see Section 1.c.).

According to numerous human rights groups, an 18-year-old male was reportedly arrested and taken into police custody during a demonstration in Bhaktapur on July 5. Another detainee later reported seeing him in the Khaktapur police station and stated that his body was covered with blood. After vomiting twice, the 18-year-old became unconscious and was left unattended overnight. The following morning, police brought him to Kathmandu's Bir Hospital where he died. Apparently no postmortem was conducted and police cremated the body soon after death. One hospital employee later stated that the youth died of head injuries. The Government denied this and claimed the youth was found lying unconscious in the street and died after authorities took him to the hospital.

Human rights observers also report that a 26-year-old male was arrested by police on July 29 in Butwal. Reportedly drunk and disorderly, he was detained overnight. On the next morning, police took him to the hospital where he died later that day. No postmortem was conducted, but witnesses say that the man's face and feet were grossly swollen.

b. *Disappearance.*—Numerous reports suggest that a student activitist may have disappeared after being taken into police custody on June 25 in central Kathmandu. During a crowded street demonstration, several eyewitnesses claim they saw the student being beaten by police. Jounalists later published photographs that appear to show him being carried off by armed police. Police deny taking him into custody, but family members say he has been missing ever since. A local student group has petitioned the Supreme Court to file a writ of habeas corpus in this case, but the Court, without explanation, has postponed its decision several times. Several international human rights groups have written to the government to express concerns about this case.

The report of the Disappearances Commission, established to look into all disappearances between December 1960 and the political transformation that began in 1990, remains unpublished. Human rights groups have expressed skepticism about the Government's claim that the report's findings do not warrant governmental action. They continue to express concern that persons responsible for disappearances remain in positions of authority.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the Constitution prohibits torture, physical abuse by police is reported to be a common means of punishing or extracting confessions from those suspected of wrongdoing. The Government rarely conducted investigations into allegations of police brutality or punished police officers responsible for abuses. The Constitution provides for compensation to those subjected to physical or mental torture. However, a torture compensation bill introduced in Parliament remained in committee at the close of the session and was not passed in 1993 The bill, an initiative to provide quick monetary relief to victims of abuse by the authorities, has been opposed by some human rights groups for "putting a price on torture." It remains in committee and is to be discussed in the next session of Parliament.

Information developed by local and international human rights groups in 1993 shed light on several instances of torture that occurred in late 1992. In one case, seven men and one woman were taken into custody on October 29, 1992, in connection with a murder in Sindhuli district. The police tortured six of them in an attempt to force confessions; three were beaten until unconscious, while two were threatened with death if they did not sign confessions. Another incident took place in Kathmandu on October 30, 1992, after five persons were charged with bank fraud. The police tortured two persons by electrical shocks, beat them with a pipe, and dragged them about by their hair. On November 1, 1992, five persons were arrested on suspicion of theft in the Gorkha district and severely beaten. Medical doctors verified that all five received wounds consistent with torture. One victim died 6 days later. On November 23, 1992, five persons in Pokhara were arrested after a demonstration to protest the dismissal of a school's headmaster and were severely beaten by police with bamboo sticks. On January 13, 1993, the deputy superintendent of Pokhara's Kaski district was discharged because of the incident. No criminal proceedings are known to have been brought against him, and he has not been disqualified from future government service.

On December 13, 1992, five policemen in Kathmandu, including a subinspector, raped a young woman who had been detained for questioning. As part of a government investigation, medical evaluations indicated that her injuries were consistent with sexual assault and severe beatings. The subinspector was subsequently discharged in January 1993, but no criminal proceedings were brought against him or others who participated in the rape.

According to a number of human rights groups, during the demonstrations that occurred in the Kathmandu valley June 26–29, there were instances when police administered beatings indiscriminately to both adults and children in police custody. The police beat 17 of the 60 children (15 years old or younger) detained during the protests. Medical examinations of the 17 indicated that their injuries were consistent with beatings. The police reportedly denied food and water to all 60 children for 3 of their 7 days of detention. Human rights groups report that they were denied permission to enter the detention facility where the children were held.

In the incident in which a Tibetan monk was killed near the Nepal-China border on June 15 (see Section 1.a.), seven Tibetans taken into police custody were severely beaten, two of them to the point of unconsciousness. In September four prisoners who tried to escape from an Ilam District jail reportedly were beaten severely with

clubs by four policemen. On examination by doctors, one man was found to have 35 lash marks on his back.

Overcrowding is common in Nepalese prison facilities, and the use of handcuffs and fetters is sometimes reported. Women are incarcerated separately from men, in equally poor conditions. A provision in the 1992 Children's Act calling for the establishment of a juvenile home and juvenile court for children has not been implemented. Consequently, children are sometimes incarcerated together with adults, both when they commit crimes themselves or when a parent has committed a crime and they have no other place of lodging. There were reports that 6 infants and about 150 children below the age of 16 were in prison in 1993.

Reflecting the low level of general medical facilities in this developing country, facilities for care and treatment of the mentally ill are inadequate. Such persons are often placed in jails under conditions that are degrading and inhumane by international standards.

d. *Arbitrary Arrest, Detention, or Exile.*—According to the Constitution, a suspect must be brought before a court within 24 hours after arrest and informed of the general grounds for the arrest or be released. Under the Public Offenses Act of 1970, warrants are required for an arrest unless a person is caught in the act of committing a crime. For many offenses, the case must be filed in court within 7 days of arrest. If the court upholds the detention, the police are authorized up to 25 days, with a possible 7-day extension, to complete their investigation. The Supreme Court on occasion ordered the release of detainees held longer than 24 hours without a court appearance. However, in practice, the police often violate this provision of the law. Under current law, persons are permitted access to a lawyer only after they are no longer in police custody. Lawyers report that family members do not have a legal right of access to detainees. Rather, the granting of access is haphazard and varies from prison to prison. There is a functioning system of bail, but bail is too expensive for most Nepalese.

The Public Security Act was often used to detain and arrest persons during the 1990 Movement to Restore Democracy. The Act was used primarily in 1993 to detain groups of youths and mob leaders before scheduled demonstations. Most detainees were released within 24–48 hours. Under the 1991 amendments, police must present written notice to the Home Ministry to extend the period of detention.

The district court must be notified of the detention within 24 hours. It may extend the period of detention once, for an additional 6 months, before official charges must be filed. The grounds for detention are open to broad interpretation: to ensure the security of Nepal; order and tranquility inside Nepal; amicable relations between Nepal and other friendly states; or amicable relations among people of different classes or religions within Nepal. Persons detained under the Act are considered to be held in preventive detention and are not brought to trial. Human rights groups report that persons supportive of the CPN/UML and other opposition parties are sometimes arrested and detained arbitrarily and are subjected to unwarranted criminal investigations because of their political affiliation.

The revised Public Offenses Act and other laws allow for arbitrary detention. It was under this Act that hundreds of civil servants were detained in 1991 during a 55-day protest strike against the Government. Despite the Act's revision in 1992, human rights monitors continued to express concern that it vests too much power in the Chief District Officer (CDO), the highest ranking civil servant in each of Nepal's 75 districts. In addition to a wide range of administrative powers, CDO's are accorded the power to order detentions, issue search warrants, and specify fines and other punishments for misdemeanor crimes without judicial review. The Public Offenses Act and its many amendments (the latest in 1992) cover such crimes as disturbing the peace, vandalism, rioting, and fighting. CDO's continue to act as magistrates in these cases and are empowered to decide questions of guilt and to set penalties. Their decisions may be appealed to appellate courts.

Exile is prohibited by the Constitution and is not practiced.

e. *Denial of Fair Public Trial.*—The judicial system consists of three levels: district courts, appellate courts, and the Supreme Court. The judges of all three levels are appointed by the King upon the recommendation of the Judicial Council, a constitutional body chaired by the Chief Justice that makes recommendations and gives advice on matters of appointment, transfer, disciplinary action against judges, and other matters relating to judicial administration.

Military and civilian courts are separate. Military courts generally deal only with military personnel who are immune from prosecution in civilian courts. In 1992 the Supreme Court ruled that civilians may no longer be tried in military courts for crimes involving the military. In the past, cases of terrorism or treason were often dealt with under the Treason Act in closed trials held before specially constituted tribunals. No such cases were tried in 1993, but the Treason Act remains in effect.

The judiciary is legally independent. In 1993 the process of judicial strengthening continued. Human rights lawyers in Nepal report that the Supreme Court increasingly has demonstrated its independence. For example, as the court of final appeal, the Supreme Court has ruled important provisions in the 1992 Labor Act and the 1991 Nepal Citizenship Act to be unconsitutional. Further, the Supreme Court overruled the ruling party's contention that the Tanakpur Agreement with India was an "agreement" instead of a "treaty" requiring Parliamentary approval. Appellate and district courts are also becoming increasingly independent, although they still bend to political pressures at times.

There is no articulated presumption of innocence under the 1990 Constitution. There is the right to a public trial except in some security and customs cases. The Constitution provides for the right to counsel, protection from double jeopardy, and protection from retroactive application of the law. All lower court decisions, including acquittals, are subject to appeal. The Supreme Court is the court of last appeal, but the King may grant pardons and may suspend, commute, or remit any sentence by any court.

The Government declared that it has no political prisoners, and there is no credible evidence that any political prisoners are being held.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Government generally respected the privacy of the home and family. Search warrants are required before search and seizure except in cases involving suspected security and narcotics violations. The Police Act of 1955, as amended, empowers the police to issue warrants for search and seizure in criminal cases upon receipt of information about criminal activities. The Chief District Officer in misdemeanor cases and court judges in felony cases must approve warrants within 24 hours of issuance.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution specifies that all citizens shall have freedom of thought and expression; it also provides that no news item, article, or any other reading material shall be censored. However, Article 13 of the Constitution prohibits speech and press that would threaten the sovereignty and integrity of the Kingdom; disturb the harmonious relations among people of different castes or communities; promote sedition, defamation, contempt of court, or instigation to commit crime; or contradict decent public behavior or morality. The Press and Publications Act provides for the licensing of publications and the granting of credentials to journalists and includes penalties for violating these requirements. In August 1992, regulations issued to enforce this Act further circumscribed Nepal's journalists by setting specific requirements of education and experience in order to hold particular jobs in journalism. The Act also prohibits publication of materials that, inter alia, promote disrespect toward the King or royal family or undermine the dignity of the King; undermine the integrity and sovereignty of the Kingdom; undermine the security, peace, and order of the Kingdom; create animosity among people of different castes, religions, etc.; or adversely affect the good conduct or morality of the public. A similar list provides a basis for banning foreign publications.

Two journalists were arrested in April for offending the royal family. One writer quoted from a book that suggested the King's brother may have been involved in drug smuggling. The other published a retouched photo of the King's daughter and an Indian movie star with an insulting caption. Both journalists were released on bail after 3 days. They were charged under the State Offenses Act and the Press Act for offending members of the royal family. A trial has not yet been held.

The two Nepalese dailies with the largest circulation are government organs. While their editors may on occasion publish critical views and recommend alternative policies, their views usually tend to reflect government policy. The Ministry of Communication also has provided occasional guidance to editors. There are scores, if not hundreds, of fully independent papers representing points of view across the political spectrum. The Government subsidizes newsprint materials to allow less profitable papers to stay in business and is considering allowing duty-free entry of computer and fax machines for the registered newspaper "industry" in order to encourage further the flow of information.

The Government owns and controls the sole radio and television stations. Programming reflects a broader range of interests and political viewpoints than before the political transformation began in 1990, but it still follows the government line closely. Access to foreign radio is extremely widespread and is in no way controlled or restricted by the Government. Access to television satellite reception is limited only by the high costs involved; no government restrictions exist. At the end of the year, the Government moved towards the licensing of private radio stations and discussed the entry of private television and cable services.

Academic freedoms are, in general, subject to the same limitations as the media. However, no overt efforts by the Government to enforce these limitations were reported in 1993.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association. However, freedom of assembly may be legally restricted on such vague grounds as undermining the "sovereignty and integrity" of Nepal or disturbing "law and order." There were no reports of arrest or detention for exercising the freedoms of peaceable assembly or association in 1993. However, hundreds of persons were arrested at violent strikes and demonstrations organized over the summer by the CPN/UML (see Section 1.d.). On several occasions, a few opposition leaders were placed in preventive detention before scheduled demonstrations. They were released within 48 hours.

c. *Freedom of Religion.*—The majority of Nepalese are Hindu, and the Constitution describes Nepal as a Hindu Kingdom, although Hinduism has not been made the state religion. There is a large minority of Buddhists, a smaller number of Muslims, and a small number of Christians. The 1990 Constitution protects the functioning of all religions but prohibits discrimination on the basis of caste, except for traditional practice at Hindu temples. Non-Hindus are allowed to practice their religion and to maintain places of worship. Religious education is offered by non-Hindus, including Muslims and Christians. Religious publications are imported mainly from India and are widely circulated. Religious groups may establish their own organizations and acquire their own places of worship.

A 1992 law allows self-conversion but outlaws proselytizing. It provides a maximum penalty of 6 years for converting a person to another religion and a maximum sentence of 3 years for attempting to convert someone. No arrests were made under this provision in 1993. A number of foreign Christian clergymen and religious workers reside in Nepal and are active in various fields.

The current Government adopted relatively tolerant policies which allowed Christians and other non-Hindu groups to freely engage in a wide variety of religious activities. Christmas and Id-Ul Fitr have been made legal holidays for Christians and Muslims, respectively. There is continuing concern, however, about the prohibition against religious conversion in the new Constitution. Various non-Hindu groups proposed amending this provision of the Constitution. They are concerned that it represents an undue restriction on a person's right freely to express his or her religious beliefs.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens of Nepal may move freely within the country and reside where they wish, a right provided for in the Constitution. Foreigners (including Tibetan residents) and journalists are restricted from traveling to some areas on the Chinese border unless they are part of a licensed trekking group escorted by a police liaison officer.

Travel outside of Nepal is not restricted for Nepalese citizens. Some Tibetans residing in Nepal have been prevented from traveling by air to India due to a lack of travel documents or a Nepali identification card. However, they may pass freely into India by road. Travel to other countries is restricted by the Tibetans' lack of valid travel documents. For Tibetans to travel abroad, there is a complex process often involving invitation letters from foreign governments and the issuance of temporary travel documents. Some Tibetans do travel beyond India but obtaining the necessary visas and documents can take months of effort.

All Nepalese abroad are free to return home. Although not explicitly prohibited by the Constitution, there are no known cases of revocation of citizenship for political reasons.

Nepal has no official refugee policy and is not party to the 1967 Protocol Relating to the Status of Refugees. The United Nations High Commissioner for Refugees (UNHCR) has maintained an office in Kathmandu since 1989. The Government aids UNHCR efforts by facilitating its access to refugees from both China and Bhutan. In the past, Nepal accepted and assimilated approximately 18,000 Tibetan refugees, who still reside there. Over 12,000 Tibetan residents, however, are without legal proof that they live in Nepal since the Government ceased issuing identification cards in the mid-1970's. The Government is now working with them to issue refugee identity cards to Tibetans in 1994.

Border restrictions, tightened in 1986 by a joint Nepalese/Chinese agreement, are observed haphazardly by both sides. Some Nepalese border officials occasionally demanded bribes from Tibetan refugees intercepted inside the country, and in several instances fighting broke out between the police and the refugees. On June 15, Nepalese police shot and killed a Tibetan monk during an extortion attempt (see Section 1.a.). According to government policy, Tibetans intercepted inside Nepal are to be conveyed to UNHCR facilities in Kathmandu for refugee screening. However, as in

previous years, Tibetans continue to be repatriated involuntarily to China, especially from remote border regions.

Ethnic Nepalese fleeing Bhutan continued to arrive after suffering abuses or being expelled by Bhutanese authorities. (See the report on Bhutan.) At the end of 1993, the camps in southeastern Nepal housed 86,000 refugees, representing almost one-fifth of Bhutan's estimated population before the exodus began. The UNHCR monitors the condition of these refugees and provides assistance for their basic needs. The Government tolerates their presence on a humanitarian basis, although it can offer them little except a place to stay.

Conditions in the refugee camps have improved dramatically since 1992, and the contrast in living conditions between UNHCR-housed refugees and relatively poorer local residents has created tensions that occasionally result in violence between the two communities. Relief organizations in charge of day-to-day camp administration have begun distributing token relief supplies to local communities in an attempt to defuse the situation.

In July the governments of Nepal and Bhutan formed a joint committee to resolve the refugee problem. Its first task was to determine different categories of refugees in Nepal in preparation for the future repatriation to Bhutan of those refugees found to be eligible. Little concrete progress had been made by year's end.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Under the Constitution promulgated in 1990, Nepal is a constitutional monarchy with sovereignty vested in the people. The people, through their elected representatives, have the right to amend the Constitution with the exception of certain basic principles of the body politic which may not be changed— sovereignty vested in the people, the multiparty system, fundamental rights, and the constitutional monarchy.

Parliamentary elections are to be held at least every 5 years. Midterm elections may be called if the ruling party loses its majority, or loses a vote of no confidence, or if it calls for elections. Universal suffrage by secret ballot is provided for all citizens over the age of 18. On May 12, 1991, the people exercised their franchise for the first time in 32 years in a general election that domestic and international observers described as basically free and fair. The Nepali Congress Party won 112 out of 205 seats in the House of Representatives (the lower house) and formed the Government. The King appointed Girija Prasad Koirala, a leader in the Nepali Congress Party, as Prime Minister.

The upper house comments on lower house bills (although it may also introduce legislation and send it to the lower house for consideration). If the upper house considers legislation passed by the lower house and returns it with amendments (or rejects it outright), the lower house may vote on it again and, with a 50 percent or better majority, bypass the upper house and send the legislation directly to the King for his assent.

The King exercises powers "with the advice and consent of the Council of Ministers." These powers include exclusive authority to enact, amend, and repeal laws relating to succession to the throne. The King's income and property are tax exempt and inviolable. No question may be raised in any court about any act performed by the King. The Constitution also permits the King to exercise emergency powers in the event of war, external aggression, armed revolt, or extreme economic depression. The emergency powers allow him to suspend without judicial review many basic freedoms, including the freedoms of expression and assembly, freedom from censorship, and freedom from preventive detention. The rights to form associations and of habeas corpus may not be suspended. The King's declaration of a state of emergency must be approved by a two-thirds majority of the lower house of the Parliament. If the lower house is not in session, the upper house exercises this power. A state of emergency may be maintained for up to 3 months without legislative approval and up to 6 months, renewable only once for an additional 6 months, if legislative approval is granted. There were no known instances in 1993 in which a political party was denied registration or participation in an election.

The Constitution bars the registration and participation in elections of any political party that is based on "religion, community, caste, tribe, or region," or that does not operate openly and democratically.

There are no specific laws that restrict indigenous people, women, or minorities from participating in the government or political parties, but lingering conservative traditions limit the influence of women and some castes and tribes in the political process. The Constitution requires that at least 5 percent of the candidates for the House of Representatives from each registered political party be women. In 1993, 5 percent of party candidates were female and there were 7 female Members of Parliament.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Nepal has over a dozen local nongovernmental human rights organizations, including the Human Rights Organization of Nepal (HURON), the Forum for the Protection of Human Rights (FOPHUR), and the International Institute for Human Rights, Environment, and Development (INHURED). The Nepal Law Society also monitors human rights issues. In addition, there are a number of single-issue nongovernmental organizations (NGO's) which focus on issues such as torture, child labor, women's rights, or ethnic minorities.

Human rights organizations contend that at times the Government was uncooperative in 1993. For example, they report that the Government has been reluctant to transfer funds provided by the United Nations Center for Human Rights to appropriate organizations which won the funds as financial awards for programming. Several human rights organizations also claimed that a few Chief District Officers seized documentation from local human rights monitors that was to be used in a Nepal-wide human rights yearbook.

However, the Government is working with foreign aid agencies to initiate human rights and nonlethal crowd control training for police, and it cooperates with international human rights groups. Amnesty International (AI) visited Nepal in 1993, and AI staff met with a large number of government officials.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution specifies that the State shall not discriminate against citizens on grounds of religion, race, sex, caste, or ideology. In practice, however, discrimination against women and lower castes is widespread.

Women.—Women face gender discrimination, particularly in rural areas, where the weight of religious and cultural tradition, lack of education, and ignorance of the law remain severe impediments to the exercise of such basic rights as the right to vote or to hold property in their own names.

According to the 1991 census, the female literacy rate is 26 percent, compared to a male literacy rate of 57 percent. Human rights groups report that throughout the country girls attend secondary schools at half the rate boys do.

Over the years, women have benefited from various changes in marriage and inheritance laws. The new Constitution strengthened provisions regarding women, including equal pay for equal work, although the Government had not effectively implemented this provision by year's end. Moreover, many laws remain discriminatory. Divorce law grants women the right to divorce, but on narrower grounds than those available to men. Likewise, the law governing property rights favors men in a number of ways, including in the division of family property, the disposition of property, inheritance, and land tenancy.

Women's rights groups report that wife beating is common. Little public attention is given to violence against women in the home, and the Government made no specific efforts to combat it. However, human rights monitors, including Members of Parliament, are working to teach women about their rights under the Constitution, and several have offered free legal services in court cases involving violence against women.

Abortion is illegal even in cases involving rape or incest. Only when the health of the mother would be in jeopardy by giving birth is an abortion legally allowed. Illegal abortion, reportedly not uncommon, is one of the main reasons for imprisonment of women in Nepal.

Trafficking in women is a deeply ingrained social problem in several of Nepal's poorest areas. Estimates of the total number of Nepalese girls and women working as prostitutes in the red-light districts of India's major cities vary widely but range between 150,000 to 200,000. A children's human rights group in Nepal states that 20 percent of these prostitutes are younger than 16 years old. Coercion is usually involved, although it is difficult to gauge its extent. Newspapers occasionally report the arrest of persons attempting to abduct young women or trick them into going to India. In January a man was sentenced to 5 years in prison, and in March a woman was sentenced to 3 years, for trafficking. In many cases, parents or relatives sell women into sexual slavery. The tradition of religious prostitution among the Badini and Devaki of western Nepal is a continuing concern.

The Government prosecutes cases of coercive trafficking brought to its attention, but has taken few active measures to stop it. The spread of the Acquired Immunodeficiency Syndrome (AIDS) in India's red-light districts has discouraged the Government from aggressively promoting the return and rehabilitation of Nepalese prostitutes.

Government efforts thus far focus more on preventing voluntary prostitution than on rehabilitation or prevention of coercive trafficking. The Women's Development Division of the Ministry of Labor and Social Welfare sponsors income-generating skill training programs in several districts known for sending prostitutes to India. Several nongovernmental organizations have similar programs.

A growing number of women's advocacy groups are taking up women's issues. Nearly all political parties have their own women's groups which press for women's causes. In Parliament, women members have begun working for the passage of tougher laws for crimes of sexual assault but with little success.

Children.—The Child Act of 1992 establishes legal protections for children in the workplace and in criminal proceedings. It calls for the establishment of child welfare committees and orphanages, although many of these facilities are not yet in place. The Labor Act of 1992 prohibits employment of minors under 14 years of age and provides that nurseries must be established in workplaces with more than 50 people. Also, the Government has worked closely with NGO's and the private sector to create a "child labor-free" certification to be used in the carpet industry.

National/Racial/Ethnic Minorities.—Nepal is still largely a traditional society wedded to the caste system, and caste discrimination is common, especially in the rural areas of western Nepal. Although the public shunning of "untouchables" has been outlawed, an exception was retained for traditional practices at Hindu religious sites. Economic, social, and educational discrimination tend to be a function of historical patterns, geographical location, and caste. The spread of education and higher levels of prosperity, especially in the Kathmandu valley, are slowly reducing caste distinctions and increasing opportunities for lower socioeconomic groups. Politics and senior jobs in the government administration and army in Nepal continue to be dominated by higher and better educated urban-oriented castes (Brahmin, Chhetri, and certain elements of the Newar community). However, the representation of other castes and ethnic groups is increasing slowly.

Nepal has over 75 ethnic groups speaking 50 languages. The Constitution provides that "each community residing within the Kingdom of Nepal shall have the right to preserve and promote its language, script, and culture." Furthermore, the Constitution specifies that each community has the right to operate schools up to the primary level in its mother tongue.

Despite these constitutional provisions, the Government has not enacted legislation or established programs to safeguard the rights of ethnic groups that are not a part of the ruling class. Most government administrators are Brahmin, Chhetri, or Newar. Other ethnic groups and castes not in the governing elite are unable to participate fully in decisions affecting their lands, cultures, traditions, and the allocation of natural resources in the territories they inhabit. In remote rural areas, school lessons are conducted in the native language of the community. In less remote areas and in areas with nearby municipalities, education at primary, secondary, and university levels is conducted almost exclusively in the Nepali language. Human rights organizations report that the languages of the small Kusunda, Dura, and Meche communities are nearly extinct and that non-Hindu peoples are losing their culture over time.

People with Disabilities.—Persons who are physically disabled normally rely on family members to assist them. There are no government programs specifically designed to deal with the problems faced by disabled persons, nor has legislation been enacted to mandate accessibility for the disabled to public buildings.

Section 6. Worker Rights

a. *The Right of Association.*—Article 12 of the Constitution provides for the freedom to form and to join unions and associations. According to the Constitution, unions may be legally restricted only in cases of subversion, sedition, or similar conditions. Since the political transformation began in 1990, there has been an increase in trade union activity in every sector.

Nepal's trade unions were initially linked closely to political parties. However, as the unions develop their administrative structures, they are becoming increasingly independent of political influence. Nepal's largest trade unions are the National Trade Union Congress and the General Federation of Nepalese Trade Unions. The first is associated with the ruling Nepali Congress Party, the second with the opposition Communist Party of Nepal.

Union participation in the formal sector is significant, but this sector accounts for only a very small portion of Nepal's overall labor force. Due to their recent formation and the country's lack of experience with trade unionism, unions are still developing effective structures for organizing, collective bargaining, and education. The Parliament passed new labor and trade union acts in 1992, and the Government passed regulations to implement these acts.

Under the law, strikes are permitted except in "essential services" such as water supply, electricity, and telecommunications. The Government is legally empowered to stop a strike or suspend the functioning of a trade union if it disturbs peace and security or adversely affects the nation's economic interests. Under the new Labor Act, a secret vote must be held to determine whether to strike, and 60 percent of the members must favor a strike for it to be legal. A number of illegal strikes took place in 1993, especially to protest retrenchment in public enterprises under the Government's program of administrative reform. Most received little publicity and were ineffective.

The 1992 Labor Act presents several steps to strengthen workers' rights, but it specifies that an employee's wages may be limited, or that he may be dismissed, if he "goes on strike without fulfilling the legal formalities . . ." Similarly the Act specifies that a manager may be fined up to approximately $100 if he illegally removes workers, continues a lockout, or "provokes" workers. Labor officers and labor courts have wide powers, in theory, to order managers to comply with their decisions.

The Trade Union Act of 1992 establishes the procedures and requirements for forming and registering trade unions, associations, and federations, including the provisions required in all union constitutions. It also protects unions and officials from lawsuits arising from any actions taken in the discharge of official duties, including collective bargaining.

There are no restrictions on forming confederations or joining international labor bodies. Several federations exist, and Nepalese trade union organizations maintain a variety of international affiliations.

b. *The Right to Organize and Bargain Collectively.*—The Labor Act provides for collective bargaining and stipulates that an organization must have the signatures of at least 51 percent of the eligible workers in order to negotiate collectively. The Government has passed implementing regulations, but the appropriate agencies must be funded and staffed. Although the organizational structures (e.g. labor courts) to implement the Act's provisions have not been created, collective bargaining has been the primary mechanism for setting wages since April 1990.

Other than the Trade Union Act (see above), there are no clear legal provisions prohibiting discrimination against union members or organizers by employers.

There are no special economic zones.

c. *Prohibition of Forced or Compulsory Labor.*—Article 20 of the Constitution prohibits forced labor in any form. The Department of Labor enforces laws against forced labor in the small formal sector of the economy. However, bonded labor is an aspect of traditional Nepalese society and is especially prevalent in agricultural work. Over 100,000 ethnic Tharus are estimated to be bonded laborers in the Terai region of southern Nepal. (See also the discussion of trafficking in women in Section 5).

d. *Minimum Age for Employment of Children.*—The Constitution stipulates that children shall not be employed in factories, mines, or similar hazardous work, and the law establishes a minimum age for employment of minors at 16 in industry and 14 in agriculture. Despite the law, child workers are found in all sectors of the economy. According to a children's rights group, Child Workers in Nepal, 57 percent of children are employed. Most child laborers are employed in the agricultural sector, though reports suggest that as many as half of the workers in Nepal's growing carpet industry are children. Under the 1992 Labor Act, minors aged 14 to 18 are not allowed to work more than 6 hours per day nor more than 36 hours per week and are not allowed to work outside of the hours of 6:00 a.m. to 6:00 p.m. For adults, working hours are 8 hours per day and 48 hours per week. Overtime for adults is to be paid at 150 percent of usual wages.

The Department of Labor's enforcement record is spotty. It has had some success in enforcing laws in the urban formal sector relating to permanency, minimum wage, and holidays. In 1993 the Department fined 23 factories for employing child labor. Discussion in a number of Western countries about banning imports produced by child labor has had an impact in Nepal, where carpet exports to the West provide the largest source of foreign exchange. Concerned that Western countries might soon begin to ban carpets produced by children, Nepali manufacturers, NGO's, and government agencies announced a certification program under which "child labor-free" carpets are to be produced and sold. Overall, however, the Government's action has been inadequate to reduce the incidence of child labor. After raids and the subsequent fining of the 23 factories employing child labor, the Government charged no other companies with violations in this area, despite the fact that child labor is endemic.

e. *Acceptable Conditions of Work.*—The Labor Act sets a minimum monthly wage in factories and in the organized labor sector. This wage is sufficient only for the

most minimal standard of living. Rates in the unorganized service sector and in agriculture are often as much as 50 percent lower.

The Labor Act calls for a 48-hour workweek, with 1 day off per week, and limits overtime to 20 hours per week. Health and safety standards and other benefits such as a provident fund and maternity benefits are also stipulated in the Act. Implementation of the Act has been slow, as the Government has not created the necessary regulatory or administrative structures to enforce its provisions. The Act and its implementing regulations spell out health and safety features that employers must put in place, but the right of workers to remove themselves from dangerous work situations is not mentioned. Labor officers are empowered to order employers to rectify unsafe conditions and to close facilities where unsafe conditions persist.

PAKISTAN

Pakistan is an Islamic republic in which power is shared between the Prime Minister, as the leader of the National Assembly, and the President. The Chief of Army Staff also wields considerable influence on many major policy decisions and is the third member of the unofficial "troika" which governs the nation.

This division of power was clearly illustrated in 1993, when Prime Minister Nawaz Sharif and President Ghulam Ishaq Khan engaged in a struggle for power that led to a compromise brokered by the Chief of Army Staff. Both the President and Prime Minister resigned, a neutral caretaker government was formed, and elections for the National Assembly and provincial assemblies were held. The national and provincial assembly elections held on October 6 and 9 were generally seen by both international and domestic observers to have been relatively free and fair, and resulted in a new Government under the leadership of Prime Minister Benazir Bhutto of the Pakistan People's Party (PPP). PPP candidate Farooq Leghari was chosen President in indirect elections held November 13. In the early months of the new Parliament, both the Government and opposition participated in the legislative process, engendering considerable free and open public debate of issues.

Responsibility for internal security rests primarily with the police, although paramilitary forces, such as the Rangers and Frontier Constabulary, are charged with maintaining law and order in frontier areas. Police forces are under provincial control, as are paramilitary forces when assisting in law and order operations. Both forces committed human rights abuses in 1993. The military continued its traditional role as the guarantor of law and order when the police force, which is poorly equipped and trained, fails to meet its mandate. The army and paramilitary forces, under the nominal control of the Sindh provincial government (but under the effective control of the army and central Government), continued their operation begun in May 1992 to help restore law and order in Sindh province, sparking credible charges of human rights violations by the army units involved and of selective targeting of certain political elements in Sindh.

Pakistan, a poor country with a per capita income of $414, has a mixed economy of both state-run and private industries and financial institutions. The Constitution assures the right to private property and of private businesses to operate freely in most sectors of the economy. The Government is pursuing an ambitious program of economic reform, emphasizing the privatization of government-owned financial institutions, industrial units, and utilities. Cotton textiles and apparel, rice, and leather products are the principal export products.

There was no significant change in the human rights situation in 1993, with serious problems remaining in several areas. Government harassment of political opponents declined during the year, especially after the neutral caretaker government took power in July. However, repression against a Sindh-based political party continued. The arbitrary detention, arrest, torture, and other abuse of prisoners and detainees continued to be a serious problem, and there were no significant efforts to reform the police or judicial systems or to prosecute and punish those responsible for abuses. Religious zealots continued to discriminate against and persecute non-Muslims, basing their activities in part on discriminatory legislation against religious minorities. The Government did little to curb these activities. Sectarian riots between the Sunni and Shi'a communities were less intense, but religious and ethnic-based rivalries resulted in numerous murders and occasional civil disturbances. Traditional social and legal constraints kept women in a subordinate position in society, and significant restraints remained on workers' rights. The use of child and bonded labor remained widespread in spite of legislation to restrict these practices.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. *Political and Other Extrajudicial Killing.*—Extrajudicial killings, often in the form of staged "police encounters"—shootouts resulting in the death of suspects—continued in 1993. Most of these killings occurred in rural Sindh as part of the army's law and order program "Operation Cleanup." The frequency of such deaths at army hands, however, appeared to decline in 1993. There were also scores of credible reports from the media and human rights monitors concerning prisoners' deaths while in police custody, including reports of instances in which prisoners alleged to have been killed in shootouts probably died as a result of police torture.

In May, Azeem Tariq, chairman of the Mohajir Qaumi Movement (MQM) political party, was assassinated. Tariq was a controversial figure who had enemies within his own party as well as in the security forces. Two persons were arrested and charged with Tariq's death; their trial had yet to begin at year's end.

In July a man in Islamabad accused of passing counterfeit currency was found hanging by the neck in the jail's bathroom following police interrogation. The police claimed the death was suicide, but the medical report did not support this cause of death and said there was evidence of torture. Following widespread news coverage of the case, former Prime Minister Sharif ordered an investigation, but no police officials are known to have been charged or punished.

In late July, Nazeer Ahmed was arrested by police in Karachi for alleged theft and severely tortured for several days until his death on August 3. The police official who arrested and allegedly tortured Ahmed reportedly sought revenge because of a personal vendetta. Ahmed had reportedly been subjected to numerous types of torture, including having his testicles ruptured with pliers. The case is being investigated by local authorities. One of the five police officials accused of torturing Ahmed to death had been arrested by year's end.

Law enforcement personnel were rarely charged or tried for killings, which are estimated to have numbered in the hundreds in 1993. According to government figures, 660 prisoners died in Pakistani jails during the past 5 years, all reportedly from natural causes.

Security forces also used excessive force which resulted in deaths of suspects. One such case occurred in May when Islamabad police stopped a businessman at a checkpoint and ordered him to prove his relationship to the woman traveling in his car. During the ensuing altercation, the businessman was shot and killed. At year's end the accused police officer remained in jail pending trial.

The October elections were among the most peaceful in Pakistan's history. Still, numerous acts of violence, including the assassination of candidates, occurred. Ghulam Haider Wyne, former Punjab Chief Minister and a Pakistan Muslim League (Nawaz Group) candidate for the National Assembly, was assassinated while campaigning in his home district. The police stated that the killing was an act of revenge by a local criminal gang for the killing of one of its members by the police, which occurred while Wyne was Chief Minister. Two Pakistan People's Party provincial assembly candidates also were murdered during the campaign. No arrests were made in any of these cases. Several unsuccessful assassination attempts against candidates were reported during the campaign, and a number of political workers from various political parties were killed or injured.

During 1993 numerous bombs were detonated in various parts of the country, especially in Sindh and Punjab provinces, causing some deaths. The Government has been unable to determine the groups or individuals responsible. Some observers believe the bombings are unrelated attacks aimed at rival ethnic or religious groups. Ethnic and sectarian tensions continued to be a cause of politically motivated killings, as leaders of both Shi'a and Sunni organizations were assassinated. Ethnic and religiously motivated riots also continued to occur, although to a lesser extent than in 1992. The most serious riot occurred in August, when Sunni and Shi'a organizations clashed in Gilgit, leaving 12 dead and leading to the arrest of more than 100 persons.

Tribal violence in Balochistan often resulted in bloodshed. A continuing dispute between two factions of the Bugti tribe in Balochistan turned increasingly violent and led to the assassination of several tribal leaders. Some 27 persons were killed when two factions of the Magsi tribe clashed near Jhal Magsi, Balochistan.

b. *Disappearance.*—There were no reports of government-instigated disappearances.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There continued to be persuasive evidence of police mistreatment, including torture, of detainees. Police and jailers routinely use force to elicit confessions and compel persons under detention to incriminate others. Beating, whipping the soles of the

feet with rubber whips, sexual assault, and prolonged isolation continue to be serious problems. When deaths result, suicide or natural causes are the commonly offered explanation.

Police frequently use the threat of abuse to extort money from prisoners and their families. Whole families have been detained to force a relative, the subject of an arrest warrant, to surrender.

There were continuing credible reports of the sexual abuse of women by police. Some women under detention are reportedly coerced by police officers to trade sexual favors for their release; other women are simply raped. Although there is increasingly widespread press coverage in the English-language print media of such cases, this abuse is often not reported due to societal taboos, police intimidation, and family pressure. There are few policewomen to perform matron duties, despite regulations requiring that policewomen be present for the questioning or detention of female suspects in station houses.

Despite the promulgation of regulations in 1991 to prohibit police from keeping women overnight in custody, women are arbitrarily detained overnight and are sexually abused. Upon release, these women are often ostracized by their family and friends and barred from their homes. Government efforts to bring an end to sexual abuse by the police have had little effect. Police accused of abuse are seldom tried and punished. Police assigned to investigate abuses by other police generally shield their colleagues from such charges, and courts seldom charge policemen with offenses. Those who attempt to bring charges against police are often threatened and drop the charges. However, in December four police officers from Swabi were convicted in Peshawar for illegal confinement and rape of a woman. They are appealing the conviction. In an effort to reduce police abuse of women, in the final 3 months of 1993 the new Government of Prime Minister Bhutto announced plans to open "women's police stations" staffed by female personnel. As of year's end, one women's police station had been opened in Rawalpindi.

There continued to be credible reports that some ethnic political parties tortured opponents and, in some cases, used torture to enforce party discipline among their own members. There were credible reports that the dissident rival faction of the MQM tortured some members of the mainline MQM.

The Hadood Ordinances, promulgated by the central Government in 1979, were an attempt to make Pakistan's Penal Code more Islamic. These Ordinances provide harsh "hadd" punishments for violating the Islamic Code of Behavior, including stoning to death for unlawful sexual relations and the amputation of limbs for other crimes. In practice, the standards of evidence for imposing these punishments are exceptionally high, and to date they have never been carried out. Nonetheless, these laws apply to Muslims and non-Muslims alike, and weigh most heavily on women. A woman who reports a case of rape to the authorities or files for a divorce can find herself charged with adultery under these ordinances. All consensual extramarital sexual relations are considered violations of the Hadood Ordinances. The predominantly male police force reportedly uses the Hadood Ordinances to threaten people on the basis of personal and political animosities. Some human rights monitors believe that international pressure and publicity surrounding the Hadood Ordinances have reduced the number of Hadood cases. They report that, in contrast to past years, women are now frequently granted bail for Hadood offenses, and convictions have been markedly reduced.

Three classes of prison facilities exist. Class "c" cells generally hold common criminals. They often have dirt floors, no furnishings, and poor food. The use of handcuffs and fetters is common. Prisoners in these cells reportedly suffer the most abuse, such as beatings and being forced to kneel for long periods. Conditions in "b" and "a" cells are markedly better, with the latter reserved for "prominent" persons.

d. *Arbitrary Arrest, Detention, or Exile.*—Pakistani Law permits the Deputy Commissioner (DC) of a local district to order detention without charge for 30 days for persons suspected of threatening public order and safety. This preventive detention is renewable by the DC for 30 days at a time, up to a total of 90 days. For other alleged criminal offenses, a suspect may be held for 24 hours by police without charge. If the police can provide material proof that the physical detention of the accused is necessary to conduct the investigation, the court may extend detention without charges to a total of 15 days. In practice, laws on detention are not strictly observed. Police often hold prisoners without charge until challenged by the court and then release them if they do not have a case. The police are not required to notify anyone when an arrest is made. There are allegations that the police sometimes detain citizens arbitrarily without charge or on false charges in order to extort payment for their release.

The law on pretrial detention has recently been amended to require that suspects be brought to trial within 30 days of their arrest. However, in a case without com-

plications, a trial will ususally commence about 6 months after the initial filing of charges. Family and lawyers are legally permitted to visit inmates. In practice this access is generally granted.

The Federally Administered Tribal Areas (FATA) have a separate legal system, the Frontier Crimes Regulation (FCR), which recognizes the doctrine of "collective responsibility." Under the FCR, legal procedures provide that fellow tribesmen of a suspect may be indefinitely detained or the village blockaded by the Government pending surrender or punishment of the suspect by the tribe. Such authority continued to be exercised in 1993; in one case, over 40 members of the Afridi tribe were detained within the settled districts due to attacks by other Afridi tribesmen against a government road project.

The Sindh provincial government detained hundreds of MQM Party workers and linked them to unsolved criminal cases, often with little evidence. Many of the PPP workers who were arrested in 1992 have been granted bail while they await trial on criminal counts. Some 200 political activists are still being held in Sindh.

e. *Denial of Fair Public Trial.*—Pakistan's judicial system involves several different court systems with overlapping and, in some instances, competing jurisdictions. There are civil and criminal tracks with special courts for high-profile cases and the federal Shari'a appeals courts for certain Hadood offenses. The progression in the civil legal system is: civil court, district court, high court, and Supreme Court. The progression in the criminal system is: magistrate, sessions court, high court, and Supreme Court. The special courts were created to handle sensational cases or cases of great public interest. Such cases are referred to the special courts by the Federal Government. The Federal Shari'a court and the Shari'a bench of the Supreme Court serve as appeals courts for certain convictions in the criminal court under the Hadood Ordinances. In addition, the Federal Shari'a court may and does overturn legislation if it is not consistent with the tenets of Islam. However, these cases may be and are appealed to the Shari'a bench of the Supreme Court.

The courts traditionally experience pressure from the executive. Critics point to the President's power to transfer high court justices or to decline to grant new appointees tenure as devices that provide the executive undue influence over the provincial high courts and especially over the lowerlevels of the judicial system, the special terrorist courts, and the so-called "speedy courts." Judges in the special courts are retired jurists who are hired on renewable contracts and many of whose decisions are influenced by their desire to maintain their position. However, the provincial high courts and the Supreme Court exhibited independence, deciding a number of important cases against the Government. For example, the Court ruled that President Ghulam Ishaq Khan's dismissal of Prime Minister Nawaz Sharif was unconstitutional (see Section 3). Nevertheless, the judicial process continued to be impeded by bureaucratic infighting and inactivity and the overlapping jurisdictions of the different court systems. The creation of the "speedy courts" to speed up the judiciary system has not significantly eased the backlog of cases. Scores of positions in the lower magistracy remained unfilled. Persons in jail awaiting trial often are held for periods longer than the sentence they would receive if convicted. This problem is especially acute among Africans and citizens of other South Asian countries jailed for having overstayed their visas or for being involved in the drug trade.

The civil judicial system provides for an open trial, cross-examination, representation by an attorney, and appeal of sentences. Attorneys are appointed for indigents only in capital cases. There are no jury trials. Owing to the limited number of judges, the heavy backlog of cases, and outdated court procedures, cases routinely drag on for years. In both the Hadood and standard criminal codes there are bailable and nonbailable offenses. According to the criminal procedures code, the accused in bailable offenses must be granted bail and the accused in "nonbailable" offenses should be granted bail if accused of a crime where the sentence is less than 10 years. In July the 1992 presidential ordinance revoking the statutory right to bail in cases where trials proved lengthy was allowed to lapse without being renewed. However, human rights groups credibly complain that bail is set, often purposely, at unreasonably high levels for indigent defendants.

A 1990 Shari'a court decision resulted in the Islamic concepts of Qisas (roughly an "eye for an eye") and Diyat ("blood money") being made part of the Penal Code, through the Qisas and Diyat Ordinance. The ordinance allows compensation to be paid to a victim's family in lieu of the accused receiving punishment. As a result, wealthy or influential persons can often escape punishment for such crimes as murder and assault. In one case, a convicted murderer received no punishment because he paid blood money to the victim's family, while his accomplices received sentences of life in prison. The right to seek pardon or commutation is not available to defendants under the ordinance. The Hadood, Qisas, and Diyat ordinances apply to both ordinary criminal courts and Shari'a courts. Appeals of certain Hadood convictions

involving penalties in excess of 2 years' imprisonment are referred exclusively to the Shari'a courts.

Under the Hadood Ordinances, evidence for cases involving the harsh "hadd" punishments (see Section 1.c.) is given different weight depending on the religion and sex of the witness. A non-Muslim may not serve as a witness against a Muslim offender, but may offer testimony against another non-Muslim. Testimony of females is not admissible for the awarding of "hadd" punishments (as prescribed in the Koran, e.g., amputation, stoning, and lashes). In cases involving financial matters, the testimony of two women is required for the evidence to be admissible. The evidential laws that apply to awarding the lesser "tazeer" punishments are roughly based on English common law.

There continued to be charges that magistrates and police, under pressure to achieve high conviction rates, persuade persons in custody to plead guilty without informing them of the consequences. Politically powerful persons also attempt to influence magistrates' decisions and have used various forms of pressure, including the threat of transfer, to do so. Magistrates also perform a wide variety of administrative functions for the provincial governments, reducing the time they devote to their judicial duties.

Administration of justice in the Federally Administered Tribal Areas (FATA) is normally the responsibility of the elders and maliks (appointed leaders) of individual tribes who, in response to complaints, conduct public hearings according to the dictates of Islamic law and tribal custom. There is no professional legal representation for the accused, no provision for bail, and no appeal. The usual penalties consist of fines, even for murder, although the Government's political agents directing the assemblies of elders and maliks (jirgas) have the authority to levy prison terms of up to 14 years. In more remote areas outside the effective jurisdiction of the political agents, jirgas occasionally levy harsher, unsanctioned punishments, including flogging or death by shooting or stoning. A photograph of a public flogging in the tribal areas was prominently featured in a local paper in September. The accused received five lashes for selling and using heroin. Paramilitary forces under the direction of the political agents frequently perform punitive actions during enforcement operations. For example, in raids on criminal activities the authorities have been known to damage surrounding homes as extrajudicial punishment of residents for having tolerated nearby criminal activity.

Cases referred to the Federal Shari'a court are heard jointly by Islamic scholars and high court judges using ordinary criminal procedures. Cases referred to the Shari'a bench of the Supreme Court are heard jointly by Islamic scholars and Supreme Court judges using ordinary criminal procedures. Judges and attorneys must be Muslim and be familiar with Islamic law. Within these limits, defendants in the Shari'a court are entitled to a lawyer of their choice. If accused of a bailable offense, defendants in the Shari'a court are entitled to bail and may be granted bail for nonbailable offenses, as noted above.

The Suppression of Terrorist Activities (Special Courts) Act of 1975 established special courts to try cases involving crimes of a "terrorist" nature (e.g., murder and sabotage) expeditiously. In 1987 another ordinance was passed establishing special "speedy trial" courts to circumvent the judicial backlog. The Twelfth Constitutional Amendment, passed by Parliament in July 1991, created another tier of special courts to deal with particularly heinous crimes. Cases involving bomb blasts, sabotage, highway robberies, banditry, or kidnaping may be brought before these three types of special courts, and the Government may transfer cases from any other court to one of the special courts, or from one special court to another (within the same province).

In 1991 the President promulgated new versions of the Terrorist Affected Areas (Special Courts) Ordinance and the Special Courts for Speedy Trials Ordinance which made referring cases to special courts the exclusive domain of the Federal Government. Each special court has a list of scheduled offenses over which it has jurisdiction. For the "speedy courts," the criteria is that the case is sensational or has received widespread public attention. This determination is made by the Federal Government. The ordinances also established that an appeal to a speedy court ruling goes to the Supreme Appellate Court rather than to the high courts. In addition, the Government may refer a broader range of cases involving violent criminal offenses to the special courts.

Many legal experts believe the special courts do not provide for a fair trial. Time constraints on investigations and trials, including the strict limitation on adjournments, detract from the accused's right to an adequate defense. Some critics contend that the special courts' procedures have effectively repudiated the presumption of innocence. They also cite the encroachment of the federal authorities upon the provincial government's constitutional authority to administer justice and the inherent

unfairness of parallel courts to which cases may be assigned arbitrarily. Another problem faced by those brought to trial under the special courts is obtaining bail. Under the special courts' provisions, bail is denied if it appears to the court that it is reasonable to believe the accused committed a scheduled offense.

Government officials and some attorneys argue that, in spite of their shortcomings, the special courts are necessary due to the judicial backlog. They also claim that all requirements of the rules of evidence still apply, the accused has the right to counsel, and the judges must meet the same standards as those appointed to a high court. They note that decisions of the speedy trial courts may be appealed. However, for these courts only one appeal is allowed and it may only be made through a special appellate bench appointed by the Government. In late 1993, the Bhutto Government announced that it would not refer any new cases to the special courts and would allow the constitutional authority for special courts to lapse in July 1994.

In 1990 President Ghulam Ishaq Khan, after dissolving the Bhutto government, established special "accountability" tribunals to try members of previous federal and provincial governments on criminal and corruption charges. However, only members of the Bhutto government, all of whom belong to the PPP, were charged with corruption and misconduct. No members of other political parties were ever brought to trial. Trials under these tribunals continued in 1993, although bail had been granted in all cases. International observers maintain that the accountability tribunals have not met the minimum standards for due process needed to ensure fair trials and that the trial procedures prevented the accused from presenting a full defense. Some Pakistani attorneys and judges, however, maintain that the actual conduct of the tribunals has been balanced and fair. In early 1993, bail was granted to Asif Zardari, husband of Benazir Bhutto, in his accountability and criminal cases. At year's end, Zardari was still under trial in one remaining accountability case. He has been acquitted in the 12 other cases. In the remaining "Presidential reference" cases, most notably the seven against Prime Minister Benazir Bhutto and the appeal of the conviction of former Law Minister Iftikhar Gilani, there was no movement in 1993. These cases remain before the accountability tribunals.

There are individuals in Pakistan imprisoned for attempting to exercise their human rights, including those charged with blasphemy, and some political workers who may be imprisoned on trumped-up charges. In addition, there are others who were convicted in trials which may not have been fair. While it is not possible to cite a specific number, it is likely that the number of political prisoners could be as many as a few hundred (see appendix A for the definition of "political prisoner") at year's end.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Police are required by law to obtain a warrant from a magistrate to search a house. (No warrant is required to search a person.) However, police often enter a home without a warrant. In the absence of a warrant, a policeman is subject to charges of criminal trespass. In practice, policemen are seldom, if ever, punished for illegal entry. Pakistan maintains several domestic intelligence services which monitor politicians, political activists, suspected terrorists, and suspected foreign intelligence agents. Informed sources maintain that wiretapping is commonplace, mail is occasionally intercepted and opened, and surveillance is often used.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and the press. Pakistanis are generally free to discuss and debate public policy issues. However, some laws restrict free speech, such as laws against bringing Islam or the armed forces into discredit or ridicule and the Shari'a bill signed by the President in 1991, which calls for promoting Islam through the mass media and the censoring of "objectionable" and "obscene" material. In addition, the Pakistan Penal Code mandates the death sentence for anyone convicted of blaspheming the Prophet Muhammad. Most of those accused of blasphemy are Ahmadis or Christians. Two persons have been convicted of blasphemy and sentenced to death. Their cases are on appeal. (See Section 2.c.)

The press enjoys a high degree of freedom, but some restrictions apply. A government-owned press trust still controls two newspapers, an English-language daily and an Urdu daily. One of the two main wire services is controlled by the Ministry of Information, the other is privately owned. There are numerous privately owned newspapers, and their circulation far exceeds that of the government-owned newspapers.

There was relatively free discussion of government policies and open criticism of the Government in the privately owned press. The press routinely reports remarks critical of the Government made by opposition politicians, and editorials reflect a

broad spectrum of views. Government newspapers and wire services, however, are circumspect in their coverage of the news and generally follow the government line. Press criticism of the military is usually circumspect.

The Constitution provides for the death penalty for those who damage the Constitution by any act, including publishing statements against the spirit of the Constitution. Reporters and editors generally exercise self-censorship in these areas.

However, the Government exploits the privately owned newspapers' dependence on government advertising, an important source of revenue for them, as a way of influencing editorial policy. The duty-free importation of newsprint is also controlled by the Government, nominally on the basis of a newspaper's circulation. Journalists complain that newspapers that criticize the Government are provided less than their due and must pay market prices to make up the difference.

Incidents of harassment of individual journalists, including a spate of burglaries at journalists' homes, occurred in 1993, though the incidence was less than in previous years. The Sharif government harassed news organizations that criticized it, primarily by using the tax laws to threaten foreclosure. Two prominent newspapers had substantial tax bills levied against them far in excess of the taxes levied on other newspapers with comparable tax liabilities. The cases were reportedly resolved when the news organizations agreed to change editorial content and transfer some personnel.

The Government owns and operates all radio and all but one semiprivate television station and strictly controls the news they carry. The Shalimar Television Network (STN), a semiprivate television station, provides programs with considerable independence from government oversight. STN began broadcasting Cable News Network (CNN) programs in 1990; CNN is shown live, but segments considered socially offensive are censored by the Government. Satellite television reception, which has become increasingly widespread, is not subject to censorship or scrambling. During the first half of 1993, the Sharif government severely limited the amount of coverage given to opposition activities during government-controlled news broadcasts. In contrast, the news broadcasts during the tenure of the two caretaker governments displayed greater objectivity. Nevertheless, many media watchers complain the government-controlled media continues to avoid reporting on controversial domestic subjects.

After passage of the Shari'a law, there was a significant increase in censorship of "objectionable material" on television, which continued in 1993. The Ministry of Information keeps close watch on advertisements broadcast by STN, editing or removing those deemed objectionable.

Conservative religious and political groups have been active in promoting their own code of morality for Pakistani society. The Shari'a bill's passage in 1991 bolstered these groups' efforts by placing greater pressure on individuals to conform to Islamic sensibilities. In early 1993, there was a campaign by religious groups and provincial governments to crack down on "obscene" video cassettes. While no guidelines were established on obscene material, media reports stated that thousands of video cassettes were destroyed by police officials and over 100 persons were arrested. Some were reportedly sentenced to several years imprisonment.

However, literary and creative works remain generally free of censorship. Obscene literature, a category broadly defined by the Government, is subject to seizure. Authorities have occasionally banned or confiscated books and magazines dealing with sensitive political topics. A bookstore in Islamabad was raided and temporarily closed by police on December 18 following reports that the store was selling the book "Encyclopedia of Religion," which allegedly contains remarks offensive to Islam and images of the prophet Mohammad. The Muslim owner was charged with blasphemy under Section 295 C of the Penal Code. The case was pending at year's end. However, dramas and documentaries on once taboo subjects, including corruption, social privilege, narcotics, violence against women, and female inequality, are now shown on Pakistani television.

A Print, Press, and Publications Ordinance requires the registration of printing presses and newspapers and allows the Government to confiscate newspapers or magazines deemed objectionable. Foreign books must pass government censors before being reprinted, although the importation of the books is freely allowed. Publications are occasionally banned, usually for objectionable religious content or political views. The provincial government of Balochistan banned two books which allegedly promoted secessionist political movements.

Academic freedom is generally recognized by government and university authorities. The atmosphere of violence and intolerance fostered by student organizations, typically tied to political parties, is a threat to academic freedom. On campuses, well-armed groups of students of varying political persuasions clash frequently and

intimidate other students, instructors, and administrators on matters of language, syllabus, examination policies, doctrine, and dress.

Human rights groups remain concerned about the implementation of a 1992 Supreme Court ruling that prohibits student political organizations on campuses. While they acknowledge the ruling led to a reduction in violence on campuses in 1993, they question the legality of school officials determining guilt or innocence and expelling students they find guilty of belonging to a political organization.

b. *Freedom of Peaceful Assembly and Association.*—Peaceful assembly was generally permitted. District magistrates occasionally exercised their power under Section 144 of the criminal procedure code to ban meetings of more than four people when demonstrations seemed likely to result in violence. This provision was invoked frequently and arbitrarily in Sindh Province during the first half of 1993. Political parties had to apply for special permission to hold any outdoor political rallies. The Sindh government during this period tended to allow its supporters to hold rallies and to block its opponents from doing so. Section 144 was also applied by the national and provincial interim governments in numerous locations throughout Pakistan during the fall general election campaign. While imposition of Section 144 may not have been necessary in every instance to maintain security, there is no indication that the interim governments applied section 144 in a biased manner. When it was imposed in Karachi during the election campaign, for example, rallies of all major parties were banned.

Most political leaders were able to travel freely and address large rallies; however, leaders of politico-religious parties were sometimes barred from travel to certain areas if their presence was deemed likely to increase sectarian tensions. Article 17 of the Constitution provides for freedom of association subject to restrictions by government ordinance and law. There have been no recent cases of banned groups or parties.

c. *Freedom of Religion.*—Pakistan is an Islamic republic with a population that is 97 percent Muslim. The Constitution requires all laws to be consistent with Islam. With notable exceptions (see below), members of minority groups may practice their own religion openly, maintain links with coreligionists in other countries, and travel for religious purposes. Conversions are permitted, but the Government prohibits proselytizing among Muslims.

Minority groups fear that the 1991 Shari'a law's goal of "Islamizing" all aspects of Pakistan's government and society may further restrict freedom to practice their religion. The religious legislation has encouraged an atmosphere of religious intolerance which has led to acts of violence directed at Ahmadis and Christians. For example, in 1993 a landlord from Sindh province bulldozed over 30 homes, a church, and a school, destroying a 30-year old Christian village, rather than wait for a civil court's order in a land dispute. No action had been taken against the landlord as of the year's end.

A 1974 constitutional amendment declared Ahmadis to be a non-Muslim minority because they do not accept Muhammad as the last prophet of Islam. The Ahmadis, however, look on themselves as Muslims, for whom many Muslim practices are an important feature of their religion. In 1984 the Government inserted Section 298(c) into the Pakistan Penal Code which made it illegal for an Ahmadi to call himself a Muslim and banned Ahmadis from using Muslim terminology. The punishment is up to 3 years' imprisonment and a fine. Section 298(c) has been used since 1984 to harass Ahmadis. According to an Ahmadi rights organization, as of the end of 1992 at least 2,133 Ahmadis had criminal cases brought against them, most of which were still pending before the courts. New cases were brought during 1993.

Attacks on Ahmadi places of worship continued in 1993. On June 20 three youths attempted to set fire to an Ahmadi house of worship in Lahore while Ahmadi elders were praying there. The incident was reported to the police, but no action was taken.

In 1986 legislation was passed inserting Section 295(c) into the Pakistan Penal Code, making blaspheming the Prophet Muhammad a capital offense. The law was apparently aimed at Ahmadis but has been increasingly used against Christians and Muslims as well. In 1992 the Senate unanimously adopted a bill to amend the blasphemy law so that the death penalty is mandatory in cases of conviction for defiling the name of the prophet Muhammad, and in 1993 a bill was introduced to extend the law to include defiling the names of the Prophet Muhammad's family and companions. The latter bill, generally supported by anti-Shi'a groups as a means of persecuting the Shia's, had yet to be acted upon. According to a respected Pakistani human rights organization, since 1986, 107 Ahmadis have been charged with blasphemy under section 295(c) in at least 25 separate cases. As of the end of 1993, there had been no convictions. One case had been dropped, and two persons had been acquitted. At least four Ahmadis were charged with blasphemy in 1993.

Eight Christians have reportedly been charged with blasphemy. Two other Christians were stabbed to death by their accusers without formally being charged. Of those charged before 1992, Tahir Iqbal died under mysterious circumstances in jail in 1992 while awaiting trial, Gul Masih was convicted in 1992 and his appeal was still pending, and Sarwar Masih was still awaiting trial. One individual was acquitted in January but remains in fear for his life from local religious groups. Four of the eight were charged in 1993. In one case, three Christians were arrested in May and accused of writing blasphemous words on a mosque wall in violation of Section 295(c). One of those accused was Salamat Masih, a 13-year-old illiterate boy. Salamat was released on 50,000 rupees bail ($1,666) on November 8. At year's end, the two adults remain in prison. In another case, Anwar Yaqoob Masih was charged with blasphemy following an argument with a shopkeeper over 1 rupee (less than 4 cents) worth of candy. When the shopkeeper, who was a friend of Anwar Masih, refused to press charges, a local Muslim religious leader filed the charges instead.

The most prominent case of a Muslim charged with blasphemy is that of Dr. Akhtar Hameed Khan, a noted social worker, who was charged with blasphemy in both Sindh and Punjab provinces. In 1992 charges were dropped in Sindh. However, the charges were not dropped in Punjab, and at the end of the year he remained subject to arrest in that province.

Three Muslims are known to have been charged with blasphemy in 1993. Mohammad Arshad Javed was convicted of blasphemy and sentenced to death in February, despite being found insane by two government-appointed doctors. His case has been appealed to the Lahore High Court.

In late 1992, the Supreme Court issued a ruling favorable to the Ahmadis by granting bail to members of an Ahmadi family accused of using Islamic expressions on wedding invitations. In its ruling, the Court observed that use of Islamic expressions by Ahmadis "does not create in a Muslim, or for that matter anyone else, any of the feelings of hurt, offence or provocation, nor is it derogatory to the holy Prophet Muhammad."

In 1993, however, the Supreme Court ruled against the Ahmadis in a major case regarding the constitutionality of Section 298(c). Rejecting the argument that it violated the fundamental rights of freedom of speech and freedom of religion guaranteed in the Constitution, the Court upheld the law. The judge writing for the majority found that Islamic phrases are in essence a copyrighted trademark of the Islamic religion. Therefore, use of the Islamic epithets by Ahmadis was equivalent to copyright infringement and violated the Trademark Act of 1940. The majority also found that use of certain Islamic phrases was equivalent to blasphemy. Ahmadis and some human rights monitors fear the Supreme Court judgment upholding the law will lead to more cases being brought against Ahmadis and possibly more rapid convictions.

Pakistani passports carry a designation of religion which the Ahmadis find especially vexing. Ahmadis are classified as "non-Muslims" on their passports, leading Saudi authorities to prevent them from performing the religious pilgrimage, the hajj. Despite having issued an order in 1992 requiring that a similar designation be included on the national identity card, the Government did not submit implementing legislation in 1993. Although the order has not been formally withdrawn, widespread protests in 1992 appeared to have persuaded the Government to abandon the proposal, which is a longstanding demand of fundamentalist religious parties.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Pakistanis generally enjoy freedom of movement within the country and to travel abroad. The Government occasionally prohibits movement of individuals within Pakistan through "externment orders" when it believes their presence will lead to a threat to public order. Travel to Israel is legally prohibited. Pakistanis succeed in traveling to Jerusalem for religious purposes. Government employees must obtain "no objection certificates" before traveling abroad. Students are also required to have these certificates from their institutions. The Sharif government briefly used the exit control list during 1993 to prohibit the travel of political opponents. The prohibitions were lifted following the dismissal of the Sharif government in July. In November the Bhutto Government also placed restrictions on the exit of certain businessmen involved in an investment scandal. The exit control list continues to be used against serious criminals.

With the exception of those on the exit control lists, Pakistanis have and regularly exercise the right to emigrate.

More than 3 million Afghans fled to Pakistan as a result of the Soviet invasion of Afghanistan and the ensuing civil war there. The movement and employment of Afghans in Pakistan has generally not been restricted, and many Afghans reside outside the camps set aside for them in the Northwest Frontier Province (NWFP),

Punjab, and Balochistan. With the change of government in Kabul in 1992, over a million Afghans returned to their homes. Repatriation continued in 1993, although at a much lower rate. The outbreak of new fighting in Kabul in early 1993 among different factions of the Government sparked a new flow of thousands of refugees into Pakistan. Despite its reluctance in August 1992 to accept new refugees, the Government subsequently allowed as many as 80,000 new refugees to enter Pakistan.

Approximately 1.4 million Afghan refugees remain in Pakistan, where they have greater security, more economic opportunities, social welfare benefits, and a better human rights situation than in Afghanistan. Security concerns among the refugees, including intraparty rivalries that mirrored the unsettled conditions in Afghanistan, have improved as the political parties focused their energies on disputes inside Afghanistan. There has also been an improvement in the access of women and girls to education and health care as group leaders gradually begin to accept the benefits of these services. Nevertheless, life in the camps can be frustrating. The many refugees who have found employment are outside of the limited security net provided by Pakistani labor laws. The refugees have limited access to legal protection and are for the most part dependent on group leaders to negotiate disputes in Pakistani society and within their own society.

Hundreds of illegal Bangladeshi immigrants are held in prisons throughout Pakistan, charged with immigration violations. Almost all of these detainees are without the documents necessary to prove Bangladeshi citizenship. Many of the women are alleged to be in Pakistan as a result of trafficking in women for purposes of prostitution, and some are detained under the Hadood Ordinances. The Government, with the help of the Bangladesh Government, took steps in 1990 to document and repatriate some of these Bangladeshis, but the influx continues, and few are able or willing to return to Bangladesh. Many are released from jail into the custody of their exploiters, and the cycle repeats itself.

The repatriation to Pakistan of the Biharis (Urdu-speaking immigrants from the Indian state of Bihar who went to East Pakistan, now Bangladesh, at the time of partition in 1947) continued to be a contentious issue. Approximately 250,000 Biharis have been in refugee camps in Bangladesh since 1971, waiting to be brought to Pakistan. Their repatriation continues to be a Pakistani political issue tied to the country's various ethnic problems. While the Mohajir community, made up of Pakistanis who emigrated from India during partition, actively supports Bihari repatriation, ethnic Sindhis oppose the move. In 1992 the Government of Pakistan announced that repatriation of the Biharis would begin. In January 342 Biharis were flown to Pakistan and placed in temporary housing in central Punjab. No further repatriation occurred in 1993.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The citizens of Pakistan have the right and the ability to change their government peacefully. The President, who is indirectly elected, is given the power to dissolve the Government by Amendment 8 to the Constitution. This controversial authority was used twiceduring 1993 by former President Ghulam Ishaq Khan. In April the President dissolved the Government, but his decision was overturned by the Supreme Court. In July the President again dissolved the Government, this time at the Prime Minister's request, in a political compromise which allowed for new elections in October. The national and provincial assembly elections held on October 6 and 9 were seen by both international and domestic observers to have been relatively free and fair. Although some losing candidates alleged voter manipulation and fraud, they failed to produce compelling evidence. Election observers documented several problems, however, including outdated and poorly prepared electoral rolls which disenfranchised some legitimate voters while allowing some fraudulent voting to take place. Some individuals were arrested and summarily fined for violating election laws on polling day. Despite these isolated incidents, there is no compelling evidence that vote manipulation changed the outcome of the elections in any constituencies. Following the elections, in which the Pakistan People's Party (PPP) won a plurality of seats in the National Assembly, Benazir Bhutto was elected Prime Minister. In the November 13 indirect presidential elections, PPP-supported candidate Farooq Leghari was selected President.

With certain exceptions, Pakistanis aged 21 and over have the right to vote by secret ballot. In August the National Election Commission informed a human rights organization that bonded laborers and nomads, of which there are several million, are not qualified to be registered voters because they do not "ordinarily reside in an electoral area, nor do they own/possess a dwelling or immovable property in that area." Political parties have been allowed to operate freely since the lifting of mar-

tial law in 1985 and 1986, and in 1988 the Supreme Court struck down a law banning unregistered political parties from participating in elections.

Local governments and the provincial and national assemblies are directly elected. The Senate is elected by the members of the four provincial assemblies. The President is indirectly elected by an electoral college consisting of the members of the national and provincial assemblies and the Senate. The Constitution provides that members of the national and provincial assemblies shall serve terms of 5 years, unless the Assembly is dissolved. The Senate is not subject to dissolution by the President. The President is elected every 5 years and senators are elected for 6-year terms.

The more than 2 million Pushtun ethnic people living in the FATA do not participate in direct election of their National Assembly representatives and have no representation in the NWFP provincial assembly. In keeping with local traditions, FATA's National Assembly members are elected by the tribal maliks who have been appointed in the NWFP Governor's name by the central Government's political agents. People living in this area have expressed dissatisfaction at having no representation in any legislature. The vast majority of Pushtun ethnic people, however, live outside the FATA and, while retaining their tribal identity, are fully integrated into the political, social, and economic life of Pakistan.

Because of a longstanding territorial dispute with India, the political status of the Northern Areas (Hunza, Gilgit, and Baltistan) has never been resolved. As a result, more than 1 million inhabitants of the Northern Areas are not covered under any constitution and have no representation in the national Government. The area is administered by a civil servant appointed by the Government of Pakistan. While there is an elected Northern Areas Council, this body serves in an advisory capacity to the Federal Government and has no legislative authority. The people of this region do not enjoy the democratic right to change their government. In 1993 the Azad Jammu and Kashmir (AJK) High Court ruled that the Northern Areas should be incorporated into the semiautonomous state of Azad Jammu and Kashmir and its citizens be given a right to be represented in the AJK legislative assembly. The Federal Government is appealing the ruling to the Supreme Court of the AJK.

On May 5, by-elections were held in Sindh Province to fill 20 vacant provincial assembly seats. The MQM, an urban-based party in Sindh, boycotted the elections because it alleged the provincial government and army prevented it from campaigning openly. Partly as a result of the MQM's boycott, there was only a 5 percent voter turnout in the by-elections in Karachi and Hyderabad.

The Constitution requires that the President and Prime Minister be Muslims. Members of minority religious groups are not permitted to vote in Muslim constituencies. They must cast their ballots in countrywide, at-large constituencies reserved for them in the national and provincial assemblies, an arrangement that has been widely criticized. Many Ahmadis, disputing their designation as non-Muslims, have refused to exercise this option. Minorities, especially Christians and Hindus, complain that this system of separate electorates has marginalized their voting power, allowing the local Muslim candidates to ignore them as a voting block. As a result, minority areas receive significantly less development funds and other government assistance.

Although women participate in government, as evidenced by Prime Minister Bhutto, gender roles make it difficult for most of them to succeed in politics, and women are underrepresented in political life at all levels. At the federal level, the statute creating 20 reserved seats for women in the National Assembly lapsed in 1990, and its renewal was not supported by the Government then led by Benazir Bhutto. In 1993 the Senate Standing Committee on Women's Development recommended the restoration of the reserved women's seats. Despite statements by the Sharif government that the seats would be restored, no legislation was submitted. In the October elections, only 11 women were nominated by the political parties to stand as candidates for general seats in the National Assembly and of these only 4 were elected.

Some women are often dissuaded from voting in elections by family, religious, and social custom in the rural areas of Pakistan. In some areas, women are discouraged from voting by the authorities' failure to provide separate voting facilities for women who observe "purdah" (seclusion of women from public observation) restrictions. The lack of women's polling booths is a very limited problem and contrary to government policy. However, where it occurs it may represent a deliberate attempt by local officials in very traditional areas to discourage women from voting.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There are a number of domestic human rights organizations, and new human rights and legal aid groups continue to form and are generally free to operate without government restriction. Their reports receive extensive coverage in the press. There was, however, one reported incident of official harassment of a human rights organizations. In March federal security agents raided the Lahore headquarters of the Human Rights Commission of Pakistan (HRCP), a leading nongovernmental human rights organization. The security agents detained several staff members, including the director, and confiscated posters critical of President Ghulam Ishaq Khan. No charges were brought against HRCP members, nor were any of the federal security agents involved in the incident disciplined. The local police and civil authorities deny any knowledge of the raid.

In 1993 the Senate formed a permanent committee on human rights to advise the Government on various aspects of human rights, including child and bonded labor, women's issues, and abuse of prisoners. The committee has yet to take any specific action. Persons affiliated with various international human rights organizations have been permitted to visit Pakistan and travel freely.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

Women.—In 1991 the Government passed the Shari'a Bill, a law aimed at bringing all aspects of government and society in Pakistan into conformity with the tenets of Islam. Human rights monitors and women's groups feared that the law would have a harmful effect on women's and minority rights. The final version included language ensuring that women's and minority rights protected under the Constitution would not be affected. No enabling legislation has been passed, and the Shari'a law's direct impact on these groups remained limited. Nonetheless, its passage influenced popular attitudes and perceptions, contributing to an atmosphere in which discriminatory treatment against women and non-Muslims is more readily accepted.

Aside from the specific Shari'a legislation, some Islamic leaders continued to stress a conservative interpretation of Islamic injunctions to justify discrimination against women. Many Pakistanis interpret the Koran's injunctions on modesty to mean that women should remain either at home or veiled. It remains accepted practice to assign women subordinate roles in the civil, political, and managerial hierarchies.

Despite clear injunctions in the Koran and the civil laws that provide for the right of women to inherit, in practice women generally do not receive (or are pressed to surrender) their due share in family inheritance. In rural Pakistan the practice of a woman "marrying the Koran" is still widely accepted if her family cannot arrange a suitable marriage or to keep the family wealth intact. A woman who is married to the Koran is forbidden to have any contact with males, including her immediate family members, over 14 years of age. A petition filed in a Lahore court in 1992 challenging the practice has yet to be heard. Both civil and religious laws protect women's rights in cases of divorce, but, as in the case of inheritance laws, many women are unaware of them, and often the laws are not observed.

In 1992 the Supreme Court invalidated the requirement that a husband give written notice of a divorce to a local union council. Thus, the husband's statement of divorce, with or without witnesses, is the defining legal step and one which he can confirm or deny at will. The woman, lacking written proof of divorce, remains legally and socially vulnerable. Human rights organizations expressed concern that a woman could be charged with adultery if her former spouse were to deny having divorced her. This occurred in February, when a district and sessions court sentenced Nasreen Bibi to be stoned to death and sentenced her second husband to 100 lashes when her first husband denied divorcing her. Upon appeal, the Federal Shari'a court acquitted both Bibi and her husband because there was sufficient evidence to prove they had entered into marriage in the belief that Bibi was divorced.

Although a small number of women study and teach in the universities, postgraduate employment opportunities remain largely limited to teaching, medical services, and the law. Nevertheless, an increasing number of women are entering the commercial and public sectors. Karachi lawyers estimate that the number of women judges in civil courts there has increased to about 30 percent of the total. There are reports that women who apply to professional colleges face discrimination. Women may now participate in international athletic competition, although few do.

In rural areas, women in small farm families generally work alongside men in the fields. However, they remain subordinate to men and suffer discrimination in education, employment, and legal rights.

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There is no reliable information on the extent of domestic violence against women in Pakistan, primarily because it is viewed as a private matter, and many women do not even acknowledge domestic violence as a serious problem. While abusive spouses may be charged under Pakistani law for assault, in practice cases are rarely filed. Police usually return to her abuser a victim who tries to file a complaint. Legal experts report there have been no reported convictions of men for domestic violence.

Rape is a widespread problem in Pakistan. Marital rape is not a crime under Pakistani law, and rape of a another man's wife is a common method of seeking revenge in rural and tribal areas. A nongovernmental organization called War Against Rape (WAR), which is dedicated to publicizing the problem and providing victim assistance, reported that, in 1992, 1,300 cases of rape were filed in Punjab province. They conservatively estimate that, because of social and family pressures against reporting rape, the actual number of rapes is at least four times that number . A WAR study of 60 publicly reported rape cases in Lahore during January found that police officials were allegedly implicated in nearly 20 percent of these cases. Police are frequently unresponsive in investigating rape cases, especially when police officials are implicated. WAR also estimates that one third of the victims are under 18 years of age.

In the interior of Sindh, Balochistan, and Southern Punjab, the primarily Baloch tribal custom of Karo Kari exists in which men and women believed to have had sexual relations outside of marriage are both murdered to protect the honor of the women's family. Such cases are rarely reported to the police or seriously investigated. While the problem is widely acknowledged to exist, reliable statistics are unavailable. One magazine that investigated the problem estimated there were hundreds of cases each year. While Karo Kari technically means the killing of both persons, women are more frequently killed, while the man is often able to pay compensation to the "wronged" family.

In 1993 the press continued to draw attention to the problem of so-called "dowry deaths," in which women are burned to death, allegedly in kitchen stove accidents. Many of these deaths are believed to be murders perpetrated by husbands or in-laws. It is difficult to differentiate criminal "dowry deaths" from common kitchen stove accidents that occur as a result of the use of unsafe wood or gas stoves combined with the highly flammable material commonly worn by women in Pakistan. Women also continued to be killed or mutilated by male relatives who suspect them of adultery. Few such cases are investigated seriously.

Women's organizations operate throughout the country but primarily in Pakistan's urban centers. Many concentrate on educating women about existing legal rights. Other groups concentrate on providing legal aid to poor women in prison who may not be able to afford an attorney.

Children.—The Government commits a share of its national budget to children's welfare but does not publish the figures for such expenditures. Parts of the budgets for health, education, and various social service programs are components of the total federal child welfare expenditures. In addition to the federal expenditures, each province also commits funds to similar programs. Despite a 1962 law that requires each province to designate areas where primary education is compulsory, none of the provinces has designated such areas. Therefore, in fact, primary education is not compulsory. Schools are available in most localities but they have very limited space, staff, and resources. According to government figures, less than 65 percent of children between 5 and 9 attend primary school and more than 50 percent of those drop out before finishing their primary education. Many observers believe even these figures are optimistic. The Government claims that overall literacy is about 30 percent, although many educators believe actual functional literacy is about 15 percent. The budget introduced by the Government in July reduced education expenditures by nearly 2 percent.

Legal rights for children are theoretically protected by numerous laws which incorporate elements of the U.N. Convention on the Rights of the Child. Legal enforcement of these laws, however, is frequently lacking. According to an independent study, 12,198 children under 21 years of age were detained while under trial in Punjab province during 1991. Some 2,095 were eventually convicted, of whom 129 were under 14. Federal law allows, but does not require, offenders under the age of 14 to be placed in reform schools; however, no such facilities exist. There is only one jail in each province set aside for convicted prisoners under age 21. Although Punjab and Sindh provinces have laws mandating special judicial procedures for child offenders, in practice, children and adults are essentially treated equally.

According to the United Nations Children's Fund (UNICEF), Pakistan has one of the highest reported ratios of males to females in the world. One of the reasons for the high ratio of males is the preference for boys within the family structure. Ac-

cording to one study, female children are provided less food and medical care than male children, leading to a higher percentage of female children dying before their 5th birthday. Many observers believe female infanticide occasionally occurs, especially in poorer areas where the family may not be able to support the child.

National/Racial/Ethnic Minorities.—Discrimination on ethnic and linguistic grounds underlies ethnic conflicts in several areas. In Sindh there continue to be conflicts between Sindhis and Mohajirs (Urdu-speaking immigrants originally from India).

Non-Punjabis throughout Pakistan resent what they see as Punjabi domination of the bureaucracy, the police, and the armed forces. Social stratification also contributes to discrimination. Socially prominent Pakistanis generally suffer less at the hands of officials than those less well off, partly because of their ability to reciprocate favors and partly because of the general deference accorded social "betters" in Pakistani society.

Religious Minorities.—There is much discrimination against religious minority groups in employment and education, and several International Labor Organization bodies expressed concern in 1993 that Pakistani laws facilitate discrimination in employment based on religion. In Pakistan's early years, minorities were able to rise to the senior ranks of the military and civil service. Today, many are unable to rise above mid-level ranks. Because of the lack of educational opportunities for some religious minority groups, discrimination in employment is believed to be increasingly prevalent. Christians, in particular, have difficulty finding jobs above those of menial labor.

Officially designated as non-Muslims, Ahmadis in particular suffer from harassment and discrimination and have limited chances for advancement in the public sector. Young Ahmadis and their parents complain of increasing difficulty in gaining admittance to good colleges, forcing many children to go overseas for higher education. They complain that charges are often filed against them for the purpose of harassment or extortion and that the police will not accept their complaints when they and their property are attacked; few cases ever come to trial. Among religious minorities, there is a belief that the authorities, even if they do not prosecute them, afford them less protection under the law than is afforded Muslim citizens. There were several incidents in 1993 in which Ahmadis were physically assaulted by both police and civilians.

Many Christians continue to express the fear of forced marriage of Christian women to Muslims, although some human rights monitors believe the practice is relatively rare. Many Christians also believe they are subject to harassment by the authorities. They cite difficulty in obtaining permission to build churches and the blasphemy laws as primary examples.

People with Disabilities.—Pakistan has no laws requiring equal accessibility to public buildings for disabled persons.

According to a 1987 government study, more than 10,000 disabled children were enrolled in the 158 special education centers administered by the Government and nongovernmental organizations. This represented about 1.7 percent of the estimated population of disabled children in Pakistan. Pakistan law reserves 1 percent of public sector jobs for disabled persons, although human rights monitors say this quota has never been met. The caretaker government of Prime Minister Qureshi announced in September that the quota would be raised to 2 percent.

Section 6. Worker Rights

a. *The Right of Association.*—The right of industrial workers to form trade unions is enunciated in the Industrial Relations Ordinance (IRO) of 1969 but is subject to major restrictions in some employment areas. In practice, labor laws place significant constraints on the formation of unions and their ability to function effectively. Workers in export processing zones (EPZ's) currently are prohibited from forming trade unions, although a proposal to apply Pakistani labor laws to the EPZ's was before the Cabinet for decision. As part of the Government's trade policy over the past year, the Finance Act of 1992 extended this prohibition to all export-oriented units that export at least 70 percent of their production, although this decision has not yet been implemented.

The All Pakistan Federation of Labour (APFOL) charges that trade unionists seeking to organize workers employed in the construction of the Islamabad-Lahore Motorway were arrested and mistreated by police while in custody. APFOL also alleges that some 500 workers were terminated from the project, which is being carried out by the Daewoo Corporation, and that the government of Punjab went to court to block the registration of the union. Government of Punjab officials deny that any abuses took place while the workers were in police custody. The Punjab Secretary of Labor said in December that the government had dropped its objection

to the registration of the union and that the union would be allowed to register. In October the Federal Government also rescinded its previous application of the Essential Services Act to the motorway project. The Essential Services Act severely restricts normal union activities in sectors associated with the "administration of the State."

The right of unions to strike is severely constrained by legally required conciliation proceedings and cooling-off periods and especially by the Government's authority to ban any strike found to cause "serious hardship to the community" or prejudice to the national interest, or in any case after any strike has continued unresolved for 30 days. Strikes continue to be rare; when they do occur, they are usually illegal and short. Police do not hesitate to crack down on worker demonstrations.

Union members make up only about 13 percent of the industrial labor force and 10 percent of the total estimated work force. Contract labor continues to flourish, undercutting the power of the unions and exploiting workers willing to work on temporary contracts. These workers receive fewer benefits and have no job security.

Trade unions of all political orientations are permitted, and the political leanings of labor leaders cover the entire spectrum. While many unions remain aloof from party politics, it appears that the most powerful are those associated with political parties. After the PPP came to power in 1988, it successfully organized trade unions under the banner of the People's Labor Bureau (PLB). The PLB's main competitors are the Jamaat-i-Islami's National Labor Federation and the MQM-backed labor unions.

Labor federations are free to affiliate with international federations and confederations. International Labor Organization (ILO) committees have criticized Pakistan for years for its failure to abide by Convention 87 regarding freedom of association and Convention 98 on the right to organize and bargain collectively, both of which it has ratified. The charges, repeatedly raised by Pakistani trade unions, have focused on the limitations on union formation, strikes, and collective bargaining. Except for lifting the ban on an airline employee union, no Pakistani government has made any serious effort to change the laws criticized in the ILO reports. Even the employers' members of the ILO Conference Committee in 1993 accused the Government of bad faith in failing to take remedial action it had promised. The decision to extend union membership to certain state-owned enterprises had been taken during the Bhutto government's previous tenure but had not yet been implemented when her government fell in 1990. The administration of former Prime Minister Nawaz Sharif subsequently reversed this decision. There is a proposal before the Cabinet to allow employees of other government entities, including Pakistan Television, to form unions.

The ILO continues to encourage the Government to lift prohibitions against union activity in EPZ's and with respect to radio, television, and hospital employees, as well as to rescind the existing ban on strikes. Pakistan was also asked to amend any provision of the IRO, the Press and Publications Ordinance, and the Political Parties Act which impose compulsory prison labor in a manner inconsistent with ILO Convention 105. In response to a request by Pakistan, the ILO agreed to provide technical assistance to bring the country's labor laws into conformity with the world body's conventions.

b. *The Right to Organize and Bargain Collectively.*—The right of workers to form associations and freely elect representatives to act as collective bargaining agents is established in law. Section 15 of the IRO specifically prohibits antiunion discrimination by employers. Current laws, however, place major limitations on the extent and effectiveness of such activities. Industrial workers have the right to organize and bargain collectively under the IRO, although large sections of the labor force do not enjoy similar rights. Agricultural workers, who are not defined as "industrial workers" under the IRO, have the right to organize and form associations, but they are not guaranteed the right to strike, bargain collectively, or make demands on employers. Under the Essential Services Maintenance Act of 1952 (ESA), normal union activities are severely restricted in sectors associated with "the administration of the State," which covers a wide range of government services and state enterprises, such as education, health care, oil and gas production, and transport.

For each industry found subject to the ESA, a finding that must be renewed every 6 months, a specific determination is made by the Government as to what constitutes the limits of union activity. In cases in which collective bargaining has been barred, individual wage boards decide wage levels. The Minimum Wage Ordinance of 1961 provides the authority under which minimum wage boards are formed. Minimum wage boards are constituted at the provincial level and are comprised of an industry representative, a labor representative, and an at-large member generally chosen from the senior ranks of the provincial labor ministry. A chairman provided by the provincial labor ministry presides over the board's deliberations, and addi-

tional industry and labor representatives may be added at the discretion of the chairman. Despite the presence of a labor representative on the minimum wage board, labor organizations are generally dissatisfied with the board's findings. Disputes are adjudicated before the National Industrial Relations Commission. A worker's right to quit may also be curtailed under this act, and a fired worker has no recourse to the labor courts. Collective bargaining and even strikes take place in some job areas covered by the act, e.g., the nationalized banks. Most unions continue to call for the abolition of the ESA.

The ILO has advised the Government that a 1980 ordinance permitting it to exempt EPZ's from the provisions of any law is inconsistent with the requirements of ILO Conventions 87 and 98. An EPZ, with its own labor regulations, including regulations governing how workers may bargain collectively, is functioning in Karachi. Over the years, the ILO has also expressed concern about the ban on trade union activities in several specific organizations, including the government-run Pakistan television station. It has asked that collective bargaining rights be given to bank officers and employees, denouncing the practice in the foreign banking sector of granting false promotions to employees in order to remove them from the category of workers having the right to organize.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is specifically prohibited by law. However, critics argue that the ESA's limitation on some employees' rights to leave their jobs constitutes a form of compulsory labor. The Government informed the ILO's Committee on the Application of Standards in 1990 that amendments were under consideration to rectify the problem and that steps had been taken to address other forced labor issues. However, the Government has taken no further action on the ESA issue.

Illegal bonded labor is widespread. Bonded labor is common in the brick, glass, and fishing industries and is found among agricultural and construction workers in rural areas. The total labor force in Pakistan is approximately 33.8 million people, and while there are no reliable figures available on the number of bonded laborers, conservative estimates put the figure at several million. In late 1992, a private jail was discovered in the Sindh province in which over 200 people had been incarcerated for up to 10 years. The detainees were being used to provide forced labor on the surrounding farmland. The local landlord, who owned the jail, was not charged in the case, but his son was charged and is currently a fugitive. The detainees continue to be held by local police at the private jail as material witnesses in the case. Human rights monitors believe that such private jails are common, particularly in Sindh, Balochistan, and Southern Punjab.

In the brick kiln industry, a workers' association succeeded in bringing the plight of bonded brickmakers in Punjab before the Supreme Court. The Court's 1989 compromise ruling reinforced prohibitions on forced labor and forcible collection of debts and limited salary advances to 1-week's wages but upheld the legality of existing debts. The Court granted laborers the right to work wherever they wished and to make arrangements other than bonded labor to pay their existing debts.

The Bonded Labor System (Abolition) Act, adopted in March 1992, is the first law officially recognizing the existence of bonded labor in Pakistan. It outlaws the bonded labor system, cancels all existing bonded debts, and forbids lawsuits for the recovery of existing bonded debts. In principle, the law enables laborers to work where they wish and should result in all bonded debt recovery cases brought by employers being thrown out of court. The new legislation was not yet fully implemented but offers a basis for court cases which could improve the bonded labor situation.

However, little progress was made in 1993 in the industries employing bonded laborers. A significant impediment to the law's implementation is the absence of any credible enforcement mechanism at the provincial level, as required by the law. While enforcement of antibonded labor statutes has always rested with the provinces, enforcement mechanisms historically have been deficient. Provinces have at their disposal cadres of labor inspectors, but their numbers are consistently inadequate to meet the requirements of the law. Plans exist for the formation of "vigilance committees" which would assist in the collection of information concerning possible labor code violations. As of the end of 1993, however, none of the vigilance committees had been constituted. Accordingly, no bonded labor petitions had been accepted by provincial courts, which are designated by federal law as having jurisdiction. In addition, resistance to the new law among employers was strong, reports of violations continued to appear, and the workers' movement was divided over the issue. Due to the lack of employment alternatives, many workers voluntarily returned to bonded labor at the kilns and elsewhere. The newly formed Senate Human Rights Committee announced in 1993 that bonded labor was to be one of its highest priorities.

d. *Minimum Age for Employment of Children.*—Despite legal limitations, child labor is common. Child labor is limited by at least four separate statutes and Article 11 of The Constitution. The Employment of Children Act of 1991 defined the child as "a person who has not completed his 14th year of age." The Act also set 7 hours as the maximum workday for a child, inclusive of 1-hour's rest after 3 hours of continuous work, and reiterated restrictions against the employment of children in hazardous industries. The Act remains essentially unimplemented and did little to promote much needed enforcement mechanisms.

While much child labor is in the traditional framework of family farming or small business, the abusive employment of children in larger industries and government business is also widespread. Child labor is widely employed in the carpet industry, much of which is family-run, cottage industry production. This appears to be the only export industry in which child labor is employed on a significant scale. Although there are no reliable official statistics, unofficial surveys and occasional press articles suggest that violations of existing laws are common. Unofficial estimates indicate that one-third of Pakistan's total labor force of 33 million is made up of workers under age 18. The employment of children is sometimes linked with stories of child prostitution and abuse.

The manager of the ILO program on the elimination of child labor visited Pakistan in December to discuss the development of a program for the elimination of child labor in Pakistan. The ILO has earmarked $600,000 for project development over the next several years, which will include a grassroots campaign to raise awareness about child labor, as well as a review and revision of Pakistani legislation on child labor.

A Punjab labor department study concluded that about a million children are engaged in carpet weaving, mostly in the cottage industry, throughout Pakistan. In addition to suffering work-related health problems and receiving beatings if they try to avoid work, these children remain uneducated, 42 percent never having attended school and 58 percent having dropped out.

The smuggling of young Pakistani children to the Gulf countries reportedly continued. Most of the boys, many of whom are preschool age, are used as jockeys in camel races. Thousands of young Pakistanis reportedly have been smuggled to the Gulf in recent years. In some cases the children, usually from rural areas, were kidnaped. In other cases, poor parents are said to have sold their children to the traffickers.

e. *Acceptable Conditions of Work.*—Labor regulations are governed by federal statutes applicable throughout the country. The minimum wage is approximately $50 (1,500 rupees). Although this wage is ostensibly enough to support a small family, minimum wage benefits are extended to only a minority of the work force by virtue of an extensive list of exempted activities. The law, applicable nationally, provides for a maximum workweek of 54 hours, rest periods during the workday, and paid annual holidays. These regulations specifically do not apply to agricultural workers, to workers in Pakistan's numerous small factories with fewer than 10 employees, and to the small contract groups of under 10 workers into which factory work forces are increasingly divided. Due in part to a lack of education, many workers are unaware of the regulations protecting their rights. In September the Government amended laws relating to workmen's compensation, payment of wages, old-age pensions, social security, workers' children education, gratuity, and workers' share in companies' profits to expand those benefits to workers earning approximately $100 or less per month. Previously, the ceiling on salary for the receipt of such benefits was set at about $50 per month.

Enforcement of labor regulations, the responsibility of provincial governments, has generally been ineffective. The attention given to enforcement varies among the provinces in proportion to the significance of industrial labor. In all cases, limited resources, corruption, and inadequate regulatory structures hamper the effort. In general, worker health and safety standards are poor, and little is being done to improve them. Organized labor is occasionally able to press for improvements, and some legal protections apply, although they are weakly enforced.

SRI LANKA

Sri Lanka's constitutional, multiparty form of government features a strong executive presidency and a unicameral legislature elected by universal adult suffrage. In May President Dingiri Banda Wijetunga was chosen by Parliament to succeed assassinated President Ranasinghe Premadasa. The President's United National Party (UNP) holds a majority of the seats in Parliament. The violent ethnic conflict

waged for over 10 years between the Government and the Liberation Tigers of Tamil Eelam (LTTE), an organization fighting for a separate state for the country's Tamil minority, continued in 1993. An LTTE suicide bomber assassinated President Premadasa and 23 others at a public rally on May 1.

The 50,000-member police force, which includes 3,000 commandos of the Police Special Task Force (STF), is responsible for internal security in most areas of the country. Army manpower has increased steadily over the past 2 years. The 80,000-man army has the primary responsibility for conducting the war against the LTTE. The 8,000 to 10,000 paramilitary home guards provide security against LTTE attacks for Muslim and Sinhalese communities living in or near the war zone. The Government arms and equips up to 1,000 members of various anti-LTTE Tamil militias. These forces man checkpoints, provide intelligence, act as scouts, and sometimes engage in military operations alongside the army. All security elements fighting in the war committed human rights violations in 1993.

Sri Lanka's mixed economy depends heavily on exports of tea, textiles, and rubber. Despite a continuing fiscal drain caused by large military outlays (amounting to about 5 percent of gross domestic product), the economy grew by 4.5 percent in 1992. This was partly due to continued economic reform, including the removal of most price controls and subsidies, the lowering of tariffs, and a reduction in the size of the government bureaucracy.

Although the Government took further steps to institutionalize the protection of human rights in 1993, the pace slowed in the second half of the year, and its forces continued to commit serious abuses which went unpunished. More than 80 persons disappeared or died after being taken into custody by security forces, and government forces killed at least 250 civilians during military actions.

The Prevention of Terrorism Act (PTA) and the Emergency Regulations (ER), which give security forces wide powers such as preventive and incommunicado detention, remained in effect. The ER were revised to afford some safeguards for detainees and to ease some, but by no means all, of the restrictions on freedoms of speech, press, assembly, and association. Many Sri Lankans were detained without trial in 1993, though the number continued to decline. Torture and mistreatment of detainees were routinely practiced by both government forces and the LTTE. Despite credible evidence implicating security force members in human rights abuses, no member of the security force was tried or convicted for human rights violations in 1993, thus encouraging these forces to believe they are immune from prosecution.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. *Political and Other Extrajudicial Killing.*—The Government's security forces, the LTTE, and other militant groups continued to engage in political killings. The total number of such killings declined significantly, and most noncombatant deaths were the result of indiscriminate use of force rather than deliberate targeting of specific individuals (see Section 1.g.). Nevertheless, all sides to the conflict were responsible for scattered cases of extrajudicial execution.

For the first time in 3 years, there were no reports of Sinhalese or Muslim civilians being massacred by the LTTE, nor were there any reprisal massacres directed against Tamil civilians by the security forces. For the second year, there were no reports of the vigilante-style killings that plagued the country prior to 1992.

In January army soldiers operating in conjunction with irregulars from the Tamil Eelam Liberation Organization (TELO), an anti-LTTE militia allied with the Government, reportedly killed and beheaded two unarmed persons, suspected of being LTTE members, in the eastern village of Kaluwankerny. That same month, 9 civilians were reported to have been summarily executed by the army in the course of a military operation near Kanchurankudah, also in the east. In July the local press reported that the army had shot dead the chairman of a local citizen's committee in the eastern district of Batticaloa. At least 10 persons died of apparently violent causes while in the custody of the security forces, most as a result of mistreatment during interrogation. For example, in July a man arrested in the southern district of Galle died of injuries sustained while in police custody. A similar incident occurred in nearby Hambantota District in April. In mid-October the body of a young Tamil was discovered in a coastal town 20 miles north of Colombo. He was believed to be 1 of many young Tamils who had been rounded up in Colombo.

There were two high level political assassination believed to have been carried out by the LTTE. On May 1, an LTTE suicide bomber assassinated President Premadasa. A few weeks earlier opposition leader Lalith Athulathmudali was assassinated. The Government presented evidence suggesting that the LTTE was responsible.

The LTTE is thought to have executed a number of its opponents, as well as Tamil civilians accused of helping the security forces. In January the LTTE publicly executed two alleged traitors and in February executed three civilians in Mullaittivu District for allegedly passing information to the security forces. In December the LTTE announced that it had executed nine more "traitors" in Jaffna.

Action to bring to trial security force members accused of extrajudicial killings remained stalled despite repeated pledges by the Government to punish those responsible for such deaths. The trial, which began in October, of 23 soldiers accused of massacring 35 Tamil civilians in the village of Mailanthani in 1992 was moved from the majority Tamil town of Batticaloa to the majority Sinhalese town of Polonnaruwa. Tamil members of Parliament accused the Government of changing the venue to make it more difficult for witnesses—all Tamil—to testify. Court hearings were held in October and December at which witnesses identified a number of soldiers responsible for the attack. Hearings are set to continue in 1994.

b. *Disappearance.*—At least 12,000 people have disappeared in Sri Lanka since 1983, most in the period 1987–91. Reports of new disappearances continued to decline in 1993, from 200 in 1992 to roughly 70 in the first 9 months of 1993. The vast majority of these disappearances took place in the war zones of the north and east and most were attributable to government forces. For example, on February 17, 15 Tamils were reportedly detained by the army's Independent Brigade in the Batticaloa district. None has been seen since. At the instigation of the Batticaloa Peace Committee, the army is said to have begun an investigation, but no progress has been reported. Three Tamil men were arrested by the security forces in Mannar district on July 4; witnesses saw the men in custody shortly after their arrest, but they have since disappeared.

The Peoples Liberation Organization of Tamil Eelam (PLOTE), an anti-LTTE Tamil militia allied with the Government, is believed to be responsible for the disappearance of several persons in the northern district of Vavuniya. They were detained following an LTTE attack on a security checkpoint manned by the PLOTE and subsequently disappeared.

There were also credible reports of disappearances in Polonnaruwa District, in the North-Central Province. Witnesses report that local police were responsible for up to 15 disappearances.

Observers in the northeast reported that the LTTE was responsible for a number of disappearances, but it was impossible to determine how many. In addition, hundreds of policemen captured by the LTTE in 1990 remain unaccounted for, and the LTTE has refused all requests for information concerning their fate.

The Government's decision in 1989 to give the International Committee of the Red Cross (ICRC) unhindered access to detention centers, police stations, and army camps has played an important role in reducing the number of disappearances attributable to the security forces, as has the work of the Human Rights Task Force (HRTF), a quasi-independent government body set up to register detainees held under the ER and the PTA and monitor their welfare. However, HRTF field offices outside of Colombo are hindered by a dearth of resources and their lack of assertiveness in dealing with security forces, which sometimes fail to comply fully with the Government's instructions. Recent changes in the ER—mandating the issuance of receipts to families of detainees and notification to the HRTF of all arrests—have been largely observed in the breach. Full implementation of this reform would further reduce the number of disappearances.

In the case of 32 high school-aged boys who disappeared from the southern town of Embilipitiya in 1989, the HRTF identified 10 soldiers implicated in the disappearances, but the Government has taken no action. In its 1993 report, the HRTF named 4 army officers allegedly responsible for the disappearance of 158 people from a refugee camp at the Eastern University in Batticaloa district in 1990. "This incident," said the chairman of the HRTF (a retired Supreme Court Justice), "is a dastardly crime which cries aloud for proper investigation." Despite this statement, the Government has taken no action against the four officers.

The Presidential Commission appointed to look into allegations of abductions and disappearances occurring after January 1991 has proven inadequate to the task. It has completed work on only 38 cases of the 873 that fall within its mandate. Of these, the President has referred two to the Attorney General for prosecution. None has come to trial. In mid-1993, the mandate of the Commission was changed in an attempt to speed the process by which disappearances are investigated. Under the new mandate, the Commission will determine only whether a complaint of abduction or disappearance is credible, after which the case will be sent to the President for a decision whether to refer the case for investigation and prosecution.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture and mistreatment of detainees, particularly during interrogation, was com-

mon during 1993. Reports of torture included near drownings, placing of insecticide or gasoline-filled bags over the head, and beating the soles of detainees' feet with metal rods. Suspected criminals as well as those detained under the ER are routinely beaten during the initial phase of their detention. Severe beatings, sometimes resulting in broken bones or other serious injuries, were reported by many detainees.

Although government officials privately acknowledge that torture is common, the Government has done little to address the problem. Most members of the security forces regard torture as routine and acceptable. The ER allow the use in court of confessions made to police officers and place the burden of proof on the defendant to show that the confession was obtained under duress, thereby encouraging the security forces' tendency to use torture to extract confessions.

In several cases, people who claimed to have been tortured filed cases in the Supreme Court alleging that their rights had been violated. In one well-publicized case dating from 1990, a man whose teeth had been extracted with pliers during interrogation was awarded nearly $600 in compensation by the court. The officer responsible was fined an additional $100 but not otherwise disciplined. Lesser amounts of compensation were awarded in several other cases in which detainees had been tortured or severely beaten. All cases in which compensation was awarded are from previous years since it invariably takes more than a year to move a case through the courts. According to reliable sources, there have been a handful of reported rapes while in detention; several cases are being investigated, and in one case a police officer has been arrested.

d. *Arbitrary Arrest, Detention, or Exile.*—Under ordinary law, authorities must inform an arrested person of the reason for his arrest and within 24 hours bring him before a magistrate, who may authorize bail or, for serious crimes, order continued detention. Persons detained under ordinary law are generally brought before a magistrate within a few days of arrest. A suspect may be detained without bail for up to 3 months, or longer if a court so rules.

In practice the PTA, adopted in 1979, and the ER, which have been renewed monthly by Parliament since the emergency was declared in 1983, provide exceptions, which have been widely used, to ordinary law on detention . Both the PTA and the ER permit preventive and incommunicado detention. A person held under the PTA may be detained without charge for up to 18 months, though there have been cases in which persons have been held longer. Most detainees are now held under the ER rather than the PTA. The number of people held under the ER and the PTA declined sharply in 1993, as many of those held for suspected involvement with the Janatha Vimukhti Peramunk (JVP), an extremist Sinhalese revolutionary group, were either released, charged with criminal offenses, or sent to rehabilitation camps in preparation for their release.

Under the provisions of the ER governing preventive detention, a person may be held indefinitely under a detention order signed by the Defense Secretary without ever being charged with a crime or brought before a court of law. However, changes in the ER announced in February and June now make it mandatory for magistrates to visit places of detention on a monthly basis and post in their courts a list of all detainees. Officers in charge of places of detention must also, by law, submit lists of all detainees to the magistrate as well as to the HRTF. According to the law, officials who do not follow these requirements are themselves subject to punishment under the ER. Despite these changes to the law, compliance with the revised ER is still far from complete, due to the lack of any effective enforcement mechanism and the refusal of superior officers to insist on compliance by their subordinates. Moreover, the requirement to report detentions to the HRTF applies only to those detainees arrested on suspicion of an offense; detainees held in preventive detention are not covered.

Persons held under the ER are ineligible for bail during the first 3 months of detention unless the Attorney General gives his prior written consent. After 3 months, courts may grant bail, but it is granted infrequently. Once charged, PTA detainees are ineligible for bail. Family visits and access to lawyers are sometimes restricted under these laws.

Detainees are frequently held incommunicado during the initial period of detention, sometimes lasting several days or weeks. The recent changes in the ER prohibit the holding of detainees in unauthorized (i.e., secret) places of detention. The Government has published a list of 345 authorized places of detention, most of them police stations, and has made it a criminal offense to hold detainees elsewhere. Reports continue that government security forces held people incommunicado for months or even years in previously undisclosed places of detention. There were also reports that Tamil irregulars, armed and paid by the Government, were operating their own detention facilities. A fundamental rights application was filed in the Su-

preme Court against the leader of one such militia, the Eelam Peoples Democratic Party (EPDP), alleging illegal abduction and torture. In the latter part of 1993, Government security forces and alleged Tamil militias began operating what many human rights monitors called "a parallel system of secret detention" in Colombo. Beginning in August, dozens of suspected LTTE sympathizers were picked up in unmarked vehicles and taken to undisclosed places of detention. Some were held for several months and many were tortured before eventually being transferred to an official detention center.

Persons held under the ER and the PTA (or others acting on their behalf) may challenge the legality of their detention by filing habeas corpus applications in the Court of Appeals or by charging the Government before the Supreme Court with violating fundamental human rights. In recent years, the Supreme Court has simplified the procedures for initiating fundamental rights cases and waived the requirement that such cases be filed within 30 days of the alleged infringement. Detainees may now initiate a fundamental rights case simply by writing a letter to the court. A number of legal aid groups, including the Bar Association of Sri Lanka, provide free legal assistance to detainees. Over 400 habeas corpus applications were filed on behalf of detainees in 1993, but only a few detainees were released as a result. During the same period, 762 fundamental rights cases were filed, with the result that over 150 people were released from detention, and 18 people whose rights were found to have been violated were awarded monetary compensation.

As of the end of 1993, there were approximately 2,000 detainees being held under the ER, compared to roughly 5,000 at the end of 1992. Another 433 people were held in rehabilitation camps pending release, according to the Government.

The HRTF continued its efforts to monitor conditions of detention and maintain a central register of detainees. In addition, the Supreme Court in 1993 instructed the HRTF to begin inquiring into the legality of individual cases of detention. The HRTF began hiring a legal staff and advising the Court on the release of detainees. In addition to the HRTF, the ICRC regularly visited over 400 places of detention. Tens of thousands of Tamils were rounded up by the security forces in and around Colombo in the second half of 1993, following President Premadasa's assassination by an LTTE suicide bomber. Most of them were released after an "identity check" lasting between several hours and several days, but a small number were placed under detention orders pursuant to the ER. Many Tamils claimed that the mass roundups were an unjustified form of harassment based solely on ethnicity.

There were unconfirmed reports that the LTTE was holding over 2,000 prisoners in the north. The LTTE does not give the ICRC or other humanitarian organizations access to its detainees, except for some 35 security force members, most of whom have been held since 1990.

e. *Denial of Fair Public Trial.*—In ordinary criminal cases, defendants are accorded due process rights, but trials under the ER and the PTA lack several significant safeguards. Persons accused of criminal acts generally receive a fair public trial, are informed of the charges and evidence against them, and are represented by the counsel of their choice. Persons tried on criminal charges in the High Courts and the Court of Appeal are provided an attorney at government expense if necessary. The Government does not provide attorneys in other cases, although private legal aid organizations assist some defendants. Public trial by jury is the custom.

Jury trials are not provided under the PTA on the grounds that jury members could be intimidated. Confessions are admissible in PTA and ER cases but not in cases tried outside the PTA and ER framework. Most ER and PTA convictions rely heavily on confessions, and the burden of proof of charges of torture and other forms of coercion rests on the defendant. Those convicted under the PTA or the ER have the same right of appeal to the Court of Appeal and the Supreme Court as those sentenced in other cases. In practice, however, most people held under these acts have never been formally charged and therefore cannot make use of the appeals process.

The Constitution provides for an independent judiciary, and the judiciary is independent in practice. The President appoints all judges of the Supreme Court, courts of appeal, and high courts. The Chief Justice and two Supreme Court judges comprise a Judicial Service Commission which appoints, transfers, and dismisses lower court judges. Judges serve from time of appointment to mandatory retirement age (65 for Supreme Court judges and 62 for others).

The Government alleges that all persons held under the ER and the PTA are members or suspected members of either the JVP or the LTTE. It is impossible to determine how many of the roughly 2,000 detainees it holds would properly be termed political prisoners, as defined in these reports (see Appendix A), and how many are held because of suspected involvement in terrorist activities.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Government generally respects individual privacy and the sanctity of the family and home, and the judiciary usually upholds privacy rights in cases that reach the high courts. Under ordinary law, search and arrest warrants are generally required to enter private premises and must be approved by a magistrate. However, the ER and PTA permit members of the security forces to "enter and search any place, vehicle, or vessel" and to "inspect and take possession of any movable property" in the course of investigating any suspected offense under the ER and PTA, without the need for a warrant. Oversight is provided by the Secretary of Defense. There is no judicial review or other means of redress.

Government monitoring of telephones and correspondence is believed to occur on a selective basis. Mail to LTTE-controlled areas is routinely opened and banned items, including currency, are seized.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Hostilities between the Government and the LTTE continued throughout 1993. After a lull in the first 9 months of the year, fighting reached new levels of intensity in the 4th quarter, as both sides launched major offensives.

There were no army massacres of Tamil civilians similar to the ones at Kokkadichcholai in 1991 and Mailanthani in 1992. However, the Sri Lankan navy and air force were responsible for a number of civilian deaths, many due to indiscriminate or excessive use of force. Over 250 civilians were killed in such attacks. One of the most notorious of these occurred on January 2, when the navy attacked a group of civilians crossing the Jaffna lagoon under LTTE escort and in defiance of military orders. At least 35 civilians were killed in the incident, in which navy patrol boats trained their spotlights on several small, makeshift passenger ferries and machine-gunned those on board. Altogether, at least 100 civilians died in this and similar incidents on Jaffna lagoon during the course of the year. Following army setbacks in October and November, indiscriminate bombing of civilian targets in the LTTE-controlled areas of the country increased. On December 8, 25 civilians were killed when the air force bombed a crowded public market in Jaffna. On November 13, air force jet aircraft attacked the St. James Catholic Church in Jaffna, killing at least 10 and injuring dozens more. In all, at least 150 civilians were killed in bombing or artillery attacks.

The LTTE was also responsible for a number of violations. Fifteen civilians were killed when LTTE forces used innocent travelers as human shields in an attack on a crowded government checkpoint in June. At least seven civilians living near an army camp were killed when the LTTE attacked and overran the camp in July. The total number of such killings attributable to the LTTE probably amounts to several dozen, but no precise estimate was possible.

The LTTE sometimes conscript high school-age children for work as cooks, messengers, and clerks. There were also reliable reports of children being used as forced labor to build fortifications.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and expression but permits these rights to be restricted by law in the interests of national security. There was, however, some improvement in the civil liberties climate during the year. The provisions of the ER that restrict freedom of speech and freedom of the press were rescinded in June, then reimposed without explanation in December. Under the ER, sentences of up to 20 years in prison may be imposed for "inciting feelings of disaffection, hatred or contempt ofthe President or the Government" or "creating discontent or disaffection among the inhabitants of Sri Lanka." Civil libertarians point out that these regulations could, in theory, be used to punish virtually any public criticism of the Government. However, the Wijetunga Government has so far shown itself to be far less likely to restrict freedom of expression than was its predecessor.

The Government controls the country's largest newspaper chain, although a variety of independent newspapers and journals provide a range of viewpoints on foreign affairs and domestic issues, including human rights, and openly criticize the ruling party and Government. Physical attacks on opposition journalists and politicians ceased with President Premadasa's death in May. Similarly, a previously secret organization headed by high-ranking former police officers and charged with harassment and intimidation of Premadasa's political opponents, including journalists, was disbanded by President Wijetunga, and revelations about the unit's past operations were widely reported in the press. In the one major exception to this trend, a respected newspaper columnist received a death threat—reportedly from the now-retired commander of the army—following a critical story he wrote about a major army offensive.

Although the Government denies it, many journalists allege that the Government continues to exert pressure on the press by controlling permits for the import of newsprint and through placement of paid government announcements and advertising. In addition, the Parliamentary Powers and Privileges Act allows Parliament to impose an unlimited fine or up to 2 years' imprisonment on anyone who criticizes a member of Parliament. Although it is rarely invoked and was not used in 1993, journalists and civil libertarians complained that the Act, along with new guidelines that effectively prevent the reporting of incidents in Parliament that are not part of the official record of proceedings, were an unjustified infringement on freedom of the press.

Several new, privately owned television and radio networks have begun operating, but the Government maintains a monopoly on the broadcast of local news. Local networks that broadcast foreign-produced international news such as the Cable News Network and the British Broadcasting Corporation are obliged to delete any portions concerning Sri Lanka.

For its part, the LTTE tolerates no freedom of expression. The print and broadcast media in areas under its control are tightly regulated. The LTTE has been known to execute those who criticize it or disagree publicly with its policies. In the past, university professors, members of nonviolent Tamil opposition parties, and human rights monitors have been among those killed.

The LTTE holds numerous prisoners of conscience, including the poet and women's activist Thiagarajah Selvanithy, who has been imprisoned since August 1991 for her participation in a play critical of the LTTE. The group University Teachers for Human Rights (UTHR), a human rights group formerly based in the LTTE-controlled Jaffna Peninsula, has been the target of severe repression by the LTTE for its attempts to present a balanced picture of human rights violations in both LTTE- and government-controlled areas of Sri Lanka.

Although academic freedom is generally respected, political activities on university campuses are restricted under the ER. The Government has defended this action as necessary to ensure that student political activity, such as that used by the JVP to close the universities for 3 years, would not disrupt education.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association. Freedom of association is respected in practice. The ER restricting the right to peaceful assembly were rescinded in 1993. Restriction of these rights is still possible under the PTA, but the act was not used for this purpose in 1993. There were no cases in which permits are known to have been denied for political reasons. An ER issued in 1990 prohibiting political and disruptive activity in schools and workplaces remains in effect. Under it, permission for meetings must be obtained from the head of an institution.

c. *Freedom of Religion.*—The Constitution establishes Buddhism as the official religion, which the Government must "protect and foster." It also provides for the rights of members of other faiths, including Hindus, Muslims, and Christians, to practice their religions freely. Religious groups are free to maintain active ties with coreligionists in other countries, and many Sri Lankans perform religious travel each year.

Religious publishing and proselytizing are allowed, and foreign clergy may work in Sri Lanka. For over 30 years, however, the Government has forbidden entry to new foreign Jesuit clergy, while allowing those in the country to remain.

Evangelical Christians (who constitute less than 1 percent of the population) expressed concern that the government commission set up to look into the activities of nongovernmental organizations (NGO's) (see Section 4) has focused much of its attention on the activities of Protestant missionaries. These groups also report that their efforts to convert Sri Lankans are often met with hostility and sometimes violence on the part of local Buddhist clergy or other groups opposed to such missionary work, and they accuse the Government of tacitly condoning the harassment. There is no evidence of active Government support for or protection of those responsible for the harassment of evangelical Christians; on the other hand, the Government made no effort to remedy the situation. A chauvinistic vernacular press contributes to the climate of intolerance.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution grants every citizen "freedom of movement and of choosing his residence within Sri Lanka" and "freedom to return to Sri Lanka." However, curfews, checkpoints, and other actions taken by both the Government and the insurgent forces have had the effect of inhibiting travel in large parts of the north and east. Strict security measures imposed in the wake of President Premadasa's assassination have also had the effect of restricting the freedom of movement of Tamils in general and young Tamil males in particular because of reports that the LTTE was planning additional assassinations.

The Government does not restrict the travel abroad of its citizens.

Sri Lanka does not permit the entry of refugees or displaced persons from other countries, nor does it help refugees who attempt to stay in the country while seeking permanent residence elsewhere. There were no instances of refoulement in 1993. There were 620,000 internally displaced persons living in Sri Lanka in 1993. Most lived in camps, primarily financed by the Government, in the northeast or adjacent provinces.

At the beginning of the year there were over 70,000 Sri Lankan Tamil refugees living in refugee camps in Southern India. During 1993 nearly 7,000 of these refugees returned to Sri Lanka. The United Nations High Commissioner for Refugees operated freely in Sri Lanka, supporting government refugee relief efforts in the north and east and funding transit camps for persons returning from India. Over 200,000 Sri Lankan Tamils have also migrated to or sought refuge in Western Europe and North America over the last 10 years. Many of them have been denied asylum, and a few have been returned to Sri Lanka.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens have the constitutional right to change their government through periodic multiparty elections on the basis of universal adult suffrage. Sri Lanka has a vigorous political opposition. Although 1993 was marked by two high-profile assassinations (see Section 1.a.), organized harassment of the political opposition ceased with President Premadasa's death in May. A total of 26 parties are recognized by the Commissioner of Elections, and members of 12 of these hold seats in Parliament. Although members of each ethnic community can be found in many of the political parties, the two most influential parties generally draw their support from the majority Sinhalese community. Historically, these two parties have alternated in power. Eighteen Tamils currently hold seats in the 225-member Parliament.

In May provincial council elections were held in seven of the country's eight provinces; security conditions precluded a vote in the Northeast Province (a temporary merger of the war-torn Northern and Eastern Provinces). An opposition coalition won control of the Western Province, which includes the capital, Colombo. Despite scattered irregularities, foreign and domestic election monitors judged this election to be largely free and fair.

There are no de jure impediments to women's participation in politics or government, but the social mores of some communities have the effect of limiting women's participation in activities outside the home. Although they are underrepresented, women serve at senior levels in both sectors. Eleven women hold seats in Parliament; two are deputy ministers and one is the Minister of Health. The leader of the opposition, a former Prime Minister, is a woman.

The indigenous people of Sri Lanka, known as Veddas, number less than a thousand. There are no de facto or de jure restrictions on their participation in the political life of the country. Preferring to maintain their traditional way of life, the Veddas have resisted government attempts to integrate them into Sri Lankan society.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Several local NGO's, including the Movement for Interracial Justice and Equality (MIRJE) and the University Teachers for Human Rights (UTHR), monitor human rights, collecting information from families of victims or members of citizen committees near the sites of alleged incidents. Other groups, such as the Civil Rights Movement (CRM) and the Law and Society Trust (LST), monitor civil and political liberties. The Government generally does not respond to their periodic reports and appeals. Unlike in previous years, there were no reports in 1993 of human rights monitors receiving death threats.

A variety of international nongovernmental organizations are active in Sri Lanka, providing humanitarian relief services to those affected by the conflict in the northeast. The Government allows these organizations to operate unhindered, subject only to security considerations in the war zone.

On December 22, President Wijetunga used the Emergency Regulations to promulgate a law governing the activities of local and foreign NGO's, thereby bypassing normal parliamentary procedures. The law imposed financial reporting requirements on all NGO's, but as of the end of the year it was not clear what additional practical effect the new law would have on NGO's operating in Sri Lanka.

During 1993, the Government made progress in implementing some of the 44 recommendations it accepted from Amnesty International (AI) and the United Nations Human Rights Commission (UNHRC) Working Group on Enforced and Involuntary

Disappearances, but this progress slowed in the second half of the year. For example, a "zero tolerance" directive on human rights was issued by the Eastern Province Commander in March, and according to reliable sources, this has led to significant on-the-ground improvements. Emergency regulations governing issuance of receipts and reporting to the human rights task force have been issued, though, as noted, compliance is spotty. Several new regional HRTF offices were opened and the HRTF is gradually making its presence felt. The activities of paramilitary groups (e.g. home guards, Tamil militias) seem to be coming under better supervision. However, there was no discernible movement in implementing the recommendations to prosecute past human rights violators and investigate disappearances.

At the 1993 meeting of the UNHRC, Sri Lanka pledged to continue implementation of the Working Group's recommendations. It also pledged to "take appropriate measures to ascertain the whereabouts of persons referred to in the reports of alleged disappearances" and "prosecute those responsible for disappearances and other human rights violations."

The Government continued to provide the ICRC with virtually unrestricted access to its detention facilities, allowing the ICRC to register detainees and monitor their treatment. At the request of the Government, the ICRC also continued to oversee the transportation of government and donor-supplied food and medical supplies into the war zone and to supply human rights training and materials to the Sri Lankan security forces.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

Women.—Sri Lankan women have equal rights under national civil and criminal law. However, questions related to family law, including marriage, divorce, child custody, and inheritance—are subject at the local level to the customary law of each particular ethnic or religious group. Muslims, for example, are guided by Islamic law in these matters. The Constitution guarantees equality in public sector employment, but women have no legal protection against discrimination in the private sector. In the private sector, women are sometimes paid less than men for equal work.

Women's rights monitors say that domestic violence and sexual assault are common in Sri Lanka, but that for cultural and social reasons Sri Lankan women are unlikely to report such abuse. According to women who work with victims, sexual assault, rape, and other forms of violence directed against female domestic servants is a particularly pernicious problem. Women's groups report that victims of rape and domestic violence must face police and judicial officials whose sympathies often lie with the accused rather than the victim.

There are several organizations actively working to promote women's rights and greater awareness of women's issues generally and particularly to reform the laws governing rape and domestic violence. As a result, public awareness of the problems faced by women has increased, but the Government has yet to deal effectively with these issues.

Children.—The Government is formally committed to protecting the welfare and rights of children, but its ability to do so in practice has been limited by its lack of resources.

There is no pattern of societal abuse against children. There is, however, a significant problem of child prostitution in certain coastal resort areas. The majority of these prostitutes are boys, and the majority of their customers are said to be foreign tourists. The true extent of child sexual abuse is unknown, but several thousand children are thought to be involved. The Government has appointed a technical committee to recommend possible new legislation to deal with the problem, and recent press reports indicate that such legislation is being considered. However, organizations working with abused children believe that the problem lies not with the inadequacy of existing legislation but with the law's enforcement, which is said to be lax.

There are also reports of abuse of rural children working as domestics in urban households. There are allegations of starvation, beatings, burnings, sexual abuse, and forced prostitution. Enforcement of laws designed to protect these children has also been lax. (See also Section 6.c.)

National/Racial/Ethnic Minorities.—Tamils have long believed, with some justification, that they suffer systematic discrimination in competition for university entrance, government employment opportunities, and other matters under government control. While official discrimination continues in some fields, there has been little evidence of overt discrimination in university enrollment or government employment in recent years. However, many Tamils assert that more subtle forms of official discrimination persist. In 1990 the Government decreed that hiring for the public service would be based on ethnic groups' proportions in society. Upholding

a suit filed by a Tamil public servant, the Supreme Court ruled in 1991 that promotions must be based on merit but did not address the hiring issue. Under the Constitution's 13th Amendment, enacted in 1987, Tamil and Sinhala were both made official languages and English the "link" language.

There are approximately 1 million Tamils of comparatively recent Indian origin living in Sri Lanka. Of these, roughly 200,000 are not citizens of either India or Sri Lanka. Most of them live in the tea-growing highlands and continue to suffer discrimination, especially in the Government's allocation of education funds. They no longer qualify for citizenship under Indian law and were also denied Sri Lankan citizenship by laws adopted after independence, making them essentially stateless. In 1986 the Government agreed to grant citizenship to all remaining stateless Tamils. In 1988 the Government eliminated processing delays by passing a law making extension of citizenship to those stateless persons automatic upon a simple request. However, the new legislation did not cover the nearly 85,000 Tamils who themselves or whose parents once applied for Indian citizenship but who now wish to stay in Sri Lanka. While they could legally be compelled to leave Sri Lanka, the Government has assured Tamil leaders that none will be forced to do so.

Religious Minorities.—As noted above, evangelical Christians have been attacked both physically and in the press for their attempts to convert Buddhists to Christianity. However, there is still no evidence of "official" persecution.

The LTTE has expelled all Muslims from the areas of northern Sri Lanka under its control; expropriated Muslim lands, homes, and businesses; and threatened Muslim families with death if they attempt to return to their homes. The Tigers also severely restrict the freedom of movement of Tamils living in areas under their control, exacting a large "exit tax" from persons wishing to travel to areas under government control and requiring them to leave all of their property in escrow. In order to ensure that people return, the Tigers often allow only one member of a family to travel at a time. The LTTE does not allow internally displaced persons living in areas under Tiger control to return to their homes in government-controlled areas.

People with Disabilities.—The unique problems faced by the disabled in Sri Lanka have yet to become an issue of public-policy debate. Most disabled people who are unable to work are cared for by their families; those whose families are unable to care for them often resort to begging on the streets. There are no laws mandating accessibility for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution establishes the right of workers (except the military and police) to associate freely and to form or join labor unions. No prior approval from the employer is needed to form or to join a trade union. Any seven workers may form a union, draw up their charter, elect their own representatives, and publicize their views. This right is usually exercised in the industrial sector, civil service, state owned enterprises, and plantation sector. Workers in nonplantation agriculture and most of those employed in small businesses are not generally represented by unions. Altogether 50 to 60 percent of the nonagricultural work force, equal to 25 to 30 percent of the total work force, is unionized.

There are a number of independent trade unions; however, most large unions are affiliated with political parties and play a prominent role in the political process. There are two trade unions affiliated with the ruling United National Party (UNP), while more than 30 trade unions are affiliated to other political parties.

During 1992, 154 new unions were registered with the Department of Labor, whereas registration of 206 unions were canceled. It is a statutory requirement that unions submit their annual reports to the Department of Labor, and a failure to do so is the only criteria for cancelation of registration.

All workers other than civil servants and those in essential services, as classified by the Government, have the right to strike. In 1992 there were 103 strikes. Although civil servants have no right to strike, they may submit grievances to the Public Service Commission for relief but have no other legal recourse. Under the Essential Services Act (ESA), based on Emergency Regulation No. 1 of 1989, the President can exercise the power to declare any sector an essential service, making the strike illegal. The law prohibits retribution against legal (nonwildcat) strikers in nonessential sectors. The only grounds for dismissal is indiscipline.

Taking note that the Government was preparing to remove export industries from the list of essential services where strikes are banned, the Committee on Freedom of Association of the International Labor Organization (ILO) observed in May that nonessential services under the Emergency Regulations Act should be limited to services where an interruption would endanger the life, personal safety, or health of the population.

In June the Government amended the ER, restricting coverage to sectors it explicitly defined as "essential services": government establishments; air, sea, port, rail, road, and other public transport services; services connected with the sale of foods and medicines; and the operations of tea, rubber, and coconut plantations. The garment industry, which employs nearly 200,000 workers, was dropped from the list of essential services. Even though illegal, strikes in sectors classified by the Government as essential services do occur. In fact, 86 of the 103 strikes in 1992 were in the plantation sector (tea, rubber, and coconut), which is still technically listed as an essential service. There were 78 strikes in 1993, of which 56 occurred in the "essential" plantation sector. A telephone workers strike became technically illegal when the Government classified telecommunications as an essential service following the outbreak of the strike, but no action was taken against the strikers and the strike went on as scheduled. There was no retribution.

Workers in the public enterprises and in the private sector, including those in the essential services, may lodge complaints with the Commissioner of Labor, the Labor Tribunal, or the Supreme Court to protect their rights.

On September 29, the Emergency (Maintenance of Exports) Regulation No. 1, under which "anyone intimidating an employee to disrupt the activities of a company commits an offense and will be sentenced to a minimum of 10-years' imprisonment," was rescinded. The President signed a regulation exempting disputes between registered employers and unions from the emergency decree, provided 14 days' notice is given to the Commissioner of Labor and the employer.

Unions are free to affiliate internationally, and various Sri Lankan trade union federations are affiliates of major international trade union organizations.

b. *The Right to Organize and Bargain Collectively.*—Workers are expressly granted the right under the law to bargain collectively, and it is fairly widely practiced. For those enterprises in which workers are represented by trade unions, the unions do the bargaining for the workers. Where unions are lacking, work councils—composed of employees, employers, and often a public sector representative—are the forums for collective bargaining. Except in the Export Processing Zones (EPZ), work councils are not required in cases where unions do not exist. In the EPZ's, Board of Investment (BOI) regulations require the establishment of a work council, known as a Joint Consultative Council (JCC).

However, Sri Lankan law does not compel management to recognize unions. There have been isolated cases where employers were hesitant to recognize the unions in their factories. The Labor Commissioner has intervened in these cases to try to persuade the employers to do so. The employer's recognition of a union confers on the union the right of representation, allows payroll deduction of union dues, and permits the union to enter into collective bargaining.

Antiunion discrimination is prohibited by law but is not always enforced or practiced. When claims arise, they often result in protracted legal proceedings. Employers found guilty of antiunion discrimination are required to reinstate workers fired for union activities, but reinstated workers are often transferred to different locations. In some cases, employers have offered to pay compensation instead of reinstating the worker.

All public and private sector enterprises, including essential services, enjoy the right of collective bargaining. However, collective bargaining takes place in an estimated 15 to 20 percent of businesses in the private sector, and only a few large-scale private companies and banks sign collective agreements with their unions on pay increases and maintenance of the wage levels for a specific period. The primary mechanism for setting minimum wages and service conditions in the private sector is wage boards (see Section 6.e.). Remuneration tribunals also set wages in some cases. In addition, the Board of Investment sets minimum wages for workers in the EPZ's. These wages are higher than the national minimum wage.

Workers have significant protection for the right to employment under the Termination Act. Under the Act, no one may be fired without the permission of the Labor Commissioner. Outside of the essential-services area, dismissal may only be allowed on the grounds of disciplinary infractions. Should workers performing an essential service go on strike, management may legally terminate employment, and the striking worker has no recourse. This power, however, has rarely been used.

Workers in the EPZ's are free to join unions, but unionization in the zones has been traditionally discouraged by employers and the Government. Unions, to date, do not represent workers in collective bargaining or dispute resolution. Otherwise, workers in the EPZ's have the same rights as other workers, including the right to strike. Workers in the EPZ's are represented by Joint Consultative Councils (JCC), which are established under BOI regulations. Fifty percent of the JCC members are elected by EPZ workers, and 50 percent are appointed by management. They are chaired by the BOI, with most decisions being reached by consensus. Until recently,

union officials were only permitted into EPZ's with an invitation from the JCC, an employer, or a group of employees. Now, the Government's Board of Investment (BOI) is preparing office space and meeting rooms for use by unions in each of the EPZ's, as they no longer require invitations for entry. Two established trade unions have taken advantage of the June 1993 decision allowing entry into the EPZ's. However, it is too soon to say whether they will be successful in forming branches there.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited by law. There is no conscription or forced recruitment.

There are reports of abuse of children brought in from rural areas in debt bondage to work as domestic servants in urban households (see also Section 5). In the view of the National Employers Union (Jathika Sevaka Sangamaya), these children are not adequately protected, mainly due to the shortage of labor inspectors.

d. *Minimum Age for Employment of Children.*—The basic minimum age for employment in Sri Lanka is 14 years. However, the employment of children below the age of 14 by their parents or guardians in light agricultural or horticultural work for a limited period is legally permitted. Light work is also permitted in any school or institution for training purposes. Persons under 16 may not be employed in any public performance in which life or limb is endangered. Until recently, children under 14 years could be employed in the plantation industry, but with the adoption of ILO Convention 10, ratified by the Government in November 1991, children under 14 years of age may no longer be employed on the plantations. Child labor is not used in the EPZ's or in the garment factories. About 85 percent of children below the age of 16 attend school, and the law provides that the employment of such persons is permitted for not more than 1 hour on any day before school. For the small percentage of children over the age of 14 who are not in school (and who are legally allowed to work), there is no explicit law that limits their working hours to less than those allowed for adults.

Despite legislation, some child labor still exists. Some children work in the informal sectors, including coir-making, which is the making of products, such as mats, from coconut fiber; industries; fishing; drying fish; wrapping tobacco; street trading; domestic service and on farms. Enforcement measures taken by the Department of Probation and Child Care Services, including inspections and penalties, have been unable to eliminate child labor, and the labor laws are used only to deal with extreme forms of it.

Based on the recommendation of a committee of experts appointed by the Government to examine child labor, the Cabinet decided in September to enact laws to increase the minimum age to 15 years in view of ILO conventions and to tighten child labor laws. Social and economic factors also help to control the problem of child labor in Sri Lanka. The country's gross national product, relatively high by regional standards, and its near-90 percent literacy level serve as a brake on the employment of children. Virtually all children attend primary school and three-quarters of them go on to secondary school, according to government statistics.

e. *Acceptable Conditions of Work.*—There is no national minimum wage, but wage boards set minimum wages and working conditions on a sector by sector basis. The Wage Board, a legislated body under the Wage Board Ordinance of Sri Lanka of 1941, is a tripartite body representing the employer, employee, and the Department of Labor. There are 38 boards covering more than 100 occupations in industry, commerce, services, and agriculture. The current minimum wage rates are $34 (1,166 rupees) a month in industry and commerce, $33 a month in the service industry, and $1.50 a day in agriculture. Minimum wages in the industrial and commercial sectors also vary from trade to trade. In the garment industry, where nearly 200,000 persons are employed, the minimum wage is $41.20 per month. While this minimum wage is considered insufficient for a worker to support the standard family of five, the overwhelming number of textile workers are young women whose incomes are supplementary to their families' main income. The Minimum Wage Law is effectively enforced by the Department of Labor.

Most permanent full-time workers are covered by laws that prohibit them from working regularly more than 45 hours per week (a 5½-day workweek). Such workers also receive 14 days of annual leave, 14 to 21 days of medical leave, and some 20 local holidays each year. Maternity leave is available for all female workers, permanent or casual. Employers also must contribute an amount equal to 12 to 15 percent of a worker's wage to an employee's provident fund and 3 percent to an employees trust fund. If these contributions are not paid on time, the Government fines the employer.

Safety and health of workers are protected under a variety of laws. The Department of Labor employs a small staff of technical officers to inspect workplaces, but the staff is inadequate for effective enforcement. The Department also provides na-

tionwide worker education programs on health and safety issues in an effort to increase worker awareness.

The graphite industry records the highest number of health hazards. In tea factories, asthma and chronic bronchitis are common. Workers have the statutory right to remove themselves from situations that endanger their health, but much of the work force is either unaware of, or indifferent to, the risks involved in their work.

APPENDIXES

Appendix A.—Notes on Preparation of the Reports

The annual Country Reports on Human Rights Practices are based upon all information available to the United States Government. Sources include American officials, officials of foreign governments, private citizens, victims of human rights abuse, congressional studies, intelligence information, press reports, international organizations, and nongovernmental organizations concerned with human rights. We are particularly appreciative of, and make reference in most reports to, the role of nongovernmental human rights organizations, ranging from groups in a single country to major organizations that concern themselves with human rights matters in larger geographic regions or over the entire world. While much of the information we use is already public, information on particular abuses frequently cannot be attributed, for obvious reasons, to specific sources.

The reports by law must be submitted to Congress by January 31. To comply, United States diplomatic missions are given guidance in September for submission of draft reports in October, which are updated by year's end as necessary. Contributions are received from appropriate offices in the Department of State, and a final draft is prepared under the coordination of the Bureau of Human Rights and Humanitarian Affairs. Because of the preparation time required, it is possible that developments in the latter part of the year may not be fully reflected; moreover, reports from some of the nongovernmental organizations are for periods ending well before the end of the year. We make every effort to include reference to major events or significant changes in trends.

We have attempted to make these country reports as comprehensive as space will allow, while taking care to make them objective and as uniform as possible in both scope and quality of coverage. We have given particular attention to attaining a high standard of consistency despite the multiplicity of sources and the obvious problems related to varying degrees of access to information, structural differences in political and social systems, and trends in world opinion regarding human rights practices in specific countries.

It is often difficult to evaluate the credibility of reports of human rights abuses. With the exception of some terrorist groups, most opposition groups and certainly most governments deny that they commit human rights abuses and often go to great lengths to cover up any evidence of such acts. There are often few eyewitnesses to specific abuses, and they frequently are intimidated or otherwise prevented from reporting what they know. On the other hand, individuals and groups opposed to a particular government sometimes have powerful incentives to exaggerate or fabricate abuses, and some governments similarly distort or exaggerate abuses attributed to opposition groups. We have made every effort to identify those groups (e.g., government forces, terrorists, etc.) that are believed, based on all the evidence available, to have committed human rights abuses. Where credible evidence is lacking, we have tried to indicate why. Many governments that profess to oppose human rights abuses in fact secretly order or tacitly condone them or simply lack the will or the ability to control those responsible for them. Consequently, in judging a government's policy, it is important to look beyond statements of policy or intent in order to examine what in fact a government has done to prevent human rights abuses, including the extent to which it investigates, tries, and appropriately punishes those who commit such abuses. We continue to make every effort to do that in these reports.

There is a conceptual difficulty in applying a single standard of evaluation to societies with differing cultural and legal traditions. There is also a problem of perspective in discussing countries that face differing political and economic realities, which must be taken into account in describing the human rights environment. Rather than viewing a country in isolation, these reports take as their point of departure the world as it is and then seek to apply a consistent approach in assessing each

country's human rights situation. While we have tried to make each report self-contained by including enough background information to place the human rights situation in context, readers who need to delve more deeply may wish to consult other sources, including previous country reports.

To increase uniformity, the introductory section of each report contains a brief setting, indicating how the country is governed and providing the context for examining the country's human rights performance. A description of the political framework and the role of security and law enforcement agencies with respect to human rights is followed by a brief characterization of the economy. The setting concludes with an overview of human rights developments in the year under review, mentioning specific areas (e.g., torture, freedom of speech and press) in which abuses occurred.

There are two format changes in this year's report. Public law 103–87, enacted on September 30, 1993, requires that the reports include "an examination of the discrimination against people with disabilities," including whether the government has enacted legislation or otherwise mandated provision of accessibility to public buildings. As a result, the heading of Section 5 has been changed to: "Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status," and the topic is discussed in each report. The second change is the use of subtitles in Section 5 to make that section more readable and to enable readers searching for information on discrimination against specific groups to find it more readily. We have continued the effort from previous years to expand reporting on the human rights of women, children and indigenous people. We discuss in the appropriate section of the report any abuses that are targeted specifically against women (e.g., rape or other violence perpetrated by governmental or organized opposition forces, or legal restrictions on freedom of movement). Socioeconomic discrimination; societal violence against women, children or minority group members; and the efforts, if any, of governments to combat these problems continue to be discussed in Section 5.

The following notes on specific categories of the report are not meant to be comprehensive descriptions of each category but to provide definitions of key terms used in the reports and to explain the organization of material within the format:

Political and Other Extrajudicial Killing.—Includes killings in which there is evidence of government instigation without due process of law, or of political motivation by government or by opposition groups; also covers extrajudicial killings (e.g., deliberate and illegal use of lethal force by the police, security forces, or other agents of the State whether against criminal suspects or others or deaths in official custody resulting from unnatural causes or under suspicious circumstances); excludes combat deaths and killings by common criminals, if the likelihood of political motivation can be ruled out (see also Section 1.g.).

Disappearance.—Covers unresolved cases in which political motivation appears likely and in which the victims have not been found or perpetrators have not been identified; cases eventually classed as political killings are covered in the above category, those eventually identified as arrest or detention are covered under "Arbitrary Arrest, Detention, or Exile."

Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Torture is here defined as an extremely severe form of cruel, inhuman, or degrading treatment or punishment, committed by or at the instigation of government forces or opposition groups, with specific intent to cause extremely severe pain or suffering, whether mental or physical. Discussion concentrates on actual practices, not on whether they fit any precise definition, and includes use of physical and other force that may fall short of torture but which is cruel, inhuman, or degrading.

Arbitrary Arrest, Detention, or Exile.—Covers cases in which detainees, including political detainees, are held in official custody without charges or, if charged, are denied a public preliminary judicial hearing within a reasonable period.

Denial of Fair Public Trial.—Describes the court system and evaluates whether there is an independent judiciary and whether trials are both fair and public (failure to hold any trial is noted in the category above); includes discussion of "political prisoners" (political detainees are covered above), defined as those imprisoned for essentially political beliefs or nonviolent acts of dissent or expression, regardless of the actual charge.

Arbitrary interference with Privacy, Family, Home, or Correspondence.—Discusses the "passive" right of the individual to noninterference by the State; includes the right to receive foreign publications, for example, while the right to publish is discussed under "Freedom of Speech and Press"; includes the right to be free from coercive population control measures, including coerced abortion and involuntary sterilization but does not include cultural or traditional practices, such as female genital mutilation, which are addressed in Section 5.

Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.—Includes indiscriminate, nonselective killings arising from excessive use of force, e.g., by police in putting down demonstrations (deliberate, targeted killing would be discussed in Section 1.a.). Also includes abuses against civilian noncombatants. For reports in which use of this section would be inappropriate, i.e., in which there is no significant internal conflict, use of excessive force by security forces is discussed in Section 1.a. if it results in killings or in Section 1.c. if it does not.

Freedom of Speech and Press.—Evaluates whether these freedoms exist and describes any direct or indirect restrictions. Includes discussion of academic freedom.

Freedom of Peaceful Assembly and Association.—Evaluates the ability of individuals and groups (including political parties) to exercise these freedoms. Includes the ability of trade associations, professional bodies, and similar groups to maintain relations or affiliate with recognized international bodies in their fields. The right of labor to associate and to organize and bargain collectively is discussed under Section 6, Worker Rights (see Appendix B).

Freedom of Religion.—Includes the freedom to publish religious documents in foreign languages; addresses the treatment of foreign clergy and whether religious belief affects membership in a ruling party or a career in government.

Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—Includes discussion of forced resettlement; "refugees" may refer to persons displaced by civil strife or natural disaster as well as persons who are "refugees" within the meaning of the Refugee Act of 1980, i.e., persons with a "well-founded fear of persecution" in their country of origin or, if stateless, in their country of habitual residence, on account of race, religion, nationality, membership in a particular social group, or political opinion.

Respect for Political Rights: The Right of Citizens to Change Their Government.—Discusses the extent to which citizens have freedom of political choice and can change the laws and officials that govern them; assesses whether elections are free and fair.

Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights.—Discusses whether the government permits the free functioning of local human rights groups (including the right to investigate and publish their findings on alleged human rights abuses) and whether they are subject to reprisal by government or other forces. Also discusses whether the government grants access to and cooperates with outside entities (including foreign human rights organizations, international organizations, and foreign governments) interested in human rights developments in the country.

Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status.—This year, every report contains a subheading on Women, Children, and People With Disabilities. As appropriate, some reports also include subheadings on Indigenous People, National/Racial/Ethnic Minorities, and Religious Minorities. Discrimination against groups not fitting one of the above subheadings is discussed in the introductory paragraphs of Section 5. In this section we address discrimination and abuses not discussed elsewhere in the report instigated or condoned by the government, and, where not condoned, efforts by the government to counter them. This includes restricted access to employment, housing, education, or to other economic, social, or cultural opportunities. (Abuses by government or opposition forces, such as killing, torture and other violence, or restriction of voting rights or free speech targeted against specific groups would be discussed under the appropriate preceding sections.) Government tolerance of societal violence or other abuse against women, e.g., "dowry deaths" and wife beating, is discussed in this section. Female genital mutilation (circumcision), because it is most often performed on children, is discussed under that subheading.

Worker Rights.—See Appendix B.

Appendix B.—Reporting on Worker Rights

The Generalized System of Preferences Renewal Act of 1984 requires reporting on worker rights in GSP beneficiary countries. It states that internationally recognized worker rights include "(A) the right of association; (B) the right to organize and bargain collectively; (C) a prohibition on the use of any form of forced or compulsory labor; (D) a minimum age for the employment of children; and (E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health." All five aspects of worker rights are discussed in a final section under the heading "Worker Rights." The discussion of worker rights considers not

only laws and regulations but also their practical implementation, taking into account the following additional guidelines:

A. "The right of association" has been defined by the International Labor Organization (ILO) to include the right of workers and employers to establish and join organizations of their own choosing without previous authorization; to draw up their own constitutions and rules, elect their representatives, and formulate their programs; to join in confederations and affiliate with international organizations; and to be protected against dissolution or suspension by administrative authority.

The right of association includes the right of workers to strike. While strikes may be restricted in essential services (i.e., those services the interruption of which would endanger the life, personal safety, or health of a significant portion of the population) and in the public sector, these restrictions must be offset by adequate guarantees to safeguard the interests of the workers concerned (e.g., machinery for mediation and arbitration; due process; and the right to judicial review of all legal actions). Reporting on restrictions affecting the ability of workers to strike generally includes information on any procedures that may exist for safeguarding workers' interests.

B. "The right to organize and bargain collectively" includes the right of workers to be represented in negotiating the prevention and settlement of disputes with employers; the right to protection against interference; and the right to protection against acts of antiunion discrimination. Governments should promote machinery for voluntary negotiations between employers and workers and their organizations. Reporting on the right to organize and bargain collectively includes descriptions of the extent to which collective bargaining takes place and the extent to which unions, both in law and practice, are effectively protected against antiunion discrimination.

C. "Forced or compulsory labor" is defined as work or service exacted from any person under the menace of penalty and for which the person has not volunteered. "Work or service" does not apply in instances in which obligations are imposed to undergo education or training. "Menace of penalty" includes loss of rights or privileges as well as penal sanctions. The ILO has exempted the following from its definition of forced labor: compulsory military service, normal civic obligations, certain forms of prison labor, emergencies, and minor communal services. Forced labor should not be used as a means of (1) mobilizing and using labor for purposes of economic development; (2) racial, social, national, or religious discrimination; (3) political coercion or education, or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social, or economic system; (4) labor discipline; or (5) as a punishment for having participated in strikes. Constitutional provisions concerning the obligation of citizens to work do not violate this right so long as they do not take the form of legal obligations enforced by sanctions and are consistent with the principle of "freely chosen employment."

D. "Minimum age for employment of children" concerns the effective abolition of child labor by raising the minimum age for employment to a level consistent with the fullest physical and mental development of young people. In addition, young people should not be employed in hazardous conditions or at night.

E. "Acceptable conditions of work" refers to the establishment and maintenance of machinery, adapted to national conditions, that provides for minimum working standards, i.e., wages that provide a decent living for workers and their families; working hours that do not exceed 48 hours per week, with a full 24-hour rest day; a specified annual paid holiday; and minimum conditions for the protection of the safety and health of workers. Differences in levels of economic development are taken into account in the formulation of internationally recognized labor standards. For example, many ILO standards concerning working conditions permit flexibility in their scope and coverage. They may also permit countries a wide choice in their implementation, including progressive implementation, by enabling countries to accept a standard in part or subject to specified exceptions. Countries are expected to take steps over time to achieve the higher levels specified in such standards. It should be understood, however, that this flexibility applies only to internationally recognized standards concerning working conditions. No flexibility is permitted concerning the acceptance of the basic principles contained in human rights standards, i.e., freedom of association, the right to organize and bargain collectively, the prohibition of forced labor, and the absence of discrimination. labor, and the absence of discrimination.

Appendix C - International Human Rights Conventions

Country	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
Afghanistan	P			P		P	P	P		P	P	P	P	P	P						S	P	S
Albania *	P	P	P	P	P	P	P	P		P	P			P	P	P			P	P			P
Algeria	P	P	P	P	P	P	P	P			P	P	P	P	P	P		P	P	P		P	P
Andora																							
Angola		P			P	P	P			P		P		P	P	P			P		P		P
Antigua & Barbuda	P	P	P	P	P	P	P			P	P	P	P					P	P	P	P	P	P
Argentina		P	P	P	P	P	P	P		P	P	P	P	P	P	P	P		P	P	P	P	P
Armenia				P		P	P						P	P	P	P			P	P	P	P	P
Australia	P	P	P	P	P	P	P			P	P	P	P	P	P	P			P	P	P	P	P
Austria	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P			P	P	P	P	P
Azerbaijan		P	P		P	P	P							P	P	P		P					P
Bahamas	P	P		P	P	P	P			P	P	P	1			1			P	P	P		P
Bahrain	P	P		P		P	P				P		P						P	P			P
Bangladesh	P	P	P		P	P	P	P			P	P	P						P	P	P		P
Barbados	P	P	P	P	P	P	P			P	P	P	P	P	P		P		P	P	P		P
Belarus	P	P	P	P	P	P	P	P		P	P		P	P	P			P	P	P	P	P	P
Belgium	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	S	P
Belize	1	P	P		P	P	P				1	P		1	1	P			P	P	P	P	P
Benin	2	P	P		P	P	P					P	S	P	P	P			P	P	P	P	P
Bhutan *													S								P		P
Bolivia	P		P	S	P	P	P	P		P	P	P	P	P	P	P	P		P	P	P	S	P
Bosnia & Herz.				P		P	P						P	P	P	P			P	P	P	P	P
Botswana	1					P	P				1		P			P			P	P			
Brazil	P	P		P	P	P	P	P		P	P	P	P	P	P	P			P	P	P	P	P
Brunei *	1					P	P			1	1								P	P			
Bulgaria	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P		P	P	P	P	P	P
Burkina Faso		P	P	P	P	P	P	P					P			P			P	P	P		P
Burma	2	P	P	P		P	P	S		S													P
Burundi		P				P	P			P		P	P	P	P	P			P	P	P	P	P
Cambodia		P		P		P	P				P		P	P	P	P					P	P	P
Cameroon	P	P	P		P	P	P	P			P	P	P	P	P	P				P	S	P	P
Canada	P		P	P		P	P			P	P	P	P	P	P	P			P	P	P	P	P
Cape Verde		P			P	P	P					P	P	P	P	P					P	P	P
Cen. African Rep.	P	P	P		P	P	P	P		P	P	P	P	P	P	P			P	P	P		P
Chad		P	P		P	P	P					P	P			P							P
Chile		P		P		P	P			P			P	P	P	P	P		P	P	P	P	P
China				P		P	P			P			P			P			P	P	P	P	P
China (Taiwan only)*	P			P						P	P		P	S	S								
Colombia		P	P	P	P	P	P			P		P	P	P	P	P	P				P	P	P
Comoros		P	P		P	P	P					P							P	P			P
Congo	P	P	P			P	P	P		P	P		P	P	P	P			P	P	P		P
Costa Rica		P	P	P	P	P	P			P		P	P	P	P	P	P	P	P	P	P	S	P
Cote D'Ivoire	P	P	P		P	P	P				P	P	P	P	P	P			P	P	S		P
Croatia	P			P		P	P	P		P	P		P	P	P	P			P	P	P	P	P
Cuba	P	P	P	P	P	P	P	P		P	P	P	P					P	P		P	S	P
Cyprus	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			P		P	P	P
Czech Republic	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P			P	P	P	P	P
Denmark	P	P	P	P	P	P	P	S	P	P	P	P	P	P	P	P			P	P	P	P	P
Djibouti		P	P		P	P	P	P			P	P				P			P	P			P
Dominica	1	P	P		P	P	P			1	1	P		P	P			P			P		P
Dom Republic		P	P	S	P	P	P			P	P	P	P	P	P	P	P				P	S	P
Ecuador	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P		P	P	P	P	P
Egypt	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P			P	P	P	P	P
El Salvador				P		P	P			S	S	P	P	P	P	P	P		P	P	P		P
Equatorial Guinea						P	P							P	P	P		P	P	P	P		P
Eritrea																							
Estonia	2			P		P	P		S				P	P	P				P	P	P	P	P
Ethiopia	P		P	P	P	P	P	P		P	P		P	P	P	P					P		P
Fiji	P	P		P	P	P	P			P	P	P	1			P							P
Finland	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P
France	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P		P	P	P	P
Gabon		P	P	P	P	P	P			P		P	P	P	P	P			P	P	P	S	S
Gambia *	1			P		P	P				1		P	P	P	P			P	P	P	S	P

Appendix C - International Human Rights Conventions

Country	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
Georgia				P																			
Germany	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P		P	P	P	P	P	P
Ghana	P	P	P	P	P	P	P			P	P	P	P			P			P	P	P		P
Greece	P	P	P	P	P	P	P		P	P	P	P	P		P	P		P	P	P	P	P	P
Grenada	1	P		1	P	P	P			1	1	P	S	P	P		P				P		P
Guatemala	P	P	P	P	P	P	P			P	P	P	P	P	P	P	P	P	P	P	P	P	P
Guinea	P	P	P		P	P	P	P		P	P	P	P	P	P	P			P	P	P	P	P
Guinea-Bissau		P			P	P	P					P			P	P			P	P	P		P
Guyana	1	P	P		P	P	P				1	P	P	P	P				P	P	P	P	P
Haiti	P	P	P	P	P	P	P	P		P	P	P	P	P		P	P				P		S
Holy See *						P	P						P			P			P	P			P
Honduras		P	P	P	P	P	P	S				P		S	P	P	P	P	S	S	P		P
Hungary	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P			P	P	P	P	P
Iceland		P	P	P	P	P	P		P	P	P	P	P	P	P	P			P	P	P	S	P
India	P	P		P		P	P	P		P	P		P	P	P						P		P
Indonesia		P			P	P	P			P											P	S	P
Iran		P		P		P	P	S			P	P	P	P	P	P			S	S			S
Iraq	P	P		P	P	P	P	P			P	P	P	P	P			P			P		
Ireland	P	P	P	P	P	P	P		P	P	P	P	S	P	P	P		P	S	S	P	S	P
Israel	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P		P	P		P	P	P
Italy	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P
Jamaica	P	P	P	P	P	P	P			P	P	P	P	P	P	P	P		P	P	P		P
Japan		P	P		P	P	P	P		P				P	P	P					P		S
Jordan	P	P		P	P	P	P	P		P	P	P	P	P	P				P	P	P	P	P
Kazakhstan						P	P												P	P			
Kenya		P			P	P	P					P		P	P	P		P			P		P
Kiribati *	1					P	P			1	1			1	1	1							
Korea, Dem. Peo.*				P		P	P							P	P				P				P
Korea, Rep. of				P		P	P	P		P			P	P	P	P			P	P	P		P
Kuwait	P	P	P			P	P	P			P	P	P						P	P			P
Kyrgyzstan						P	P												P	P			
Laos		P		P		P	P	P		P	P		P						P	P	P		P
Latvia	P		P	P	P	P	P			P	P	P	P	P	P				P	P	P	P	P
Lebanon	2	P		P	P	P	P			P		P	P	P	P								P
Lesotho	P	P	P	P	P	P	P			P	P		P	P	P	P					S		P
Liberia	2	P	P	P	P	P	P	S		S	S	P	P	S	S	P			P	P	P		P
Libya	P	P		P	P	P	P	P		P	P	P	P	P	P			P	P	P	P	P	P
Liechtenstein *						P	P		P							P			P	P		P	S
Lithuania									S					P	P								P
Luxembourg		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	S
Macedonia																							P
Madagascar	P	P	P			P	P			P	P		P	P	P				P	P	P		P
Malawi	P		S		P	P	P	P		P	P					P			P	P	P		P
Malaysia		P			P	P	P				P	P											
Maldives *				P		P	P						P						P	P	P		P
Mali	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P			P	P	P		P
Malta	P	P	P		P	P	P		P	P	P	P	P	P	P	P		P	P	P	P	P	P
Marshall Isl. *																							P
Mauritania	P	P	P			P	P	P		P	P		P			P			P	P			P
Mauritius	P	P			P	P	P	P		P	P	P	P	P	P			P	P	P	P	P	P
Mexico	P	P	P	P		P	P	P		P	P	P	P	P	P		P		P		P	P	P
Micronesia *																							P
Moldova				P		P	P			P		P	P	P	P				P	P			P
Monaco *	2			P		P	P															P	P
Mongolia	P		P	P	P	P	P			P	P		P	P	P				S	S	P		P
Morocco	P	P		P	P	P	P	P		P	P	P	P	P	P	P			S	S	P	P	P
Mozambique				P		P	P					P	P	P		P			P				S
Namibia						P	P						P						P	P	P		P
Nauru *	1									1													
Nepal	P			P		P	P			P	P		P	P	P						P	P	P
Netherlands	P	P	P	P		P	P		P	P	P	P	P	P	P	P		P	P	P	P	P	S
New Zealand	P	P		P		P	P			P	P	P	P	P	P			P	P	P	P	P	P
Nicaragua	P	P	P	P	P	P	P			P	P	P	P	P	P	P	P	S	S	P	S	P	

Appendix C - International Human Rights Conventions

Country	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
Niger	P	P	P		P	P	P	P		P	P	P	P	P	P	P		P	P	P			P
Nigeria	P	P	P		P	P	P			P	P	P	P	P	P	P			P	P	P	S	P
Norway	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P
Oman *						P	P												P	P			
Pakistan	P	P	P	P	P	P	P	P		P	P	P	P						S	S			P
Panama		P	P	P	P	P	P					P	P	P	P	P	P		S	S	P	P	P
Papua New Guinea	P	P		P	P	P	P			P		P	P			P							P
Paraguay		P	P	S	P	P	P			P		P		P	P	P	P				P	P	P
Peru		P	P	P	P	P	P			P	S	P	P	P	P	P	P		P	P	P	P	P
Philippines	P		P	P	P	P	P	P		P	P	P	P	P	P	P			S	P	P	P	P
Poland	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P
Portugal	P	P	P		P	P	P	P	P		P	P	P	P	P	P			P	P	P	P	P
Qatar						P	P						P						P				S
Romania	P	P	P	P	P	P	P	P	S	P	P		P	P	P	P		P	S	S	P	P	P
Russia	P	P	P	P	P	P	P	P		P	P		P	P	P	P		P	P	P	P	P	P
Rwanda			P	P	P	P	P					P	P	P	P	P		P	P	P	P		P
San Marino			P		P	P	P		P		P			P	P				S	S			P
Sao Tome & Prin.			P		P	P	P									P							P
Saudi Arabia	P	P		P		P	P				P	P							P				
Senegal	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P			P	P	P	P	P
Seychelles	2	P	P	P		P	P	P		1	P	P	P	P	P	P			P	P	P	P	P
Sierra Leone	P	P	P		P	P	P			P	P	P	P			P			P	P	P	S	P
Singapore		P			P	P	P	P			P	P											
Slovak Republic						P	P		P							P			P	P			P
Slovenia	P	P	P	P	P	P	P	P	S	P	P		P	P	P	P		P	P	P	P	P	P
Solomon Isl.	P	P				P	P			P	P		1		1				P	P	S		
Somalia		P				P	P					P	P	P	P	P						P	
South Africa *	2					P	P	P		S												S	S
Spain	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P
Sri Lanka	P	P		P	P	P	P	P			P		P	P	P						P		P
St.Kitts/Nevis *	1					P	P			1	1								P	P	P		P
St. Lucia	P	P	P	S	P	P	P			1	P	P	P	1		1			P	P	P		P
St. Vincent *	P			P		P	P			1	P			P	P				P	P	P		P
Sudan	P	P			P	P	P				P	P	P	P	P	P						S	P
Suriname	P	P	P			P	P			1	P	P		P	P	P	P		P	P	P		P
Swaziland	1	P	P		P	P	P			P	1	P	P			P							S
Sweden	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P		P	P	P	P	P	P
Switzerland	P	P	P			P	P		P		P	P		P	P	P			P	P	S	P	S
Syria	P	P	P	P	P	P	P	P			P	P	P	P	P				P		P		P
Tajikistan *						P	P												P	P	P		P
Tanzania	P	P		P	P	P	P			P	P	P	P	P	P	P			P	P	P		
Thailand		P				P	P			P		P									P		P
Togo	P	P	P	P	P	P	P	P			P		P	P	P	P		P	P	P	P	P	P
Tonga *	1			P		P	P	P			P	1	P										
Trinidad & Tobago	P	P	P		P	P	P			P	P	P	P	P	P						P		P
Tunisia	P	P	P	P	P	P	P			P	P	P	P	P	P	P			P	P	P	P	P
Turkey	P	S		P	P	P	P		P	P	P	P	S			P					P	P	S
Turkmenistan						P	P												P	P			P
Tuvalu *	1					P	P			1	1					P							
Uganda	P	P			P	P	P				P	P	P		P	P			P	P	P	P	P
Ukraine	P	P	P	P	P	P	P	P		P	P		P	P	P			P	P	P	P	P	P
United Arab Em		P				P	P						P						P	P			
United Kingdom	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P			S	S	P	P	P
United States	P			P		P	P			P	P	P	S	P	S	P	S		S	S	S	S	
Uruguay			P	P	P	P	P			S		P	P	P	P	P	P	P	P	P	P	P	P
Vanuatu *						P	P				1								P	P			P
Venezuela		P	P	P	P	P	P	P		P		P	P	P	P	P	P	P			P	P	P
Vietnam *	P			P		P	P				S		P	P	P				P		P		P
Western Samoa *						P	P												P	P	P		S
Yemen	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P			P	P	P	P	P
Zaire		P		P	P	P	P			P	P		P	P	P	P			P		P		P
Zambia	P	P				P	P			P	P	P	P	P	P	P		P			P		P
Zimbabwe	1			P		P	P				P		P	P	P	P			P	P	P		P

P = Party S = Signatory * = non-ILO member

1 Based on general declaration concerning treaty obligations prior to independence.

2 Party to 1926 Convention only.

INTERNATIONAL HUMAN RIGHTS CONVENTIONS

A) Convention to Suppress the Slave Trade and Slavery of September 25, 1926, as amended by the Protocol of December 7, 1953.

B) Convention Concerning Forced Labor of June 28, 1930 (ILO Convention 29).

C) Convention Concerning Freedom of Association and Protection of the Right to Organize of July 9, 1948 (ILO Convention 87).

D) Convention on the Prevention and Punishment of the Crime of Genocide of December 9, 1948.

E) Convention Concerning the Application of the Principles of the Right to Organize and Bargan Collectively of July 1, 1949 (ILO Convention 98).

F) Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949.

G) Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949.

H) Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of March 21, 1950.

I) European Convention for the Protection of Human Rights and Fundamental Freedoms of November 4, 1950.

J) Convention on the Political Rights of Women of March 31, 1953.

K) Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of September 7, 1956.

L) Convention Concerning the Abolition of Forced Labor of June 25, 1957 (ILO Convention 105).

M) International Convention on the Elimination of All Forms of Racial Discrimination of December 21, 1965.

N) International Covenant on Civil and Political Rights of December 16, 1966.

O) International Covenant on Economic, Social and Cultural Rights of December 16, 1966.

P) Protocol Relating to the Status Of Refugees of January 31, 1967.

Q) American Convention on Human Rights of November 22, 1969.

R) Convention Concerning Minimum Age for Admission to Employment of June 26, 1973 (ILO Convention 138).

S) Protocol Additional to the Geneva Conventions of August 12, 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), of June 8, 1977.

T) Protocol Additional to the Geneva Conventions of August 12, 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), of June 8, 1977.

U) Convention on the Elimination of All Forms of Discrimination Against Women of December 18, 1979.

V) Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of December 10, 1984.

W) Convention on the Rights of the Child of November 20, 1989.

Appendix D.—Explanation of Statistical Table

A table listing the amounts of U.S. bilateral assistance for Fiscal Year 1992 is provided in Appendix E.

Key Abbreviations

DA—Development assistance provided under the Functional Development Assistance Program and the Development Fund for Africa.

ESF—Assistance provided under the Economic Support Fund.

PL 480—Assistance provided under Titles II and III of the Food for Peace legislation.

NARCS—Assistance provided under the International Narcotics Control Program of the Department of State.

Peace Corps—Assistance provided by the Peace Corps.

Other Econ—Primarily includes Special Assistance Initiative funding for Eastern Europe and Multilateral Assistance Initiative funding for the Philippines.

IMET—International Military Education and Training Program.

FMF—Foreign Military Finance Programs, loan and grant assistance programs.

APPENDIX E

FY 1992 U.S. Economic and Military Assistance - Actual Obligations (Dollars thousands)

	DA	ESF	PL 480 Title II	PL 480 Title III	NARCS	PEACE CORPS	OTHER ECON	IMF LOANS	IMF GRANTS	IMET	OTHER MILITARY	TOTAL
AFRICA												
Angola	12,151	4,449	17,381									33,981
Benin	8,711	500	1,535			1,639				105		12,490
Botswana	8,100		1,354			3,060				648		13,162
Burkina Faso	2,700		12,530									15,230
Burundi	14,325					945				215		15,485
Cameroon	20,800		107			3,463			75	307		24,752
Cape Verde	2,250		3,561			924			225	134		7,094
CAR	2,500		654			2,351				265		5,770
Chad	10,250		1,198			1,515			500	380		13,843
Comoros	1,670		415			575				62		2,721
Congo	700		408			807				147		2,062
Cote D'Ivoire	7,099	2,545	742			1,350			120	215		12,071
Djibouti		2,000								43		2,043
Eq. Guinea						939				90		1,029
Ethiopia	41,238	3,000	129,917	15,000								189,155
Gabon						2,801				111		2,912
Gambia	7,870		3,741			1,043			100	114		12,868
Ghana	30,131		10,103	7,000		1,895			200	269		49,598
Guinea	25,621		1,059	8,000		1,199			150	219		36,247
Guinea Bissau	3,650		701			971			100	150		5,572
Kenya	18,450		10,059			2,537				884		31,930
Lesotho	4,865		3,864			2,049				118		10,896
Liberia		1,300	52,031									53,331
Madagascar	38,600		3,861			33				150		42,644
Malawi	20,708		12,200			1,491				135		34,534
Mali	30,220		1,343	2,800		4,016			100	150		38,629
Mauritania			732			1,552						2,284
Mauritius			349							94		443
Mozambique	53,017		14,850	49,300						196		117,363
Namibia	7,549	2,151				1,142			100	210		11,152
Niger	23,669		4,945			3,086			600	429		32,729
Nigeria	4,300	2,919				742				401		8,362
Rwanda	19,305	500				791				70		20,666
Sao Tome		350	884			436			100	143		1,912
Senegal	28,500	3,000	521	18,000		2,558			5,000	732		58,311
Seychelles		3,300				293			40	90		3,723
Sierra Leone	500	1,000	5,806			1,842			60	105		9,313
Somalia			38,549									38,549
South Africa	75,550											75,550
Sudan			26,138									26,138
Swaziland	9,371					1,208				180		10,759
Tanzania	25,525					1,020				160		26,705
Togo	9,488		4,301			2,621						16,410
Uganda	41,764		4,600	4,100		727			30	195		51,416
Zaire						644						644
Zambia	35,600	3,000	6,764	33,000		23			250	134		78,771
Zimbabwe	19,989	749				812			250	380		22,180

APPENDIX E

FY 1992 U.S. Economic and Military Assistance - Actual Obligations (Dollars thousands)

	DA	ESF	PL 480 Title II	PL 480 Title III	NARCS	PEACE CORPS	OTHER ECON	FMF LOANS	FMF GRANTS	IMET	OTHER MILITARY	TOTAL
CENTRAL AND SOUTH AMERICA												
Argentina						487			1,000	285		1,772
Bahamas					1,000					80		1,080
Belize	6,374					1,202			500	160		8,236
Bolivia	27,682	99,879	23,262	25,100	15,700	1,689			25,000	900		119,212
Brazil			1,496		1,500					147		3,143
Chile	400					966				351		1,717
Colombia		74,000			23,383				47,000	2,296		146,679
Costa Rica	7,415	10,000	153			1,924				239		19,731
Dominican Rep.	10,983	5,000	4,178			2,206			1,000	1,043		24,410
Ecuador	16,487	6,200	3,006		1,000	2,302			2,339	788		32,122
El Salvador	58,264	125,455	6,307			4	62,000		21,250	1,384		274,664
Guatemala	25,275	8,443	10,782		2,000	2,566				210		49,276
Guyana		838								60		898
Haiti	26,578	5,500	32,435			261						64,774
Honduras	34,972	30,000	9,543	14,000		2,840	256		5,000	1,375		97,986
Jamaica	15,863	22,251	2,757		1,000	2,095			2,500	670		47,137
Mexico			4,853		20,000					565		25,418
Nicaragua	6,881	40,400	4,839			689						52,810
Panama	14,490	9,658	486			677						25,311
Paraguay			201			2,318			250	279		3,048
Peru	14,266	5,730	72,199	25,000	12,500					113		129,808
Trinidad									500	39		539
Uruguay						1,094				503		1,597
Venezuela					1,000					689		1,689
EAST ASIA AND THE PACIFIC												
Cambodia	20,000	3,000	1,516									
Fiji		300										
Indonesia	41,749	5,000	5,001			1,559						24,516
Kiribati												1,859
Korea, Rep.of						437				2,275		54,025
Laos			1,345		1,800							437
Marshall Islands						35				800		800
Micronesia						530						3,180
Mongolia	2,929	12,000				1,651						530
Papua N Guinea						761						1,651
Philippines	35,210	46,699	23,095			1,575				62		15,752
Singapore						746	119,522		25,000	106		1,681
Solomon Is.										2,664		252,936
Thailand	722					954				15		15
Tonga					4,000	3,409				13		967
Tuvalu						690						8,131
Vanuatu						47				55		745
Western Samoa						162						47
						944						162
												944

APPENDIX E

FY 1992 U.S. Economic and Military Assistance - Actual Obligations (Dollars thousands)

	DA	ESF	--- PL 480 --- Title II	Title III	NARCS	PEACE CORPS	OTHER ECON	FMF LOANS	FMF GRANTS	IMET	OTHER MILITARY	TOTAL
EUROPE												
Albania			470			638				127		1,235
Armenia						290						290
Bulgaria						594				330		924
Cyprus		15,000										15,000
Czechoslovakia						1,305				675		1,980
Estonia										68		68
Greece								(320,000)	30,000	296		30,296
Hungary						2,045				675		2,720
Ireland		39,769										39,769
Latvia										52		52
Lithuania										65		65
Macedonia			2,960									2,960
Malta						53				12		65
Poland						3,035				776		3,811
Portugal		40,000							100,000	2,180		142,180
Romania	1,500					613						2,113
Russia						1,817				153		1,970
Spain										900		900
Turkey		1,000			350			(25,000)	475,000	3,550		479,900
Ukraine						716				75		791
Uzbekistan						286						286
NEAR EAST												
Algeria										150		150
Bahrain									1,000	72		1,072
Egypt		892,006							1,300,000	1,829		2,193,835
Iraqi Refugees			11,764									11,764
Israel		1,200,000							1,800,000			3,000,000
Jordan									20,000	600		20,600
Lebanon	3,750	5,400	8,991									18,141
Morocco	22,242	18,397	4,858			1,722			22,000	1,180		70,399
Oman		29,911							500	105		30,516
Tunisia		3,241				1,010			10,000	1,250		15,501
West Bank/Gaza		7,074	2,991									10,065
Yemen	3,000		2,977			993						6,970
SOUTH ASIA												
Afghanistan	25,000	25,000	31,200									81,200
Bangladesh	57,422		26,312	58,200						428		142,362
Bhutan			878									878
India	46,658		115,128	25,000						352		197,138
Maldives										95		95
Nepal	15,998		1,102			1,918				180		19,198
Pakistan			229		3,000	355						3,584
Sri Lanka	19,170			45,900		699				229		65,998